

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

MOTOR VEHICLE STANDARDS BILL 1989

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1987-88-89

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 23 May 1989

(Minister for Land Transport and Shipping Support)

A BILL

FOR

An Act to provide for national motor vehicle standards, and for related purposes

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART 1—PRELIMINARY

Short title

5 1. This Act may be cited as the *Motor Vehicle Standards Act 1989*.

Commencement

2. (1) Sections 1 and 2 commence on the day on which this Act receives the Royal Assent.

10 (2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

(3) If a provision referred to in subsection (2) does not commence under that subsection before 1 September 1989, it commences on that day.

Object of Act

3. The object of this Act is to achieve uniform vehicle standards to apply to road vehicles when they begin to be used in transport in Australia.

Operation of Act

4. (1) Without prejudice to its effect apart from this section, this Act also has, by force of this section, the effect it would have if the references in sections 12 and 14 and subsections 16 (1) and (3), the first reference in subsection 16 (2), and the reference in subsection 21 (2), to a person were, by express provision, confined to a corporation.

(2) Parts 2 and 3 are enacted solely for the purposes of Part 4.

Interpretation

5. In this Act, unless the contrary intention appears:

“Administrator” means the Administrator of Vehicle Standards referred to in section 22;

“compliance plate” means a plate referred to in section 10;

“component” includes an assembly;

“corporation” means:

(a) a foreign corporation within the meaning of paragraph 51(xx) of the Constitution; or

(b) a trading or financial corporation formed within the limits of the Commonwealth, within the meaning of that paragraph; or

(c) a corporation that is controlled by a corporation referred to in paragraph (a) or (b);

and includes a partnership at least one of the partners in which is a corporation;

“export vehicle” means a locally made vehicle that is to be exported from Australia without having been used in transport in Australia;

“import”, in relation to a road vehicle or vehicle component, means do an act which constitutes importation of the vehicle or component for the purposes of the *Customs Act 1901*;

“imported vehicle” means a road vehicle imported after the commencement of section 18, or, if that section does not commence before 1 July 1989, on or after that date, whether or not the vehicle has been used in transport outside Australia;

“locally made vehicle” means a road vehicle in whose manufacture at least the last step was carried out in Australia, but does not include a road vehicle (if any) in whose manufacture none of the steps was carried out in Australia by a corporation;

“motor vehicle” means a vehicle that uses, or is designed to use, volatile spirit, gas, oil, electricity or any other power (not being human or animal power) as the principal means of propulsion, but does not include a vehicle used on a railway or tramway;

“national standard” means a vehicle standard determined under section 7;

“new vehicle” means a locally made vehicle, or an imported vehicle, that has been neither:

- 5 (a) supplied to the market; nor
- (b) used in transport in Australia by its manufacturer or importer; and includes a locally made vehicle, or an imported vehicle, that has been supplied to the market but not yet used in transport in Australia;

10 “nonstandard”, in relation to a road vehicle or a vehicle component, means not complying with the national standards;

“plate” includes mark;

“premises” includes:

- 15 (a) a structure, building, aircraft, vehicle or vessel; and
- (b) land or a place (whether enclosed or built upon or not); and
- (c) a part of premises (including premises of a kind referred to in paragraph (a) or (b));

“road motor vehicle” means a motor vehicle designed solely or principally for the transport on public roads of people, animals or goods;

20 “road trailer” means:

- (a) a vehicle without motive power designed for attachment to a road motor vehicle; or
- (b) a piece of machinery or equipment that is equipped with wheels and designed to be towed behind a road motor vehicle;

25 “road vehicle” means a road motor vehicle or a road trailer;

“standard vehicle” means a new vehicle that complies with the national standards, but does not include an export vehicle;

“supply to the market”, in relation to a road vehicle, means deliver the vehicle to a person for use in transport in Australia;

30 “use” means:

- (a) in relation to a road motor vehicle—drive; or
- (b) in relation to a road trailer—have attached to, or towed by, a road motor vehicle that is being driven;

35 “use in transport”, in relation to a road vehicle, means use the vehicle on a public road otherwise than:

- (a) to move it in order to:
 - (i) have work done on it; or
 - (ii) have it registered under a law; or
 - (iii) protect it; or

40 (b) for a prescribed purpose;

“vehicle component” means a component to be used in the manufacture of a road vehicle, and includes a component of such a component;

“vehicle standard” means a standard for road vehicles or vehicle components that is designed to:

- (a) make road vehicles safe to use; or
- (b) control the emission of gas or noise from road vehicles; or
- (c) secure road vehicles against theft.

