



Road Transport Reform (Vehicle Standards) Regulations 1999

Statutory Rules 1999 No. 1

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations under the *Road Transport Reform (Vehicles and Traffic) Act 1993*.

Dated 1999.

Governor-General

By His Excellency's Command,

MARK VAILE
Minister for Transport and Regional Development



Road Transport Reform (Vehicle Standards) Regulations 1999

Statutory Rules 1999 No. 1

made under the

*Road Transport Reform (Vehicles and Traffic) Act
1993*

Contents

	Page
Part 1 Preliminary	
Division 1 Introductory	
1 Name of regulations	4
2 Commencement	4
3 Object of regulations	4
4 Vehicle Standards to be read with regulations	4
Division 2 Interpretation	
5 Definitions	5
1999, 5	1
<i>Road Transport Reform (Vehicle Standards) Regulations 1999</i>	

		Page
Division 3		
Some features of these regulations		
6	Notes	8
7	Examples	8
8	Offences	8
Part 2	Obligations of drivers and operators	
9	Meaning of operator of a motor vehicle or trailer	9
10	Meaning of operator of a combination	9
11	Motor vehicles and trailers to be properly maintained	10
12	Emission control systems to be fitted and properly maintained	11
13	Motor vehicles not complying with Vehicle Standards	12
14	Trailers not complying with Vehicle Standards	13
15	Combinations not complying with Vehicle Standards	13
Part 3	Exemptions made by the Minister	
16	Making of exemptions	15
17	When exemptions may be amended	16
18	When exemptions may be revoked	16
19	Compliance with conditions of exemptions	17
20	Notices are disallowable instruments	17
Part 4	Exemptions given by the Authority	
Division 1		
Giving, amending and revoking exemptions on application		
21	Authority may give exemptions etc	18
22	Applications for exemptions etc	18
23	Making decisions on application	20
24	Applicants to be told about decisions	21
25	When decisions take effect	22
26	Replacement exemptions	22
Division 2		
Provisions about exemptions		
27	Form of exemptions	23
28	Effect of exemptions	23
2	<i>Road Transport Reform (Vehicle Standards) Regulations 1999</i>	1999,

	Page
29 Duration of exemptions	23
30 Conditional exemptions	24
31 Lost etc exemptions	24
32 Exemptions to be available for inspection	24
Division 3 Amending and revoking exemptions other than on application	
33 Grounds for amending exemptions	25
34 Grounds for revoking exemptions	25
35 Amending or revoking exemptions in urgent circumstances	25
36 Amending or revoking exemptions other than in urgent circumstances	26
37 When amendment or revocation take effect	27
38 Requests to return exemptions etc	27
Division 4 Reconsideration and review of decisions about exemptions	
39 Decisions may be reconsidered	28
40 Review of decisions	30
Part 5 Other matters	
41 Application of Criminal Code	31
42 Prescribed persons — delegation	31
43 Declaration of emergency etc vehicles	31
44 Repeal of Road Transport Reform (Heavy Vehicle Standards) Regulations	31

Division 2 Interpretation

5 Definitions

In these regulations and the Vehicle Standards:

Act means the *Road Transport Reform (Vehicles and Traffic) Act 1993* of the Commonwealth.

amendment, of an exemption, includes an amendment of a condition of the exemption by addition, omission or substitution.

another jurisdiction means a State or the Northern Territory.

application, for a provision in Part 4, means an application made under regulation 22.

Authority means the Registrar of Motor Vehicles under the *Motor Traffic Act 1936* of the Australian Capital Territory.

Commonwealth Minister means the Minister administering the Act.

dangerous goods has the meaning given by regulation 2.2 of the Road Transport Reform (Dangerous Goods) Regulations of the Commonwealth.

emergency vehicle means a vehicle that is:

- (a) operated by an ambulance service; or
- (b) operated by the Defence Force; or
- (c) declared under regulation 43 to be an emergency vehicle.

exemption:

- (a) includes an exemption as amended; and
- (b) for a provision in Part 5 — means an exemption given by the Authority.

exemption holder means:

- (a) for an exemption given by the Authority for a particular motor vehicle or trailer — the registered operator of the vehicle; or
- (b) for an exemption given by the Authority for all vehicles for which the person is the registered operator — the person; or
- (c) for an exemption given by the Authority for a particular combination — the registered operator of the first or only motor vehicle forming part of the combination; or

Regulation 5

- (d) for an exemption given by the Authority for all combinations for the operation of which a person is responsible — the person.

