

Some of the History of Helmets

Standards Australia Newsletter

CEO Report: One Set of Rules for All



Forum on AS/NZS 1698: 2006  
Protective helmets for vehicle users

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FOR DETAILS

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Australian Motorcycle Helmet Laws

[Courtesy of Crossroadz](#)

**Overview**

The information provided here has been collected together to explain the system of regulation used in Australia in the simplest manner possible and to clear up many misconceptions which have built up over the years.

Every effort has been made to ensure the information is accurate and correct, if you consider there are errors then the sources of the information provided on the links page should be consulted to read the official Govt pages.

The regulation of the importation, sale and use of helmets is split across the Federal and State Governments.

The intent of the regulations is to ensure that what is legal to sell is legal to use in every State and Territory.

CLICK HERE  
FOR DETAILS

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[Headache time Where'd you get that hat? ... and is it legal?](#)

[MARKS HELMETS LABELS Part 1](#)

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[MARKS HELMETS LABELS Part 3](#)

[MARKS HELMETS LABELS Part 4](#)

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### **Issue on Motorcycle Helmets Letter to the Transport Minister**

As you have read from above there is total confusion when it comes to what is an approved helmet and what the law says and what the interpretation of the road rules by the police is, it has been brought to the MRAQ's attention of this problem to many riders are just paying the fine and not fighting it in a court of law, so here is the start, a letter to the Minister of Transport the sewn in patch in a helmet is under consumer law which means for the point of sale, not road rules, the road rules as they stand say we must wear an approved helmet in that lies the confusion,so stay tuned the MRAQ has just started down this road get on board and be part of the journey.

[Letter By the MRAQ President to the Transport Minister](#)

[Response from the Transport Minister](#)

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An article in the AMCN discribes a little more on the issue of compliance of helmets

### **STANDARD STICKERS NOT SO STANDARD**

Those little stickers on o ur helmets we are all told not to remove may not be so significant after all, AMCN Investigates

[CLICK HERE TO READ THE ARTICLE](#)

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This section is all about helmets and what we may or for that matter don't know of how complicated the Standards are on helmets what is fact and what is fiction are we legal or illegal when we ride across our borders into different States and Territories even the Police don't have a grasp on this matter.

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## **Headache time Where'd you get that hat? ... and is it legal?**

By Guy Stanford, immediate past chairman of the Motorcycle Council of NSW and a member of the Australian Motorcycle Council's Helmet Committee

An enormous amount has been written about motorcycle helmets in Australia. Most of it has been wasted ink. But now we can tell you the truth as it is understood by one of the few people who have actually researched it properly. It is completely surprising, hugely controversial and, be warned, it does not make a pretty picture.

### **Sales laws**

Consumer Protection Notice No.9 (CPN No.9), issued 10 December 1990, is the Commonwealth Government legal instrument (under the Trade Practices Act) that mandates Australian Standard AS 1698–1988 as the safety Standard for motorcycle helmets offered for sale in Australia. Laws in each state and territory reflect and enforce this.

AS 1698–1988 is the “old Standard”. Since 2006, a number of changes were made and the New Zealand government got involved too, resulting in AS/NZS 1698:2006, the “new Standard”.

Destructive testing of samples from a batch of helmets is performed. If these samples pass a battery of specific tests and assessments, then they meet the technical requirements of the relevant Standard. Separately, any marking or labelling associated with a helmet must meet quite specific requirements as laid down in the Standard.

The Australian Consumer and Competition Commission (ACCC) is responsible for policing standards and takes labelling very seriously. Go to the ACCC website and you'll see they are very active in ensuring correct labelling and prosecuting for misleading claims.

So what labels are legally required on motorcycle helmets?

Quoting from Australian Standard AS/NZS 1698:2006 (this part is identical with the old 1988 Standard):

### **8. MARKING**

Each helmet shall be permanently and legibly marked in letters no less than 1.5 mm, in such a manner that the marking can be easily read without the removal of padding, or any permanent

part, with the following:

- (a) Name of the manufacturer.
- (b) Model designation.
- (c) Size.
- (d) Month and year of manufacture (may be spelled out, eg “July 2005”, or in figures, eg “7/05”).
- (e) The words “Vehicle User’s Helmet”.
- (f) Instructions to user:
  - (i) Shell and liner constructed of (identify type(s) of material).
  - (ii) Helmet may be seriously damaged by substances such as petrol, paint, adhesives, or cleaning agents.
  - (iii) Make no modifications.
  - (iv) Fasten helmet securely.
  - (v) If helmet experiences a severe blow, destroy it and replace it.
  - (vi) Ensure that any visor attached to this helmet meets the requirements of AS 1609.
- (g) The certification mark (where required by Statutory Authorities).

