

NORTHERN TERRITORY OF AUSTRALIA
MOTOR VEHICLES AMENDMENT ACT 1989

No. 30 of 1989

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. 30 of 1989

AN ACT

to amend the *Motor Vehicles Act*

[Assented to 28 June 1989]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Motor Vehicles Amendment Act 1989*.

2. PRINCIPAL ACT

The *Motor Vehicles Act* is in this Act referred to as the Principal Act.

3. COMMENCEMENT

The provisions of this Act shall come into operation on such date or dates as is or are fixed by the Administrator by notice in the *Gazette*.

4. INTERPRETATION

Section 5 of the Principal Act is amended -

- (a) by omitting from the definition of "Australian Design Rule" the words "issued by the Commonwealth Department of Transport" and substituting "issued by the department for the time being principally responsible under the Minister of the Commonwealth for the administration of land transport";
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- (b) by inserting after the definition of "Australian Design Rule" the following:

"'Australian Motor Vehicle Certification Board' means the body -

- (a) known by that name;
- (b) consisting of representatives of the Commonwealth, the States, the Australian Capital Territory and the Territory; and
- (c) having, as one of its objectives, to ensure that vehicles supplied for use in, manufactured in, or imported into, Australia are designed and manufactured to
 - (i) comply with the requirements of the Australian Design Rules; or
 - (ii) provide a level of safety that is equivalent to that provided by the Australian Design Rules;

"'certification plate' means a plate approved in writing by the Australian Motor Vehicle Certification Board -

- (a) affixed to a motor vehicle;
- (b) displaying particulars in respect of the motor vehicle; and
- (c) conforming to the layout and specification, as specified in the approval of the Board;";
- (c) by omitting the definition of "compliance plate";
- (d) by inserting after the definition of "former owner" the following:

"'goods vehicle' means a motor vehicle constructed primarily for the carriage of goods or animals;";

- (e) by omitting the definition of "instructor's licence";
- (f) by omitting the definition of "motor lorry";
- (g) by omitting from the definition of "motor vehicle" the words "motor lorry" and substituting "goods vehicle";

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- (h) by omitting from the definition of "multi-purpose passenger car" the words "motor lorry" and substituting "goods vehicle";
- (j) by omitting from the definition of "public street" -
 - (i) paragraph (a); and
 - (ii) "under construction" from paragraph (c) and substituting the following:

"under construction,

and not open to or used by the public";

- (k) by omitting the definition of "specially constructed vehicle";
- (m) by inserting after the definition of "vehicle" the following:

"'vehicle identification number' means a number marked on a motor vehicle in accordance with section 101;"; and

- (n) by adding at the end the following:

"(3) For the purposes of this Act -

- (a) a motor vehicle shall be deemed to be a motor vehicle greater than 4.5 tonnes gross vehicle mass if the mass of the motor vehicle together with the mass of the maximum load which it is designed to carry is greater than 4.5 tonnes;
- (b) a reference to an Australian Design Rule shall be read as a reference to the design rule read in conjunction with the document known as "Australian Design Rules - Definitions"; and
- (c) where an Australian Design Rule refers to another document, that document shall be deemed to be incorporated with, and form part of, that Australian Design Rule."

5. REGISTRAR MAY GRANT EXEMPTION

Section 8A of the Principal Act is amended by omitting subsection (2) and substituting the following:

"(2) The Registrar shall not grant an exemption under subsection (1) -

- (a) for a period that exceeds the remainder of the period for which the vehicle is then currently registered in the place in which it is registered; or

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(b) unless satisfied that -

- (i) there has been paid the relevant amount of compensation contribution in respect of the vehicle as specified in a notice made in pursuance of section 47; or
- (ii) there is in force in respect of the vehicle a policy of insurance complying with the provisions of a law in force in a State or another Territory of the Commonwealth requiring the owner or driver of the vehicle to be insured against liability in respect of the death of or bodily injury to a person caused by or arising out of the use of the vehicle."

6. PROVISIONS FOR PERSONS LEARNING TO DRIVE

Section 9(1) of the Principal Act is amended by omitting "3 months" and substituting "the prescribed period".