Government Gazette means the *Australian Capital Territory Gazette*.

law of this jurisdiction means:

- (a) for the Australian Capital Territory — an Australian Capital Territory law or a Commonwealth law applying as an Australian Capital Territory law; or
(b) for the Jervis Bay Territory — a law applying in the Jervis Bay Territory.

Minister means the responsible Australian Capital Territory Minister.

operator, for Part 2, has the meaning given by regulations 9 and 10.

police officer means:

- (a) a member or special member of the Australian Federal Police; or
(b) a service police officer within the meaning of the *Defence Force Discipline Act 1982* of the Commonwealth.

registered operator, for a motor vehicle or trailer, means:

- (a) if the vehicle is registered by a vehicle registration authority — the person in whose name the vehicle is registered (whether the person is described as the registered operator, the registered owner or in another way); or
(b) if the vehicle is not registered by a vehicle registration authority, but is authorised to be driven or towed on a road or road-related area by a vehicle registration authority — the person to whom the authority is given.

road-related area includes an area that is declared, under section 16 of the Act, to be an area to which these regulations and the Vehicle Standards apply, but does not include an area that is declared, under another law of this jurisdiction, to be an area to which these regulations and the Vehicle Standards do not apply.

road user includes a user of a road-related area.

this jurisdiction means the Australian Capital Territory and the Jervis Bay Territory.

Note See also definition of **law of this jurisdiction**.

Regulation 5

transport enforcement vehicle means a vehicle that is declared under regulation 43 to be a transport enforcement vehicle.

vehicle means a motor vehicle or trailer.

vehicle registration authority means:

- (a) the Authority; or
- (b) the corresponding authority of another jurisdiction.

Vehicle Standards means the *Australian Vehicle Standards Rules 1999*.

Regulation 6

Division 3 Some features of these regulations

6 Notes

A note in these regulations is explanatory and is not part of the regulations.

7 Examples

- (1) An example in the regulations is part of the regulations.
- (2) If these regulations include an example of the operation of a provision of the regulations:
 - (a) the example is not exhaustive; and
 - (b) the example does not limit, and may extend, the meaning of the provision; and
 - (c) the example and the provision are to be read in the context of each other and of the other provisions of the regulations, but, if the example and the provision as so read are inconsistent, the provision prevails.

8 Offences

- (1) The words 'Penalty applies.' below a regulation (or, if the regulation has 2 or more subregulations, below a subregulation) indicates that a contravention of the regulation (or subregulation) is an offence.
- (2) The penalty for the offence is the penalty applying to the offence under the law of this jurisdiction.

Part 2 Obligations of drivers and operators

9 Meaning of operator of a motor vehicle or trailer

- (1) For this Part, the *operator* of a motor vehicle or trailer is the registered operator of the vehicle.
- (2) However, if another person is responsible, or also responsible, for the maintenance of the vehicle, the other person is also the operator of the vehicle.
- (3) Despite subregulations (1) and (2), it is a defence to the prosecution of the registered operator for an offence against this Part in relation to the vehicle if, at the relevant time:
 - (a) the registered operator was not solely or partly responsible for the maintenance of the vehicle; and
 - (b) another person was, or other persons between them were, solely responsible for the maintenance of the vehicle.

10 Meaning of operator of a combination

- (1) For this Part, the *operator* of a combination is the registered operator of the first or only motor vehicle forming part of the combination.
- (2) However, if another person is responsible, or also responsible, for the operation of the combination, the other person is also the operator of the combination.
- (3) Despite subregulations (1) and (2), it is a defence to the prosecution of the registered operator of the motor vehicle for an offence against this Part in relation to the combination if, at the relevant time:
 - (a) the registered operator was not solely or partly responsible for the operation of the combination; and
 - (b) another person was, or other persons between them were, solely responsible for the operation of the combination.