NOTE: Manufacturers making a statement of compliance with this Australian/New Zealand Standard on a product, or on packaging or promotional material related to that product, are advised to ensure that such compliance is capable of being verified.

BUT, this Standard must be read in conjunction with Consumer Protection Notice No.9, which specifically removes clause 8(g).

So the first thing we learn is that the only Marking required on a helmet is internal to the helmet.

The second thing is that a “Statement of Compliance” may be on promotional material related to the helmet, or, that Statement may be on helmet packaging, or it may be on the helmet itself.

The Australian Consumer and Competition Act 2011 has strong “substantiation provisions” that require a manufacturer be able to prove that the helmet complies with the Standard.

Consequences for a manufacturer, for products not complying with a mandatory product safety Standard are quite severe.

Under the Commonwealth Product Safety System, a helmet manufacturer can conduct its own testing and assessment to “self-certify” and simply carry a “statement of compliance” in accordance with the Marking requirements of the Standard. Trolley jacks, sunglasses or ladders are familiar examples of this.

Alternatively, the helmet manufacturer may hire a Conformance Assessment Body as a “third-party certifier” to independently assess laboratory testing and other requirements of the Standard such as marking or labelling and “certify” that in their independent professional assessment, the product fully complies with the Standard.

This additional “certification” may be seen as a marketing edge at the point of sale, to provide an incentive to the buyer to have confidence in the product and advertising claims. Certification also provides an independent quality assurance check to the manufacturer and some degree of

protection from product liability claims.

Certification is carried out by a Conformance Assessment Body (CAB) and each has its own logo or brand name, but this doesn't have to be on the product, unless the CAB company demands this, or the manufacturer wants this, as part of business arrangements between the product manufacturer and the CAB company.

In fact, the "statement of compliance" may be, as we read above from Australian Standard AS/NZS 1698:2006, "on a product, or on packaging or promotional material related to that product".

So when you purchased your helmet, the "statement of compliance" could have been printed on the box it came in, or on the "Instructions for Use and Care" required under Section 9 of the Standard and enclosed with your helmet, or on promotional material telling you how wonderful it is, or on a swing-tag or on a sticker across the entire visor, or it may take the form of a shiny sticker from a CAB company stuck on the helmet.

You'd be a goose to leave all the packing materials on your sunglasses or helmet and go riding, so you take all that stuff off. The little sticker may have the words "Do Not Remove" but that's just intimidation; it only had to be there when "offered for sale". Once you bought it, it's your product and sales labels may be removed.

However, the "permanent" Section 8 internal Markings are required by the Standard. These identify the helmet and carry warnings.

Looking for evidence of compliance from external labels is a load of codswallop and has been since 1990. External advertising labels are legally unreliable once the product is sold.

Requirements of the Standard are internal marking of helmet identity and user instructions.

Under the Trans-Tasman Mutual Recognition Arrangement (TTMRA), goods that may be legally sold in New Zealand may be sold in Australia and vice versa. This principle operates regardless of differences in standards or other sale-related regulatory requirements between Australia and New Zealand.

New Zealand allows helmet standards such as the European ECE 22-05, Japanese, JIS T8133, USA "DOT" or more correctly FMVSS-218, Australian AS/NZS 1698 and some others.

So yes, it's perfectly legal to purchase a good-quality, safe helmet that is or is not in conformance with the Australian Standard. This same freedom in purchase also allows you to purchase a piece of rubbish that looks a bit like a helmet.

Whether you are allowed to use a non-Australian Standard helmet on roads in Australia is an entirely different question.

States and Helmets

**"In Use" laws**

The National Australian Road Rules (ARRs) commenced in December 1999 when all states and territories cleared out their inconsistent old ones and adopted the uniform ARRs.

Historically, Australia is a collection of British Crown colonies, each with a different constitution and legal system. At Federation, the states gave up certain powers to form the commonwealth, but they gave up nothing in relation to roads. This means it's like moving between different countries, with different laws when you cross a state border in Australia.

The great hope was that roads authorities would stop individual fiddling with their Road Rules and provide national consistency. For motorcycle helmets, it's now a complete mess.

In Road Rule 270, the ARRs require the rider to "wear an approved motor bike helmet securely fitted and fastened on the rider's head".

If police enforcement stopped there, problems would be minor. Seat belt laws are that simple.

The Road Rule then goes on to define: "Approved motor bike helmet means a protective helmet for motor bike riders that is approved, for the Australian Road Rules, under another law of this jurisdiction."