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Act to bind Crown

6. This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory, but nothing in this Act renders the Crown liable to be prosecuted for an offence.

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PART 2—NATIONAL STANDARDS

Determination of national standards

7. (1) The Minister may, by Order, determine vehicle standards for road vehicles or vehicle components.

(2) An Order is a disallowable instrument for the purposes of section 15 46A of the *Acts Interpretation Act 1901*.

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Consultations before determinations

8. Before determining national standards, the Minister may consult with:

- (a) relevant State or Territory authorities; or
- (b) persons or organisations involved in the road vehicle industry; or
- (c) organisations representing road vehicle users.

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Testing of road vehicles

9. The Minister may make arrangements, in accordance with the regulations, for:

- (a) the testing and inspection of road vehicles or vehicle components; or
- (b) the inspection of facilities for the testing of road vehicles or vehicle components; or
- (c) the inspection of steps in the manufacture of road vehicles or vehicle components; or
- (d) the examination of documents relating to, or to the manufacture or testing of, road vehicles or vehicle components;

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whether inside or outside Australia, for the purposes of this Act.

PART 3—COMPLIANCE PLATES

Compliance plates

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10. The regulations are to provide for arrangements under which plates are to be placed on road vehicles to indicate that the vehicles comply with the national standards.

Withdrawal of compliance plate authority

11. (1) Where:

(a) a person is authorised under arrangements referred to in section 10 to place compliance plates on vehicles of a type specified in the authority; and

(b) the Minister is satisfied:

(i) that the person has placed a compliance plate on a vehicle otherwise than in accordance with those arrangements; or

(ii) that the person has made a false statement for the purpose of avoiding liability for fees payable under this Act or the regulations in relation to the placing of compliance plates; or

(iii) that the person has failed, without reasonable excuse, to pay fees payable under this Act or the regulations in relation to the placing of compliance plates;

the Minister may, having regard to all the relevant circumstances, cancel, suspend or vary the person's authority to place compliance plates on vehicles of that type.

(2) Before making a decision under subsection (1), the Minister is to:

(a) give written notice to the person of the facts and circumstances that, in the opinion of the Minister, warrant consideration being given to the cancellation, suspension or variation of the authority; and

(b) allow the person to show cause, within such reasonable time as is specified in the notice, why the authority should not be cancelled, suspended or varied.

(3) The Minister is to give written notice of a decision under subsection (1) and the grounds for the decision to the person, and the decision takes effect from the date the notice is given.

Offence—placing compliance plate on nonstandard vehicle

12. A person must not knowingly or recklessly place a compliance plate on a nonstandard vehicle.

Penalty: \$12,000.

Vehicles taken to have compliance plates

13. For the purposes of sections 17, 18, 19 and 20, a road vehicle is to be taken to have a compliance plate if authority to place the plate on the vehicle has been given in accordance with arrangements under the regulations.

PART 4—SUPPLY AND IMPORTATION OF VEHICLES

Nonstandard vehicles not to be supplied to market

14. (1) Subject to subsection (2), a person must not knowingly or recklessly supply to the market a new vehicle that:

- (a) is nonstandard; or
- (b) does not have a compliance plate.

Penalty: \$12,000.

(2) A person may supply to the market a vehicle to which subsection (1) applies: 5

- (a) in prescribed circumstances; or
- (b) with the written approval of the Minister, which may be approval subject to written conditions determined by the Minister.

Nonstandard vehicles not to be used by manufacturers

15. (1) Subject to subsection (2), a corporation that manufactured a new vehicle that: 10

- (a) is nonstandard; or
- (b) does not have a compliance plate;

must not knowingly or recklessly use the vehicle in transport in Australia.

Penalty: \$12,000. 15

(2) A corporation that manufactured a vehicle to which subsection (1) applies may use the vehicle in transport in Australia:

- (a) in prescribed circumstances; or
- (b) with the written approval of the Minister, which may be approval subject to written conditions determined by the Minister. 20

Vehicles not to be made nonstandard

16. (1) Subject to subsection (3), a person must not knowingly or recklessly modify a standard vehicle in a way that makes it nonstandard.

Penalty: \$12,000.