Regulation 11

11 Motor vehicles and trailers to be properly maintained

- (1) This regulation applies to a motor vehicle or trailer whether or not it forms part of a combination, but does not apply to a vehicle mentioned in rule 10 of the Vehicle Standards.

Note Rule 10 provides that the Vehicle Standards do not apply to the vehicles mentioned in the rule.

- (2) A person must not drive a motor vehicle on a road or road-related area unless the vehicle is maintained in a condition that enables it to be driven safely.

Penalty applies.

- (3) A person must not drive the first or only motor vehicle forming part of a combination on a road or road-related area unless each other vehicle forming part of the combination is maintained in a condition that enables it to be towed safely.

Penalty applies.

- (4) The operator of a motor vehicle that is on a road or road-related area must maintain the vehicle in a condition that enables it to be driven safely.

Penalty applies.

- (5) The operator of a trailer that is on a road or road-related area must maintain the trailer in a condition that enables it to be towed safely.

Penalty applies.

- (6) For this regulation, a vehicle is not maintained in a condition that enables it to be driven or towed safely if driving or towing the vehicle would endanger the person driving or towing the vehicle, anyone else in or on the vehicle (or the combination of which it forms part) or other road users.

- (7) An offence against this regulation is an offence of strict liability.

Note The *Roadworthiness Guidelines*, published by the National Road Transport Commission and available from AusInfo Bookshops, provide information to help people meet the requirements of this regulation.

Regulation 12

12 Emission control systems to be fitted and properly maintained

- (1) This regulation applies to a motor vehicle or trailer whether or not it forms part of a combination, but does not apply to a vehicle mentioned in rule 10 of the Vehicle Standards.

Note Rule 10 provides that the Vehicle Standards do not apply to the vehicles mentioned in the rule.

- (2) A person must not drive a motor vehicle on a road or road-related area unless each emission control system of the vehicle remains fitted to the vehicle.

Penalty applies.

- (3) A person must not drive a motor vehicle on a road or road-related area unless each emission control system fitted to the vehicle is maintained in a condition that ensures that the system continues operating essentially in accordance with the system's original design.

Penalty applies.

- (4) A person must not drive the first or only motor vehicle forming part of a combination on a road or road-related area unless each emission control system of any other vehicle forming part of the combination remains fitted to the vehicle.

Penalty applies.

- (5) A person must not drive the first or only motor vehicle forming part of a combination on a road or road-related area unless each emission control system fitted to any other vehicle forming part of the combination is maintained in a condition that ensures that the system continues operating essentially in accordance with the system's original design.

Penalty applies.

- (6) The operator of a vehicle that is on a road or road-related area must ensure that each emission control system of the vehicle remains fitted to the vehicle.

Penalty applies.

Regulation 13

- (7) The operator of a vehicle that is on a road or road-related area must maintain each emission control system fitted to the vehicle in a condition that ensures that the system continues operating essentially in accordance with the system's original design.

Penalty applies.

- (8) This regulation does not apply in relation to a vehicle if the vehicle is exempt:
- (a) under the Act, these regulations or another law of this jurisdiction, from this regulation; or
 - (b) from the provision of the law of another jurisdiction corresponding to this regulation.
- (9) However, the vehicle is exempt from this regulation only if all conditions of the exemption (if any) are being complied with.
- (10) An offence against this regulation is an offence of strict liability.
- (11) In this regulation:

emission control system, for a vehicle, means an emission control system fitted to the vehicle when it was built.

Note The *Roadworthiness Guidelines*, published by the National Road Transport Commission and available from AusInfo Bookshops, provide information to help people meet the requirements of this regulation.

13 Motor vehicles not complying with Vehicle Standards

- (1) This regulation applies to a motor vehicle whether or not it forms part of a combination.
- (2) If the motor vehicle contravenes a provision of the Vehicle Standards applying to the vehicle (other than as a vehicle forming part of a combination):
- (a) the driver of the motor vehicle commits an offence; and
 - (b) the operator, or each operator, of the motor vehicle also commits the offence.

Penalty applies.