This definition is different in each state and territory and none of them references the Commonwealth's Consumer Protection Notice No.9. What you can legally buy doesn't relate to what you can legally use.

Let's go clockwise around the country.

### **Northern Territory and Queensland**

In the Northern Territory and Queensland, the "another law of this jurisdiction" is in their Road Rules and defines an approved helmet to be one that "complies with AS 1698-1988" (the "old" Standard).

Simple: look inside the helmet.

In the hot humid summers of Queensland and the Northern Territory, sweat and repeated cleaning mean these markings may become illegible or disappear altogether.

Yet, the Queensland Government Motorcycle Safety website instructs Queensland riders "your helmet needs to have a sticker that shows it complies with Australian Standard AS 1698" and shows a group of Conformance Assessment Body company trademarks. This so-called "advice" is inconsistent with the Queensland Road Rules and the Marking requirements of the old and the new helmet Standards. It's anti-competitive, misleading and provides endorsed advertising to selected companies.

Just to complicate things, neither Consumer Protection Notice No.9 nor the Road Rules of Queensland or Northern Territory has been updated to reflect the new Standard. This simply adds additional uncertainty, as new helmets are not in conformance with the old Standard. It would appear that all brand new helmets may be illegal to sell or use up north.

I have a helmet, purchased two years ago from a shop in Sydney, which has none of the internal labels required by AS/NZS 1698:2006 but does have an external label from a Conformance Assessment Body. With items like this being sold in the marketplace, it's no wonder that everyone is confused.

## **NSW**

Continuing our road trip into NSW we find “use” laws very different indeed.

The NSW Road Rules were changed without warning in February 2010 and now demand that an approved helmet for Road Rule 270 is one that complies with at least one version of AS/NZS 1698 and also “has an identifying mark from a body accredited or approved by the Joint Accreditation System of Australia and New Zealand certifying compliance with an above standard”.

Until February 2010, the term “approved motor bike helmet” in NSW Road Rule 270 was not defined and there was no “another law of this jurisdiction” other than the Fair Trading Regulation 2007 for “sale”. In other words, in NSW, the word “approved” in Road Rule 270 could only be interpreted as “approved for sale”. This included helmets complying with the Australian Standard AND any helmet approved for sale in New Zealand because of the TTMRA. Good-quality helmets from reliable makers look the same and may meet equally effective alternative Standards.

As a result, thousands of riders in NSW have been buying and using helmets in conformance with European, USA or Japanese Standards. Thousands of helmets have been made retrospectively illegal to use on roads in NSW since February 2010.

The NSW Road Rule also retrospectively bans use of helmets that comply with the Australian Standard.

Importers of helmets who employed the services of Conformance Assessment Bodies (CABs) that were not “a body accredited or approved by the Joint Accreditation System of Australia and New Zealand (JAS-ANZ)” have been hit with additional costs in being forced to now deal with other CAB companies.

There is no legal requirement in Australia for any Conformance Assessment Body to seek accreditation with JAS-ANZ. Nor is there a legal requirement for a helmet manufacturer to use a Conformance Assessment Body at all. It is perfectly legal to “self-certify” as is done for ladders or trolley jacks or other products listed at [www.productsafety.gov.au](http://www.productsafety.gov.au). The new Accreditation requirements appear as an effort to control the marketplace.

The NSW RTA has obviously lost faith in the Commonwealth Product Safety System and decided to create its own product approval system. NSW's RTA Crashlab is the only test laboratory on Australian soil with Accreditation to test motorcycle helmets.

The new NSW road rules have damaged several businesses and helmet brand names, created

confusion and result in fines to riders from NSW and other states.

What is most striking about the new NSW Road Rule is that it is based on commercial trademark stickers — that don't have to be there at all, except by arrangement between the helmet manufacturer and the Conformance Assessment Body. This new law has a commercial foundation yet is described by the RTA as “a preventative safety measure”.

The NSW Road Rules shift responsibility for helmet qualifications away from the Commonwealth Product Safety System and onto the wallet of end users, with fines. Good business for an RTA business. NSW riders have had to put aside perfectly good-quality, safe helmets and are forced to buy new ones through what is effectively a cartel of “accredited members of JAS-ANZ”.

You have to admire the RTA for its comprehensive administrative, legislative and profitable screwing of riders. The new Minister for Roads in NSW has yet to respond to the Motorcycle Council of NSW on this issue.

Retrospectivity and market control make NSW special. Let's hope sense prevails and this legacy of the Labor government in NSW is abandoned.