(2) Subject to subsection (3), a person must not knowingly or recklessly hand over a standard vehicle to a person for modification, whether by that other person or otherwise, in a way that makes it nonstandard. 25

Penalty: \$12,000.

(3) A person may modify a standard vehicle in a way that makes it nonstandard, or hand over a new vehicle for such modification: 30

- (a) in prescribed circumstances; or
- (b) with the written approval of the Minister, which may be approval subject to written conditions determined by the Minister.

Importation of road vehicles subject to conditions

17. (1) The importation of a road vehicle that: 35

- (a) complies with the national standards; and
- (b) has a compliance plate;

is subject to the following conditions:

- (c) the importer will do all things reasonable and necessary to ensure that, when the vehicle is supplied to the market, it: 40

- (i) still complies with the national standards; and
- (ii) still has a compliance plate;
- (d) the importer will not modify the vehicle in a way that makes it nonstandard;
- 5 (e) the importer will not hand over the vehicle to another person for modification, whether by that other person or otherwise, in a way that makes it nonstandard.

(2) A person must not knowingly or recklessly contravene a condition referred to in subsection (1).

10 Penalty: \$12,000.

Prohibition of importation of nonstandard vehicles etc.

18. (1) Subject to sections 19 and 20, a person must not knowingly or recklessly import a road vehicle that:

- (a) is nonstandard; or
- 15 (b) does not have a compliance plate.

Penalty: \$12,000.

(2) Subject to section 19, a person must not knowingly or recklessly import a nonstandard prescribed vehicle component.

Penalty: \$6,000.

20 **Importation of vehicles requiring modification**

19. (1) A person may import a nonstandard road vehicle or a nonstandard prescribed vehicle component:

- (a) with the written approval of the Minister; and
- 25 (b) on written conditions determined by the Minister, being conditions that the Minister considers will ensure that the vehicle or component will cease to be nonstandard before the vehicle, or a vehicle with the component, is supplied to the market or used in transport in Australia.

30 (2) A person may import a road vehicle that does not have a compliance plate:

- (a) with the written approval of the Minister; and
- (b) on written conditions determined by the Minister, being conditions that the Minister considers will ensure that the vehicle has a compliance plate before the vehicle is supplied to the market or
- 35 used in transport in Australia.

(3) A person must not knowingly or recklessly contravene a condition referred to in paragraph (1) (b) or (2) (b).

Penalty: \$6,000.

Approval to import certain nonstandard vehicles

20. (1) A person may import a nonstandard road vehicle or a road vehicle that does not have a compliance plate:

- (a) where the vehicle is to be exported from Australia (with or without further work being done on it) without having been used in transport in Australia; or 5
- (b) in prescribed circumstances.

(2) A person may import a nonstandard prescribed vehicle component:

- (a) where it is to be used in the manufacture of an export vehicle; or
- (b) in prescribed circumstances. 10

(3) Regulations for the purposes of paragraph (1) (b) or (2) (b) may provide for the importation, whether generally or in specified circumstances, of a road vehicle, or a vehicle component, as the case may be:

- (a) with the written approval of the Minister; or
- (b) with such approval subject to written conditions determined by the Minister. 15

No requirement to comply with certain standards

21. (1) In this section:

“local standard” means a vehicle standard for new vehicles, other than a national standard, purported to be required by a law of a State or Territory. 20

(2) A person may supply a new vehicle to the market even though it does not comply with a local standard.

PART 5—ADMINISTRATION**Administrator**

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22. (1) There is to be an Administrator of Vehicle Standards.

(2) The Administrator:

- (a) is to be appointed by the Secretary to the Department; and
- (b) is to be a person holding, or performing the duties of, a Senior Executive Service office within the meaning of the *Public Service Act 1922*, being an office in the Department. 30

Delegation by Minister

23. The Minister may by signed instrument delegate to the Administrator all or any of the Minister’s functions or powers under this Act, other than:

- (a) the power to make Orders under section 7; and 35
- (b) the power under subsection 11 (1) to cancel an authority.