Example of a provision applying to a motor vehicle (other than as a vehicle forming part of a combination)

Regulation 15

Subrule 77 (1) of the Vehicle Standards, which is about how headlights are to be fitted to motor vehicles.

- (3) An offence against this regulation is an offence of strict liability.

14 Trailers not complying with Vehicle Standards

- (1) This regulation applies to a trailer whether or not it forms part of a combination.
- (2) If the trailer contravenes a provision of the Vehicle Standards applying to the trailer (other than as a vehicle forming part of a combination):
- (a) the driver of the first or only motor vehicle towing the trailer commits an offence; and
 - (b) the operator, or each operator, of the trailer also commits the offence.

Penalty applies.

Example of a provision applying to a trailer (other than as a vehicle forming part of a combination)

Subrule 64 (3) of the Vehicle Standards, which is about axle configurations on trailers.

- (3) An offence against this regulation is an offence of strict liability.

15 Combinations not complying with Vehicle Standards

- (1) If a combination contravenes a provision of the Vehicle Standards applying to the combination:
- (a) the driver of the first or only motor vehicle forming part of the combination commits an offence; and
 - (b) the operator, or each operator, of the combination also commits the offence.

Penalty applies.

Example of a provision applying to a combination

Subrule 69 (1) of the Vehicle Standards, which is about the maximum length of combinations.

- (2) If a vehicle contravenes a provision of the Vehicle Standards that applies to the vehicle as a vehicle forming part of a combination:

Regulation 15

- (a) the driver of the first or only motor vehicle forming part of the combination commits an offence; and
- (b) the operator, or each operator, of the combination also commits the offence.

Penalty applies.

Example of a provision applying to a vehicle as a vehicle forming part of a combination

Rule 138 of the Vehicle Standards, which is about brake performance for trailers in B-doubles and road trains.

- (3) An offence against this regulation is an offence of strict liability.

Part 3 Exemptions made by the Minister

Note Under section 17 of the Act, the Minister may, in accordance with the regulations and by notice in writing, declare that a specified requirement of the regulations does not apply to a specified person or vehicle. An exemption under the section applies only in the jurisdiction where it is made and may be unconditional or subject to specified conditions.

This Part includes provisions about the making of exemptions under section 17 of the Act, and the amendment and revocation of exemptions made under the section. Under the Part, an exemption under the section is a disallowable instrument.

16 Making of exemptions

- (1) The Minister may, under section 17 of the Act, declare that a specified person or vehicle is exempt from a specified requirement of a provision of these regulations or the Vehicle Standards.
- (2) However, a declaration specifying a particular vehicle may only be made if:
 - (a) complying with the requirement would prevent the vehicle from operating in the way in which, or for the purpose for which, the vehicle was built or modified; or
 - (b) the vehicle is an experimental vehicle, a prototype, or another vehicle, that could not reasonably be expected to comply with the requirement; or
 - (c) the vehicle:
 - (i) was registered, or otherwise authorised to be driven or towed on a road or road-related area, by a vehicle registration authority before the commencement of the provision; and
 - (ii) was not required to comply with a similar requirement before that commencement.
- (3) In deciding whether to make the declaration, the Minister must take into account the likelihood and significance of any adverse effect on safety or the environment if the declaration were made.
- (4) The Minister may make a declaration under section 17 of the Act on the Minister's own initiative.

Regulation 17

- (5) A person or vehicle specified in a declaration under section 17 of the Act is exempt from the requirement of the provision of these regulations or the Vehicle Standards specified in the declaration while the declaration is in force.

17 When exemptions may be amended

- (1) An exemption of a person or vehicle from a requirement of a provision of these regulations or the Vehicle Standards may be amended by the Minister only if:
- (a) since the exemption was made, a change has happened in relation to something the Minister considered in deciding to make the exemption; and
 - (b) the exemption would have been made as it is proposed to be amended if the change had happened before the exemption was made.
- (2) In deciding whether to amend an exemption, the Minister must take into account the likelihood and significance of any adverse effect on safety or the environment if the amendment were made.
- (3) The Minister may amend an exemption under section 17 of the Act on the Minister's own initiative.