7. GRANTING OF LICENCES

Section 10 of the Principal Act is amended by omitting from subsection (2) "to the public and" and substituting "to the public and, except where the Registrar otherwise approves,".

8. REPEAL AND SUBSTITUTION

Sections 25A to 25K (inclusive) of the Principal Act are repealed and the following substituted:

"25A. PERSON WHO TEACHES FOR FEE, &c., TO BE APPROVED

"A person shall not, except as provided in the Regulations, for fee, reward, salary, wages or other remuneration or consideration, teach another person to drive a motor vehicle unless that person is approved under section 25B as a driving instructor in respect of that class of motor vehicle.

"25B. DRIVING INSTRUCTORS

"(1) A person who is the holder of a licence to drive a motor vehicle may apply to the Registrar, in an approved form, to become a driving instructor in respect of a class of motor vehicle or classes of motor vehicles.

"(2) The Registrar, on receiving an application under subsection (1), may approve or refuse to approve the application.

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"(3) The Registrar shall not approve an application under subsection (2) unless satisfied that the applicant -

- (a) is of good character;
- (b) is proficient as a driving instructor in respect of the class of motor vehicle or classes of motor vehicles to which the application relates;
- (c) is the holder of a licence to drive a motor vehicle of the class of motor vehicle or classes of motor vehicles to which the application relates; and
- (d) has held a licence to drive a motor vehicle, whether in the Territory or elsewhere, for a continuous period of not less than 3 years immediately preceeding the date of the application or has experience in driving a motor vehicle, which, in the opinion of the Registrar, is equivalent to that which the applicant would have gained had the applicant held a licence for that continuous period.

"(4) On approving an application under subsection (2) the Registrar shall endorse the applicant's licence to drive a motor vehicle in the approved manner in respect of the class of motor vehicle or classes of motor vehicles to which the approval relates.

"25C. APPROVAL MAY BE SUBJECT TO CONDITIONS, &c.

"(1) An approval under section 25B may be subject to such conditions, restrictions or limitations as the Registrar thinks fit.

"(2) Where an approval under section 25B is, in accordance with subsection (1), subject to a condition, restriction or limitation, the Registrar shall -

- (a) notify the applicant of the condition, restriction or limitation; and
- (b) endorse, in the approved manner, the applicant's licence to drive a motor vehicle.

"(3) A person approved under section 25B shall not contravene or fail to comply with a condition, restriction or limitation to which the person's approval is subject.

"25D. DURATION OF APPROVAL

"An approval of a person under section 25B shall remain in force, unless revoked or suspended in accordance with this Act, while the person's licence to drive a motor vehicle, and any renewal of that licence, remains in force.

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"25E. EXAMINATION TO DETERMINE FITNESS

"(1) The Registrar may require -

- (a) an applicant under section 25B(1); or
- (b) at such times as may be prescribed, a person approved under section 25B(2),

to undergo -

- (c) an approved test or examination, or both, to determine the proficiency of the applicant or person as a driving instructor; or
- (d) a medical examination by a medical practitioner to determine that the applicant or person is in a fit state of health to be a driving instructor.

"(2) A person required to undergo a test or examination under subsection (1)(c) shall, before undergoing the test or examination, pay to the Registrar the prescribed fee.

"25F. REVOCATION OR SUSPENSION OF APPROVAL

"(1) The Registrar may revoke, or suspend for such period as the Registrar thinks fit, the approval of a person under section 25B where the Registrar is satisfied that the person -

- (a) is no longer proficient as a driving instructor;
- (b) has been guilty of conduct making the person unfit to be a driving instructor; or
- (c) has failed, when required by the Registrar under section 25E, to undergo a test or examination at a time prescribed for the purposes of that section.

"(2) For the purposes of subsection (1) and without limiting the generality of that subsection, a person is no longer proficient as a driving instructor if the person fails a test or examination referred to in section 25E.

"25G. APPEALS AGAINST REFUSALS, REVOCATIONS, SUSPENSIONS, &c.