Fees

24. (1) The regulations may prescribe fees, or a method of calculating fees, to be paid to the Commonwealth in respect of:

- 5 (a) the placing, or approval of the placing, of compliance plates, including the carrying out of tests to find out whether a road vehicle should have a compliance plate or whether a road vehicle or road vehicles of a particular type should continue to have compliance plates; or
- 10 (b) applications for approval under subsections 14 (2), 15 (2) and 16 (3); or
- (c) applications for approval to import a road vehicle or a vehicle component under section 19; or
- (d) applications for approval to import a road vehicle or a vehicle component under regulations referred to in subsection 20 (3); or
- 15 (e) the supply of copies of the national standards in force from time to time; or
- (f) the provision of other services, or the supply of other documents or goods, by the Commonwealth under this Act or the regulations.

20 (2) Prescribed fees are due and payable in such manner and at such time or times as are prescribed.

(3) Where a fee that is required to be paid at the time of making an application or request is not so paid, the application or request is not to be taken to have been duly made.

(4) A prescribed fee is not to be such as to amount to taxation.

25 **Appointment of inspectors**

25. (1) The Minister may, in writing, appoint a person appointed or employed under the *Public Service Act 1922* to be an inspector.

30 (2) Arrangements may be made under section 78 of the *Public Service Act 1922* for officers of the Public Service of a State or Territory to perform the functions or exercise the powers of inspectors.

(3) The Minister may, by notice published in the *Gazette*, give directions specifying the manner in which, and any conditions and qualifications subject to which, functions or powers given to inspectors are to be performed or exercised.

35 (4) An inspector must comply with directions given under subsection (3).

Identity cards

26. (1) The Minister may cause to be issued to an inspector an identity card in a form approved by the Minister and bearing a photograph of the inspector.

40 (2) A person who ceases to be an inspector must, as soon as practicable, return his or her identity card to the Minister.

Penalty: \$100.

Powers of inspectors

27. (1) Subject to subsection (4), an inspector may, for the purpose of finding out whether the requirements of this Act, the regulations and Orders under section 7, are being, or have been, met, enter any premises at any time during ordinary working hours or at any other time at which it is necessary to do so for that purpose, and exercise the powers of an inspector under this section. 5

(2) The powers of an inspector under this section in relation to premises are:

- (a) to inspect any step in the manufacture of a road vehicle or a vehicle component; and 10
- (b) to inspect any work, material, machinery, appliance, article or facility that relates to the manufacture or testing of a road vehicle or a vehicle component; and
- (c) to take and retain samples of any goods or substance used in the manufacture or testing of a road vehicle or a vehicle component; and 15
- (d) to inspect documents relating to the manufacture or testing of a road vehicle or a vehicle component; and
- (e) to make copies of, or take extracts from, such a document. 20

(3) An inspector has no powers under this section in relation to export vehicles or vehicle components to be used in the manufacture of export vehicles.

(4) An inspector must not enter premises under subsection (1) unless:

- (a) the occupier has consented; or 25
- (b) the inspector is authorised to enter under a warrant issued under section 28.

(5) Immediately upon entering premises under subsection (1) an inspector must take all reasonable steps to notify the occupier of the purpose of the entry and must produce the inspector's identity card for inspection by the occupier. 30

Monitoring warrants

28. (1) If, on an application made by an inspector, a Magistrate is satisfied, by information on oath, that it is reasonably necessary that the inspector should, for the purposes of finding out whether the requirements of this Act, the regulations or Orders under section 7, are being, or have been, met, have access to premises, the Magistrate may issue a warrant naming the inspector and authorising him or her, with such assistance, and by such force, as is necessary and reasonable: 35

- (a) to enter the premises; and 40
- (b) to exercise those powers in relation to the premises.

(2) The warrant must state:

- (a) whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
- (b) a day, not being later than 6 months after the day of issue of the warrant, upon which the warrant ceases to have effect.

Power to require information

29. (1) Subject to subsection (2), an inspector who has entered premises under section 27 may, to the extent that it is reasonably necessary for the purpose of finding out whether this Act, the regulations or Orders under section 7 have been complied with, require a person to answer any question put by the inspector and to produce any books, records or documents requested by the inspector.

(2) An inspector is not entitled to make a requirement of a person under subsection (1) unless the inspector produces his or her identity card for inspection by the person.

Offence-related searches and seizures

30. (1) Where an inspector has reasonable grounds for suspecting that there is, or may be within the next 72 hours, on any premises a particular thing that may afford evidence as to the commission of an offence against this Act, the inspector may:

- (a) with the consent of the occupier of the land or premises; or
- (b) under a warrant issued under subsection (2);

enter the premises, and:

- (c) search the premises for the thing; and
- (d) if the inspector finds the thing on the premises—seize the thing.