18 When exemptions may be revoked

- (1) An exemption of a person or vehicle from a requirement of a provision of these regulations or the Vehicle Standards may be revoked by the Minister only if:
- (a) since the exemption was made, a change has happened in relation to something the Minister considered in deciding to make the exemption; and
 - (b) the exemption would not have been made if the change had happened before the exemption was made.
- (2) The Minister may revoke an exemption under section 17 of the Act on the Minister's own initiative.

Regulation 20

19 Compliance with conditions of exemptions

- (1) This regulation applies to a person who, under a declaration made by the Minister under section 17 of the Act:
 - (a) is exempt from a requirement of a provision of these regulations or the Vehicle Standards; or
 - (b) is responsible for the operation of a vehicle that is exempt from a requirement of a provision of these regulations or the Vehicle Standards.
- (2) The person must not contravene a condition of the exemption.
Penalty applies.
- (3) An offence against this regulation is an offence of strict liability.

20 Notices are disallowable instruments

A notice under section 17 of the Act is a disallowable instrument for section 10 of the *Subordinate Laws Act 1989* of the Australian Capital Territory.

Note 1 Section 10 of the *Subordinate Laws Act 1989* (ACT) provides that an Act or subordinate law of the Territory may provide that an instrument made under the Act or law is a disallowable instrument for the purposes of the section.

Note 2 Section 6 of the *Subordinate Laws Act 1989* (ACT) provides for the notification, tabling and disallowance of disallowable instruments.

Regulation 21

Part 4 Exemptions given by the Authority

Note This Part includes provisions about the giving of exemptions by the Authority, and the amendment and revocation of exemptions given by the Authority. Under this Part, an exemption may be given by the Authority only on application. Also, decisions to refuse to give an exemption, and other decisions by the Authority about exemptions, are subject to reconsideration and review.

Division 1 Giving, amending and revoking exemptions on application

21 Authority may give exemptions etc

- (1) The Authority may, on application made under this Division, give exemptions under regulation 23 from provisions of these regulations or the Vehicle Standards.
- (2) The Authority's power to give an exemption is in addition to the Minister's power to make an exemption under section 17 of the Act.
- (3) The Authority may also, on application made under this Division, amend or revoke an exemption under regulation 23.

22 Applications for exemptions etc

- (1) A person may apply for:
 - (a) exemption from a provision of these regulations or the Vehicle Standards for:
 - (i) a particular motor vehicle or trailer for which the person is the registered operator; or
 - (ii) all vehicles for which the person is the registered operator; or
 - (iii) a particular combination if the person is the registered operator of the first or only motor vehicle forming part of the combination; or

Regulation 22

- (iv) all combinations for the operation of which the person is responsible; or
- (b) amendment or revocation of an exemption.

Note An exemption may also be amended or revoked by the Authority on its own initiative — see Division 3.

- (2) Each application must:
 - (a) be made to the Authority in writing; and
 - (b) be signed and dated by the applicant; and
 - (c) state the applicant's name and address; and
 - (d) be accompanied by the fee of \$50.
- (3) An application for an exemption must:
 - (a) state whether the exemption is sought for:
 - (i) a particular motor vehicle or trailer; or
 - (ii) all vehicles for which the applicant is the registered operator; or
 - (iii) a particular combination; or
 - (iv) all combinations for the operation of which the applicant is responsible; and
 - (b) for an exemption for a particular motor vehicle or trailer — describe the vehicle and the applicant's interest in the vehicle; and
 - (c) for an exemption for a particular combination — describe each vehicle forming part of the combination and the applicant's interest in the first or only motor vehicle forming part of the combination; and
 - (d) state the provision to which the application relates; and
 - (e) state clearly the exemption sought by the application and outline why the exemption should be given.
- (4) If the application is for an exemption, the application may state the period for which the exemption is sought and any conditions to which the exemption is sought to be subject.
- (5) An application for amendment or revocation of an exemption must:
 - (a) for an application for amendment of an exemption — state clearly the amendment sought; and

Regulation 23

- (b) outline why the exemption should be amended or revoked; and
 - (c) be accompanied by the exemption.
- (6) The Authority may, by written notice, require the applicant to give the Authority additional information necessary to decide the application.