"(1) A person aggrieved by a decision of the Registrar under section 25B or 25F, or under section 25C imposing a condition, restriction or limitation on an approval, may, on giving to the Registrar and the clerk of a Local Court not less than 14 days notice, appeal to the Local Court against the decision.

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"(2) The decision of the Local Court hearing an appeal under subsection (1) shall be final and conclusive and shall be given effect to by the Registrar.

"25H. NATURE OF APPEAL

"A Local Court hearing an appeal under section 25G shall -

- (a) re-determine the matter;
- (b) hear relevant evidence tendered, whether by the appellant or the Registrar; and
- (c) without limiting the generality of its discretion, take into consideration all matters which the Registrar ought to have taken into consideration in determining the matter."

9. MINISTER MAY VARY RATES OF CONTRIBUTION

Section 47(1) of the Principal Act is amended -

- (a) by omitting "or of a pastoral vehicle permit" and substituting ", the grant or renewal of a pastoral vehicle permit, the grant of an exemption from registration of a visiting motor vehicle under section 8A or the grant of a licence under section 137"; and
- (b) by omitting "the grant or renewal of those permits" and substituting "the grant or renewal of those permits, the grant of an exemption under section 8A or the grant of a licence under section 137,".

10. APPLICATION FOR REGISTRATION AND LICENCES

Section 92(1) of the Principal Act is amended by omitting "engine number" and substituting "engine number, vehicle identification number".

11. NEW SECTION

The Principal Act is amended by inserting after section 100 the following:

"101. VEHICLE IDENTIFICATION NUMBER

"(1) The Registrar shall not register or renew the registration of a motor vehicle unless the motor vehicle has -

- (a) a vehicle identification number, as referred to in Australian Design Rule No. 43, marked on the certification plate affixed to the vehicle;

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- (b) a number marked on the vehicle by the manufacturer and approved by the Registrar for the purposes of this section; or
- (c) a number marked on the vehicle in accordance with this section.

"(2) The Registrar shall allot to a motor vehicle a number where the vehicle does not have a number of a type referred to in subsection (1)(a) or (b) marked on it.

"(3) A number allotted to a motor vehicle under subsection (2) shall be marked on the vehicle in accordance with the directions, if any, of the Registrar.

"(4) A person shall not. -

- (a) except in accordance with the Regulations or an approval in writing by the Registrar, remove from a motor vehicle the vehicle identification number, or alter or interfere with the vehicle identification number, marked on a motor vehicle; or
- (b) mark on a motor vehicle a vehicle identification number referred to in subsection (1)(c) other than in accordance with a direction of the Registrar given under subsection (3)."

12. REFUSAL, CANCELLATION OR SUSPENSION OF LICENCE, &c.

Section 102 of the Principal Act is amended -

- (a) by omitting subsection (2)(b) and substituting the following:
 - (aa) refuse to grant a licence to or renew the licence of a person, or may cancel a licence of a person, where the person is not, or does not have a bona fide intention of, residing in the Territory;
 - (ab) refuse to grant a licence to or renew the licence of a company, or may cancel a licence of a company, where the company is not or is not deemed to be incorporated, is not a recognized company, or is not registered as a foreign company or a recognized foreign company, under the *Companies (Northern Territory) Code*;
- (ac) refuse to register or renew the registration of a motor vehicle, or may cancel the registration of a motor vehicle, where the owner of the vehicle is not able to satisfy the Registrar that the owner is, or has a bona fide intention of, residing in the Territory, or, where the owner of the vehicle is a company, the company

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is or is deemed to be incorporated, is a recognized company, or is registered as a foreign company or a recognized foreign company, under the *Companies (Northern Territory) Code*, and the vehicle is to be used primarily, or there is a bona fide operational base for the vehicle, in the Territory;