(2) Where an information on oath is laid before a Magistrate alleging that there are reasonable grounds for suspecting that there may be on any premises a particular thing that may afford evidence as to the commission of an offence against this Act and the information sets out those grounds, the Magistrate may issue a search warrant in accordance with the form prescribed for the purposes of this subsection authorising an inspector named in the warrant, with such assistance, and by such force, as is necessary and reasonable, to enter the premises and exercise the powers referred to in paragraphs (1) (c) and (d) in respect of the thing.

(3) A Magistrate must not issue a warrant under subsection (2) unless:

- (a) the informant or some other person has given to the Magistrate, either orally or by affidavit, such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought; and

- (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(4) A warrant issued under subsection (2) must state:

- (a) the purpose for which the warrant is issued, and the nature of the offence in relation to which the entry and search are authorised; and
- (b) whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
- (c) a description of the kind of documents, substances, equipment or things to be seized; and
- (d) a day, not being later than one month after the day of issue of the warrant, upon which the warrant ceases to have effect.

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(5) If, in the course of searching, under a warrant issued under this section, for a particular thing in relation to a particular offence, an inspector finds a thing that the inspector believes, on reasonable grounds, to be:

- (a) a thing that will afford evidence as to the commission of the offence, although not the thing specified in the warrant; or
- (b) a thing that will afford evidence as to the commission of another offence under this Act or the regulations;

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and the inspector believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence, the warrant is to be taken to authorise the inspector to seize that thing.

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(6) Where an inspector seizes any thing under subsection (1) or (5), the inspector may retain the thing until the expiration of a period of 60 days after the seizure or, if proceedings for an offence against this Act in respect of which the thing may afford evidence are instituted within that period, until the proceedings (including any appeal to a court in relation to those proceedings) are completed.

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(7) The Minister may authorise any thing seized under subsection (1) or (5) to be released to the owner, or to the person from whom the thing was seized, either unconditionally or on such conditions as the Minister thinks fit.

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Obstruction of inspectors

31. A person shall not, without reasonable excuse, wilfully obstruct, hinder or resist an inspector in the performance of his or her functions under this Act.

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Penalty: \$3,000.

Failure to answer questions etc.

32. A person must not, without reasonable excuse, refuse or fail to answer a question or produce a document when so required by an inspector under this Act.

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Penalty: \$3,000.

Agents

33. The Minister may appoint such agents as he or she thinks necessary to perform functions, whether inside or outside Australia, for the purposes of this Act.

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PART 6—COURT PROCEEDINGS**Evidence**

34. (1) The Minister or a person authorised in writing by the Minister to give certificates under this section may, for the purposes of proceedings for an offence against section 14, 15, 16 or 19, give a certificate stating that conditions specified in the certificate were the conditions to which the Minister's written approval under section 14, 15, 16 or 19, as the case may be, was subject.

(2) A certificate given under subsection (1) is *prima facie* evidence of the matter stated in the certificate.

15 (3) In proceedings for an offence against section 14, 15, 16 or 19, a document purporting to be a certificate given under this section shall, unless the contrary is proved, be taken to be such a certificate and to have been duly given.

Injunctions

20 35. (1) Where a person has engaged, is engaging or is proposing to engage, in any conduct that constituted or would constitute a contravention of this Act or the regulations, the Federal Court may, on the application of the Minister or any other person, grant an injunction restraining the person from engaging in the conduct and, if in the court's opinion it is desirable to do so, requiring the person to do any act or thing.

(2) Where:

(a) a person has refused or failed, or is refusing or failing, or is proposing to refuse or fail, to do an act or thing; and

30 (b) the refusal or failure was, is, or would be a contravention of this Act or the regulations;

the Federal Court may, on the application of the Minister or any other person, grant an injunction requiring the first-mentioned person to do that act or thing.

35 (3) Where an application is made to the court for an injunction under this section, the court may, if in the court's opinion it is desirable to do so, before considering the application, grant an interim injunction restraining a person from engaging in conduct of the kind referred to in that subsection pending the determination of the application.

40 (4) The court may discharge or vary an injunction granted under this section.