23 Making decisions on application

- (1) The Authority must decide an application as soon as practicable after receiving the application.
- (2) If the application is for an exemption of a particular vehicle from a provision of these regulations or the Vehicle Standards, the Authority may give the exemption only if:
 - (a) complying with the provision would prevent the vehicle from operating in the way in which, or for the purpose for which, the vehicle was built or modified; or
 - (b) the vehicle is an experimental vehicle, a prototype, or another vehicle, that could not reasonably be expected to comply with the provision; or
 - (c) the vehicle:
 - (i) was registered, or otherwise authorised to be driven or towed on a road or a road-related area, by a vehicle registration authority before the commencement of the provision; and
 - (ii) was not required to comply with a similar provision before that commencement.
- (3) If the application is for an exemption for all vehicles for which the applicant is the registered operator, the Authority may give the exemption only if it would be unreasonable for the vehicles to comply with the provision.
- (4) If the application is for an exemption of a particular combination from a provision of these regulations or the Vehicle Standards, the Authority may give the exemption only if:
 - (a) complying with the provision would prevent the combination from operating for the purpose for which the combination is, or is proposed to be, used; or

Regulation 24

- (b) the combination is an experimental combination, or prototype, that could not reasonably be expected to comply with the provision.
- (5) If the application is for an exemption of all combinations for the operation of which the applicant is responsible, the Authority may give the exemption only if it would be unreasonable for the combinations to comply with the provision.
- (6) If the application is for amendment of an exemption, the Authority may amend the exemption only if:
 - (a) since the exemption was given, a change has happened in relation to something the Authority considered in deciding to give the exemption; and
 - (b) the exemption would have been given as it is proposed to be amended if the change had happened before the exemption was given; and
 - (c) the applicant has a sufficient interest in seeking the amendment.
- (7) If the application is for revocation of an exemption, the Authority may revoke the exemption only if the applicant has a sufficient interest in seeking the revocation.
- (8) In deciding whether to give or amend an exemption, the Authority must take into account the likelihood and significance of any adverse effect on safety or the environment if the exemption were given or amended.

24 Applicants to be told about decisions

- (1) As soon as practicable after the Authority decides an application, the Authority must tell the applicant in writing of its decision, including when any exemption, amendment or revocation takes effect.
- (2) The Authority must also give the applicant written reasons for the decision, and tell the applicant that the applicant may apply to have the decision reconsidered, if:
 - (a) the decision is to give the exemption for a period stated in the exemption and the applicant did not seek an exemption for a period or sought an exemption for a longer period; or

Regulation 25

- (b) the decision is to give the exemption subject to a condition not sought by the applicant; or
- (c) the decision is to refuse the application.

25 When decisions take effect

An exemption, or an amendment or revocation of an exemption under this Division, takes effect on:

- (a) the day when the applicant for the decision is told in writing by the Authority of its decision to give, amend or revoke the exemption; or
- (b) if the Authority tells the person that the decision takes effect on a later day — the later day.

26 Replacement exemptions

If an exemption is amended on the application of a person, the Authority must give a replacement exemption to the person.

Division 2 Provisions about exemptions

27 Form of exemptions

An exemption must be in writing.

28 Effect of exemptions

- (1) If the Authority exempts a particular motor vehicle or trailer from a provision of these regulations or the Vehicle Standards, the provision does not apply to the vehicle (irrespective of who is the registered operator of the vehicle or responsible for its maintenance) while the exemption is in force.
- (2) If the Authority exempts all vehicles for which a person is the registered operator from a provision of these regulations or the Vehicle Standards, the provision does not apply to any vehicle for which the person is the registered operator (irrespective of who is responsible for its maintenance) while the exemption is in force.
- (3) If the Authority exempts a particular combination from a provision of these regulations or the Vehicle Standards, the provision does not apply to the combination (irrespective of who is the registered operator of any vehicle forming part of the combination or responsible for the operation of the combination) while the exemption is in force.
- (4) If the Authority exempts all combinations for the operation of which a person is responsible from a provision of these regulations or the Vehicle Standards, the provision does not apply to any combination for the operation of which the person is responsible (irrespective of who is the registered operator of any vehicle forming part of the combination) while the exemption is in force.