What's truly beautiful is that a helmet meeting the new NSW road rules is legal to use in Queensland, but only some helmets that are legal to use in Queensland are now legal to use in NSW.

It gets better. Ride south.

**ACT, Victoria, Tasmania, South Australia and Western Australia**

A helmet that is legal to use under the new NSW Road Rules is illegal to use in the ACT, Victoria, Tasmania, South Australia and Western Australia.

In these states, the police are instructed to look for a helmet in use on roads that:

ACT

“has applied to it the certification trade mark of which the Standards Association of Australia”

Victoria

“[is] marked with an official standards mark certifying compliance with the relevant Standard”

Tasmania “bears the Australian Standards Mark”

South Australia “[is] bearing the certification mark of the Standards Association of Australia”

Western Australia “carries a sticker issued by Standards Australia”

There is no such a thing as a “Certification Trademark of the Standards Association of Australia”, nor “an official Standards Mark”, nor “an Australian Standards Mark”, nor “a Certification Mark of the Standards Association of Australia”, nor “a sticker issued by Standards Australia”.

Police are looking for something that doesn't exist.

Standards Australia was broken up by the Commonwealth Government and the “Quality Assurance Services” (QAS) commercial Certification service sold off to private buyers in December 2003. Since that time, there have been no stickers, Marks, or labels of any kind issued by Standards Australia for use on any products. There are commercial stickers that look like the old Standards Mark and some commercial trademarks are even called that, but that’s just part of the confusion.

For motorcycle riders in the ACT, Victoria, Tasmania, SA and WA, this means that ANY new motorcycle helmet is illegal to use under their Road Rules. The consequences at law are identical for using a high-quality, safe helmet from Europe, Japan or the USA as for using a helmet with Australian Standard qualifications.

It’s perfectly logical that motorcycle riders look closely at pricing or model availability and choose to buy a helmet from overseas when it is impossible to comply with local road rules.

One clear reason for high prices locally is multiple regulatory environments. It is clear that roads authorities around Australia do not understand the Standards and Conformance process, have arrogantly chosen to ignore it for other reasons, or have been misled. Which is it?

Yet the same roads authorities demand legal compliance from motorcycle riders. Unfortunately, police appear to have been misled by roads authorities about legally irrelevant stickers.

The Australian Motorcycle Council has made representations to the Commonwealth Government who are responsible for the Standards and Conformance process and the only authority capable of cleaning up this complete dog’s breakfast.

It’s little wonder that riders do not trust roads authorities when they use the word “safety”.

Rider’s trust is ripped from them through their wallets.  
GS

To riders: We suggest that you continue wearing your helmet as before and by all means buy a new one from a recognised manufacturer. Just concentrate on staying safe until this is all sorted out!

To the police: If a rider has a helmet on, that’s enough for now. You don’t look for stickers on seatbelts, just that they’re being used. Bookings for “unapproved helmet” are likely to prove unsound in court.

<http://www.roadrider.com.au/special-features/state-of-helmets>

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These 4 PDF's were researched and compiled by Guy Stanford from the AMC this information on Helmets and shows how confusing a simple thing as a Helmet can be when the different departments are involved. This is indepth but there is information here that is invaluable.

[MARKS HELMETS LABELS Part 1](#)

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### **Issue on Motorcycle Helmets Letter to the Transport Minister**

Because there is total confusion when it comes to what is an approved helmets and what the law says and what the interpretation of the road rules by the police is, it has been brought to the MRAQ's attention of this problem to many riders are just paying the fine and not fighting it in a court of law, so here is the start, a letter to the Minister of Transport the sewn in patch in a helmet is under consumer law which means for the point of sale, not road rules, the road rules as they stand say we must wear an approved helmet in that lies the confusion,so stay tuned you the MRAQ has just started down this road get on board and be part of the journey

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### **Helmet Recalls**

Bulk Bikes—Kylin XR-205 Motorcycle Helmet (Recall Expanded)

PRA number: 2013/13581

Date published: 15th May 2013

Product information

Product description

**Open face skull cap motorcycle helmet. The original recall (PRA2013/13558) has been expanded to include all sizes (S,M,L,XL,XXL) sold between July 2012 to April 2013.**

Identifying features

XR-205

What are the defects?

A number of large sized Kylin motorcycle helmets do not meet performance requirements that are outlined in the Australian/New Zealand Standard AS/NZS1698:2006.

What are the hazards?

There is a possibility that the helmets may not provide adequate protection to the wearer in the event of an accident and may increase the risk of death or serious injury to the wearer.