- (b) cancel, or suspend or restrict the use of, for such period as the Registrar thinks fit, a licence granted to a person where, in the opinion of the Registrar, the person is unfit to hold a licence or a licence with unrestricted use, having regard to -
 - (i) the person's conviction for an offence in the Territory or in a State or another Territory of the Commonwealth;
 - (ii) the person's age; or
 - (iii) any mental or physical condition, disorder or disability of the person;
- (ba) cancel a licence or the registration of a motor vehicle where the Registrar is satisfied it was obtained by fraud or deception;"
- (b) by inserting in subsection (2) after paragraph (d) the following:
 - "(da) suspend, for such period as the Registrar thinks fit, a licence granted under section 10(2) to a person to drive a motor omnibus, or granted under section 10(3) to a person to drive a public or private hire car, where, in the opinion of the Registrar, having regard to any -
 - (i) mental or physical condition, disorder or disability; or
 - (ii) previous conduct,of the person the public will be, or is likely to be, placed at risk by that person continuing to drive such a vehicle;
- (db) suspend, for such period not exceeding 4 weeks as the Registrar thinks fit, a licence granted under section 10(2) to a person to drive a motor omnibus, or granted under section 10(3) to a person to drive a public or private hire car, where the Registrar is satisfied that the person has contravened or failed to comply with this Act or the Regulations in respect of the person driving an omnibus or a public or private hire car, as the case may be;"

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(c) by inserting after subsection (5) the following:

"(5A) The Registrar may, subject to any direction of the Minister, grant or renew a licence under section 10 subject to such conditions as are prescribed or as the Registrar thinks fit."; and

(d) by omitting from subsection (6) -

(i) "of the Registrar" and substituting "of the Registrar to impose, under subsection (5A), a condition on a licence granted or renewed under section 10 or"; and

(ii) ", subject to the prescribed conditions,".

13. DURATION OF LICENCES

Section 103 of the Principal Act is amended -

(a) by omitting from subsection (1) "section 10(1)" and substituting "section 10"; and

(b) by omitting subsections (1A), (1B) and (1C) and substituting the following:

"(1A) In an application for a licence or renewal of a licence under section 10 the applicant may request that the licence be granted or renewed for the prescribed period or a shorter period (being not less than 12 months).

"(1B) The Registrar, on receiving an application for the grant or renewal of a licence under section 10, shall, where the licence is granted or renewed, endorse the licence to the effect that it is in force for -

(a) the prescribed period or such shorter period as specified in the application; or

(b) for such other period as the Registrar thinks fit, having regard to -

(i) the applicant's age;

(ii) any mental or physical condition, disorder or disability of the applicant;

(iii) the applicant's driving record, including any previous offences relating to the use of a motor vehicle; or

(iv) any other matter which, in the opinion of the Registrar, may assist in determining the suitability of the applicant to drive a motor vehicle.".

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14. REPEAL AND SUBSTITUTION

Part VIA of the Principal Act is repealed and the following substituted:

"PART VIA - DESIGN RULES AND CERTIFICATION PLATES

"106A. MOTOR VEHICLES TO HAVE CERTIFICATION PLATES AFFIXED AND TO COMPLY WITH DESIGN RULES, &c.

"(1) Subject to this Act, a motor vehicle shall -

- (a) except as provided in the Regulations, have affixed to it a certification plate; and
- (b) comply with the Australian Design Rules or such other standards, specifications and conditions as are prescribed by or under this Act or the Regulations.

"(2) For the purposes of subsection (1)(b), but subject to subsection (3), a motor vehicle to which a certification plate is affixed shall be deemed to comply with an Australian Design Rule specified -

- (a) on the certification plate; or
- (b) in the notice of approval of the Australian Motor Vehicle Certification Board approving the affixing of the certification plate to the motor vehicle.

"(3) Subsection (2) does not apply to a motor vehicle where the Registrar has certified in writing that the motor vehicle, or a part or component of the motor vehicle, has been altered or modified.

"106B. OFFENCES IN RESPECT OF CERTIFICATION PLATES

"A person shall not -

- (a) cause or permit to be affixed to a motor vehicle -
 - (i) a certification plate unless the Australian Motor Vehicle Certification Board has approved the affixing of that plate to the vehicle;
 - (ii) a plate which is likely to be taken to be the certification plate for the vehicle; or
 - (iii) a certification plate which has been affixed to any other vehicle; or
- (b) except in accordance with the Regulations or an approval in writing of the Registrar, alter or

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remove a certification plate affixed to a motor vehicle.".