29 Duration of exemptions

An exemption may be expressed to be in force for a period stated in the exemption.

Regulation 30

30 Conditional exemptions

- (1) An exemption may be subject to a condition stated in the exemption.
- (2) An exemption holder for an exemption must not contravene a condition of the exemption.

Penalty applies.

- (3) An offence against this regulation is an offence of strict liability.

31 Lost etc exemptions

If the Authority is satisfied that an exemption has been defaced, destroyed, lost or stolen, the Authority must give a replacement exemption to the exemption holder on payment of the fee of \$25.

32 Exemptions to be available for inspection

A person driving a vehicle or combination to which an exemption applies must carry the exemption in the vehicle or combination.

Penalty applies.

Division 3 Amending and revoking exemptions other than on application

33 Grounds for amending exemptions

The grounds for amending an exemption, other than on application, are:

- (a) that the application for the exemption was false or misleading in a material respect but the circumstances do not require its revocation; or
- (b) that:
 - (i) since the exemption was given, a change has happened in relation to something the Authority considered in deciding to give the exemption; and
 - (ii) the exemption would have been given as it is proposed to be amended if the change had happened before the exemption was given.

34 Grounds for revoking exemptions

The grounds for revoking an exemption, other than on application, are:

- (a) that the application for the exemption was false or misleading in a material respect; or
- (b) that:
 - (i) since the exemption was given, a change has happened in relation to something the Authority considered in deciding to give the exemption; and
 - (ii) the exemption would not have been given if the change had happened before the exemption was given.

35 Amending or revoking exemptions in urgent circumstances

- (1) This regulation applies if the Authority is reasonably satisfied that:
 - (a) a ground exists to amend or revoke an exemption, other than on application; and

Regulation 36

- (b) it is necessary to amend or revoke the exemption immediately to avoid, eliminate or minimise the risk of personal injury or death, property damage or harm to the environment.
- (2) The Authority must amend or revoke the exemption.
- (3) The Authority must tell the exemption holder in writing of the decision, give the exemption holder written reasons for the decision, and tell the exemption holder that the exemption holder may apply to have the decision reconsidered.

36 Amending or revoking exemptions other than in urgent circumstances

- (1) This regulation applies if:
 - (a) the Authority considers that a ground exists to amend or revoke an exemption, other than on application; and
 - (b) regulation 35 does not apply to the proposed amendment or revocation.
- (2) The Authority must give the exemption holder a written notice that:
 - (a) if the Authority proposes to amend the exemption — tells the exemption holder of the proposed amendment; and
 - (b) if the Authority proposes to revoke the exemption — tells the exemption holder of the proposed revocation; and
 - (c) states the ground for the proposed amendment or revocation; and
 - (d) outlines the facts and other circumstances forming the basis for the Authority's view that the ground exists; and
 - (e) invites the exemption holder to state in writing to the Authority, within a stated time of at least 28 days after the notice is given to the exemption holder, why the exemption should not be amended or revoked as proposed by the Authority (the *proposed action*).
- (3) If, after considering any written statement made to the Authority by the exemption holder within the stated time, the Authority is reasonably satisfied that a ground exists to take the proposed action, the Authority may:
 - (a) if the proposed action is to amend the exemption in a stated way — amend the exemption in that way; or

Regulation 38

- (b) if the proposed action is to revoke the exemption — revoke the exemption or amend it in any way.
- (4) If the Authority amends or revokes the exemption, the Authority must tell the exemption holder in writing of the decision, give the exemption holder written reasons for the decision, and tell the exemption holder that the exemption holder may apply to have the decision reconsidered.

37 When amendment or revocation take effect

The amendment or revocation of an exemption under this Division takes effect:

- (a) when the exemption holder is told in writing by the Authority of its decision to amend or revoke the exemption and given reasons for the decision; or
- (b) if the Authority tells the exemption holder that the decision takes effect later — at the later time.