(5) The power of the court to grant an injunction restraining a person from engaging in conduct of a particular kind may be exercised:

- (a) if the court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; or 5
- (b) if it appears to the court that, in the event that an injunction is not granted, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind. 10

(6) The power of the court to grant an injunction requiring a person to do a particular act or thing may be exercised:

- (a) if the court is satisfied that the person has refused or failed to do that act or thing—whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; or 15
- (b) if it appears to the court that, in the event that an injunction is not granted, it is likely that the person will refuse or fail to do that act or thing—whether or not the person has previously refused or failed to do that act or thing and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing. 20

(7) Where the Minister makes an application to the court for the grant of an injunction under this section, the court is not to require the Minister or any other person, as a condition of the granting of an interim injunction, to give any undertakings as to damages. 25

(8) The powers conferred on the court under this section are in addition to, and not in derogation of, any powers of the court, whether conferred by this Act or otherwise. 30

Conduct by directors, servants and agents

36. (1) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show: 35

- (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and
- (b) that the director, servant or agent had the state of mind.

(2) Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority is to be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the body 40

corporate unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.

5 (3) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show:

- (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and
- (b) that the servant or agent had the state of mind.

10 (4) Any conduct engaged in on behalf of a person other than a body corporate by a servant or agent of the person within the scope of his or her actual or apparent authority is to be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the first-mentioned person unless the first-mentioned person establishes that the first-mentioned person took reasonable precautions and exercised due diligence
15 to avoid the conduct.

(5) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- 20 (b) the person's reasons for the intention, opinion, belief or purpose.

(6) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.

25 (7) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

(8) A reference in this section to an offence against this Act includes a reference to:

- (a) an offence created by the regulations; and
- 30 (b) an offence created by section 5, 6, 7 or 7A, or subsection 86 (1), of the *Crimes Act 1914*, being an offence that relates to the regulations.

Legal proceedings not to lie

37. No action or other proceeding lies against the Commonwealth in respect of any loss incurred, or any damage suffered, because of reliance on:

- (a) a compliance plate; or
- 35 (b) any test carried out under this Act or the regulations; or
- (c) any express statement, or any statement or action implying, that a road vehicle or a vehicle component complied with a national standard.

PART 7—MISCELLANEOUS

Law to apply in certain circumstances

38. (1) Where a law of a State purports to require new vehicles to comply with vehicle standards other than the national standards, the regulations may provide that that law is not to apply to:

- (a) road vehicles to be used exclusively in trade, commerce and intercourse among the States or between a State and a Territory; or
- (b) road vehicles owned or to be used by corporations.

(2) Where a law of a Territory purports to require new vehicles to comply with vehicle standards other than the national standards, the regulations may provide that that law is not to apply to road vehicles.

Applications for review

39. (1) Subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision of the Minister under section 11; and
- (b) a decision of the Minister for the purposes of subsection 14 (2); and
- (c) a decision of the Minister for the purposes of subsection 15 (2); and
- (d) a decision of the Minister for the purposes of subsection 16 (3); and
- (e) a decision of the Minister for the purposes of section 19; and
- (f) a decision of the Minister under the regulations for the purposes of section 20; and
- (g) a decision under the regulations to give or refuse a compliance plate or a compliance plate authority.

(2) In subsection (1):

“decision” has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

Statement to accompany notice of decisions

40. (1) Where the Minister makes a decision of a kind referred to in subsection 39 (1) and gives to a person whose interests are affected by the decision notice in writing of the decision, that notice is to include a statement to the effect that:

- (a) subject to the *Administrative Appeals Tribunal Act 1975*, application may be made by or on behalf of that person to the Administrative Appeals Tribunal for review of that decision; and
- (b) except where subsection 28 (4) of that Act applies, application may be made in accordance with section 28 of that Act by or on behalf of that person for a statement in writing setting out the reasons for the decision.

(2) Any contravention of subsection (1) in relation to a decision does not affect the validity of the decision.

Compulsory recall

5 **41.** For the purpose of section 65F of the *Trade Practices Act 1974*, a national standard (including a standard designed for a purpose referred to in paragraph (b) or (c) of the definition of “vehicle standard” in section 5 of this Act) is to be taken to be a prescribed consumer product safety standard.

Regulations

10 **42.** The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

15 and, in particular:

- (c) prescribing fines, not exceeding \$1,000, for offences against the regulations; and
- (d) providing that approvals given before the commencement of section 10 to place compliance plates on vehicles may be taken to have
20 been given in accordance with the arrangements under section 10.