Dates available for sale

1st July 2012 - 30th April 2013

Where the product was sold

Nationally

Traders who sold this product

Bulk Bikes

Supplier

Bulk Bikes

What should consumers do?

Consumers should immediately stop using the helmets and contact Bulk Bikes to organise for a refund or replacement. For further information please email [bulkbikes@bigpond.com](mailto:bulkbikes@bigpond.com).

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Monza Imports Australia—KBC VR-1X Motorcycle Helmet

PRA number: 2013/13569

Date published: 7th May 2013

Product information

Product description

Motorcycle safety helmet

Identifying features

Manufacture date: 2012-6

The manufacture date can be seen on the Vehicle User Helmet Warning label stitched inside the comfort liner.

What are the defects?

Affected KBC VR-1X motorcycle helmets do not meet performance requirements that are outlined in the Australian/New Zealand Standard AS/NZS1698:2006.

What are the hazards?

There is a possibility that the helmets may not provide adequate protection to the wearer in the event of an accident and may increase the risk of death or serious injury to the wearer.

Dates available for sale

1st September 2012 - 7th May 2013

Where the product was sold

Nationally

Traders who sold this product

Motorcycle dealers who stock KBC helmets

Supplier

Monza Imports Australia P/L

Supplier's web site

<http://www.monzaimports.com.au/>

What should consumers do?

Consumers should immediately stop using the helmets and return it to the place of purchase for a refund or replacement.

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## **NEW** ACCC testing reveals unsafe motorcycle helmets

17 May 2013

Over 1,000 potentially dangerous motorcycle helmets have been recalled after testing by the Australian Competition and Consumer Commission found they were unsafe and did not meet the Australian/New Zealand Standard.

“Motorcycle helmets are critical protective devices that are designed to prevent or minimise head injury during an accident,” ACCC Deputy Chair Delia Rickard said.

“Motorcyclists must be able to rely on their helmets meeting the safety requirements.”

The ACCC recently tested six different brands and models of motorcycle helmet against the requirements of the Australian/New Zealand Standard. Two of the six helmets failed to meet minimum safety requirements and have been recalled.

“If consumers own a recalled helmet they should contact their supplier immediately for a refund or replacement and use an alternative helmet. It is not safe to wear the recalled helmet,” Ms Rickard said.

The recalled helmets are:

- **Kylin XR 205 open face skull cap style helmet (all sizes).** This helmet was supplied by Bulk Bikes via eBay between 1 July 2012 and 30 April 2013. The supplier is working to

contact customers directly and advise them of the recall. Full details of the recall are available at <http://www.recalls.gov.au/content/index.phtml/itemId/1047706>.

- **KBC VR-1X full face helmet.** This helmet was imported by Monza Imports and sold by retailers online and in motorcycle accessory shops nationwide between 1 September 2012 and 7 May 2013. The model number of the helmet (VR-1X) is printed on the Vehicle Helmet User Warning Label stitched to the inside lining of the helmet. Full details of the recall are available at <http://www.recalls.gov.au/content/index.phtml/itemId/1047524>.

The ACCC will be closely monitoring the effectiveness of these recalls. For further information, including supplier contact details, visit the Recalls Australia website at [www.recalls.gov.au](http://www.recalls.gov.au). For information about product safety, visit [www.productsafety.gov.au](http://www.productsafety.gov.au).

## Images of the recalled helmets

Kylin Helmet



Kylin Helmet



KBC Helmet



KBC Helmet



Release number:

103/13

Media enquiries:

Ms Meg Macfarlan - (02) 6243 1317 or 0408 995 408

Additional contacts:

General Inquiries: 1300 302 502

<http://www.accc.gov.au/media-release/accc-testing-reveals-unsafe-motorcycle-helmets>

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## Helmet standard stoush

Confusion over the safety certification of motorcycle helmets has triggered claims that many sold in New south Wales are illegal

[http://www.youtube.com/watch?feature=player\\_embedded&v=nVvEXogiKkY](http://www.youtube.com/watch?feature=player_embedded&v=nVvEXogiKkY)

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### **Amendment to the Road Rule 270 as at the 4th October 2013 it reads**

(3) In this section—

approved motorbike helmet

means a helmet that complies

with—

(a) AS 1698; or

(b) AS/NZS 1698; or

(c) another standard the chief ex

ecutive considers is at least

equal to a standard mentione

d in paragraph (a) or (b).

passenger  
, of a motorbike, includes a person on a passenger  
seat of the motorbike, includi  
ng the pillion seat, or in a  
sidecar.

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/T/TrantOpRURR09.pdf>

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