38 Requests to return exemptions etc

- (1) If an exemption is amended or revoked other than on application, the Authority may, by written notice, ask the exemption holder to return the exemption to the Authority within a time stated in the notice.
- (2) The time stated in the notice must be a reasonable time (of at least 7 days) after the notice is given to the exemption holder.
- (3) The exemption holder must comply with the notice.
Penalty applies.
- (4) If the exemption holder returns the exemption to the Authority, the Authority must give a replacement exemption to the exemption holder if the exemption is amended.

Regulation 39

Division 4 Reconsideration and review of decisions about exemptions

39 Decisions may be reconsidered

- (1) The following decisions of the Authority are decisions to which this regulation applies:

Column 1 Item	Column 2 Provision under which decision made	Column 3 Brief description of decision
1	subregulation 23 (1)	decision not to give an exemption
2	subregulation 23 (1)	decision to give an exemption for a period if the applicant did not seek the exemption for a period or sought the exemption for a longer period
3	subregulation 23 (1)	decision to give an exemption subject to a condition not sought by the applicant for the exemption
4	subregulation 23 (1)	decision not to amend or revoke an exemption on application
5	subregulation 35 (2)	decision to amend or revoke an exemption in urgent circumstances, other than on application
6	subregulation 36 (3)	decision to amend or revoke an exemption, other than in urgent circumstances or on application

Regulation 39

Column 1	Column 2	Column 3
Item	Provision under which decision made	Brief description of decision

- (2) A person affected by a decision to which this regulation applies (the *initial decision*) may ask the Authority in writing to reconsider the decision.
- (3) The request must be made within:
- (a) 28 days after the person or someone else was told in writing of the initial decision, and given written reasons for the decision, by the Authority; or
 - (b) any longer period allowed by the Authority.
- Note* Under regulation 24, the applicant for an exemption, or for amendment or revocation of an exemption, must be told of the Authority's decision. Under regulations 35 and 36, an exemption holder must be told of a decision by the Authority, other than on application, to revoke or amend the exemption.
- (4) The request for reconsideration must state the decision that the person wants the Authority to make after reconsideration of the initial decision and outline why the Authority should make that decision.
- (5) Within 28 days after receiving the request, the Authority must reconsider the initial decision and:
- (a) confirm the decision; or
 - (b) amend the decision; or
 - (c) set the decision aside and substitute a new decision.
- (6) The Authority must tell the person in writing:
- (a) the result of the reconsideration; and
 - (b) if the Authority does not make the decision sought by the person:
 - (i) the reasons for the reconsidered decision; and
 - (ii) that the person may apply to the Australian Capital Territory Administrative Appeals Tribunal to have the decision reviewed by the Tribunal.

Regulation 40

40 Review of decisions

Application may be made under the *Administrative Appeals Tribunal Act 1989* of the Australian Capital Territory to the Australian Capital Territory Administrative Appeals Tribunal for review of a decision that has been reconsidered by the Authority under regulation 39.

Part 5 Other matters

41 Application of Criminal Code

Chapter 2 of the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth applies to an offence against these regulations as if the Chapter were in force as a law of the Australian Capital Territory and a law of the Jervis Bay Territory.

Note Chapter 2 of the *Criminal Code* codifies the general principles of criminal responsibility.

42 Prescribed persons — delegation

- (1) For section 18 of the Act, the following persons are prescribed:
 - (a) an authority of the Commonwealth or a State or Territory;
 - (b) an officer or employee of:
 - (i) the Commonwealth or a State or Territory; or
 - (ii) an authority of the Commonwealth or a State or Territory;
 - (c) a person holding an office established under a law of the Commonwealth or a State or Territory.
- (2) The Authority may, by signed writing, delegate a power of the Authority under these regulations to a person mentioned in subregulation (1).

43 Declaration of emergency etc vehicles

The Authority may, by notice published in the Government Gazette, declare that a vehicle is an emergency vehicle or a transport enforcement vehicle.

44 Repeal of Road Transport Reform (Heavy Vehicle Standards) Regulations

Statutory Rules 1995 No. 55 are repealed.

Note

1. Made by the Governor-General on 1999, and notified in the *Commonwealth of Australia Gazette* on 1999.