15. UNAUTHORIZED USE OF MOTOR VEHICLES AS PUBLIC HIRE CARS, &c.

Section 110 of the Principal Act is amended by omitting from paragraph (c) "of any goods or, in respect of persons," and substituting "of persons".

16. PENALTIES FOR OFFENCES

Section 117 of the Principal Act is amended -

- (a) by omitting from subsection (1) "\$200" and substituting "\$2,000";
- (b) by omitting subsection (1)(a) and substituting the following:
 - "(a) if the person convicted holds a licence under this Act, cancel the licence and, in addition, may direct that no licence shall be granted to that person during such time as the Court thinks fit; or"; and
- (c) by omitting subsections (5), (6) and (7).

17. JUDICIAL NOTICE OF REGISTRAR'S, DEPUTY REGISTRAR'S AND CERTAIN OFFICER'S SIGNATURES

Section 119 of the Principal Act is amended -

- (a) by omitting from paragraph (b) "the registration of vehicles in a State or in another Territory of the Commonwealth; and" and substituting "the registration of vehicles or the licensing of persons to drive vehicles in a State or another Territory of the Commonwealth;";
- (b) by inserting after paragraph (c)(i) the following:
 - "(ia) a person was disqualified from holding a licence or a person's licence to drive a motor vehicle was cancelled, revoked or suspended;";
- (c) by omitting from paragraph (c) "in the certificate." and substituting "in the certificate; and"; and
- (d) by adding at the end the following:
 - "(d) of a certificate in writing under the hand of the Registrar or a Deputy Registrar that -

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- (i) a document annexed to the certificate is a copy of an Australian Design Rule known by the name specified in the certificate;
- (ii) a document annexed to the certificate is a copy of a document referred to in an Australian Design Rule; and
- (iii) an Australian Design Rule was in force on a day or during a period specified in the certificate in respect of a motor vehicle specified in the certificate,

and such certificate shall be prima facie evidence of the matter contained in the certificate."

18. NEW SECTION

The Principal Act is amended by inserting after section 119 the following:

"119A. DEFENDANT DEEMED TO BE PERSON NAMED IN CERTIFICATE

"Where, in respect of a prosecution for an offence against this Act, the Regulations or any other Act or instrument of a legislative or administrative character in force in the Territory, a certificate is, in accordance with this Act, prima facie evidence of a matter stated in the certificate, it shall be presumed without the need for further proof, unless the contrary is proved, that the person named in the certificate and the person charged with the offence is the same person."

19. TEMPORARY LICENCES

Section 137 of the Principal Act is amended -

- (a) by omitting "of \$10" and substituting "as specified in a notice made in pursuance of section 47";
- (b) by omitting paragraph (a) and substituting the following:
 - "(a) to drive an unregistered vehicle on a public street; or"; and
- (c) by omitting "so removed" and substituting "so driven".

20. SAVINGS

Where, immediately before the commencement of this Act, a person was the holder of an instructor's licence that person shall, on the commencement of this Act, be deemed to be approved under section 25B, as substituted by this Act, in respect of the class of motor vehicle or

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classes of motor vehicles to which the licence related, and such approval shall be subject to the Principal Act as amended by this Act.

21. FURTHER AMENDMENTS

The Principal Act is further amended as set out in the Schedule.

SCHEDULE

Section 21

AMENDMENTS

Provision	Amendment	
	omit	substitute
Sections 14(1), (2), (3) and (4), 28(2), 30(3) and 34(2)	"prescribed form" (wherever occurring)	"approved form"
Sections 12, 135 and 136	the whole section	
Section 16(4)	the whole subsection	
Section 111	"its registered number"	"its registered number or vehicle identification number"
	"to be the regis- tered number"	"to be the regis- tered number or the vehicle identification number"
Section 117A	"100"	"100, 101(4)"