

Road Transport (General) Segway Exemption Determination 2016 (No 2)

Disallowable instrument DI2016-291

made under the

Road Transport (General) Act 1999, section 13 (Power to exclude vehicles, persons or animals from road transport legislation)

1 Name of instrument

This instrument is the *Road Transport (General) Segway Exemption Determination 2016 (No 2)*.

2 Commencement

This instrument commences on 1 January 2017.

3 Declaration

- (1) I declare that the disapplied legislation does not apply to a Segway or an operator if the circumstances in schedule 1 (Circumstances applying to Segways and operators) apply.
- (2) I declare that the disapplied legislation does not apply to a rider of a Segway if the circumstances in schedule 2 (Circumstances applying to riders) apply.

4 Definitions

Note Terms used in this instrument have the same meaning that they have in the *Road Transport (General) Act 1999* (see Legislation Act, s 148). For example, the following terms are defined in the *Road Transport (General) Act 1999*, dict:

- Australian Road Rules
- rider
- road related area
- road transport authority
- road transport legislation (see s 6)
- vehicle.

In this instrument:

ACTIA means the Australian Capital Territory Insurance Authority established under the *Insurance Authority Act 2005*.

ACT Treasury risk assessment toolkit means the risk assessment tool accessible at <http://apps.treasury.act.gov.au/insurance-and-risk-management/risk-management> .

approved bicycle helmet has the meaning given in the *Road Transport (Safety and Traffic Management) Regulation 2000*, section 33 (1).

commencement day means the day this instrument commences.

commercially—an operator operates a Segway **commercially** if the person hires or rents the Segway for reward or commercial gain.

declared area means the part of the Lake Burley Griffin foreshores within the boundaries of the area outlined in schedule 3.

disapplied legislation means the road transport legislation, other than the following:

- (a) the *Road Transport (Alcohol and Drugs) Act 1977*;
- (b) the *Road Transport (General) Act 1999*, except—
 - (i) section 58 (Police officer or authorised person may require name, date of birth, address and driver licence—driver or rider); and
 - (ii) section 61C (Drive while suspension notice in effect);
- (c) the *Road Transport (Safety and Traffic Management) Act 1999*, section 5A , section 6 to section 8 and section 16 (which are about speeding and other dangerous driving, and stopping and giving assistance following an accident);
- (d) the following provisions of the Australian Road Rules:
 - (i) rule 287 (Duties of a driver involved in a crash);
 - (ii) rule 290 (Driving on a traffic island), except to cross a road on a path;
 - (iii) rule 296 (Driving a vehicle in reverse);
 - (iv) rule 300 (Use of mobile phones);
 - (v) rule 304 (Direction by a police officer or authorised person).

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

intersection management plan—see schedule 1, section 1.1 (s).

operator means a person who operates a Segway commercially.

risk management plan means a plan developed by an operator for managing the assessed risks, in accordance with the ACT Treasury risk assessment toolkit.

Segway means a 2-wheeled self-balancing Segway personal transporter.

staff member, of an operator, includes an employee, agent or contractor of the operator.

supervised tour—see schedule 1, section 1.1 (m).

5 Expiry

This instrument expires on 30 June 2017.

Shane Rattenbury MLA
Minister for Justice and Consumer Affairs
6 December 2016

Schedule 1 Circumstances applying to Segways and operators

(see s 4 (1))

1.1 Circumstances applying to Segways and operators

For section 4 (1), the circumstances are as follows:

- (a) the operator operates the Segway commercially;
- (b) the operator is authorised (however described) by the national capital authority to operate the Segway commercially in the declared area;
- (c) the operator undertakes a risk assessment using the ACT Treasury risk assessment toolkit;
- (d) the operator prepares a risk management plan for the risks identified using the ACT Treasury risk assessment toolkit;
- (e) the operator indemnifies the following in relation to all claims, costs and expenses, and for all loss, damage, injury or death to people or property caused by the operator or a staff member of the operator in relation to the operation of the Segway commercially:
 - (i) the Territory;
 - (ii) the nominal defendant;
 - (iii) a rider;
- (f) the operator effects and maintains public liability insurance (the *insurance policy*) with a coverage of not less than \$20 million in relation to each claim;
- (g) the operator gives ACTIA a copy of the insurance policy within 7 days after the operator effects the policy;

- (h) if the insurance policy is cancelled or not renewed—the operator tells ACTIA that the policy is cancelled or not renewed within 7 days after the policy is cancelled or not renewed;
- (i) if the insurance policy is renewed or replaced—the operator gives ACTIA a copy of the renewed or replaced policy within 7 days after the policy is renewed or replaced;
- (j) the Segway is limited by key to a maximum speed of 12km/h;
- (k) the Segway is fitted with reflectors and warning devices that comply with AS/NZS 1927-2010 (Pedal bicycles—safety requirements);
- (l) the operator trains the rider in the use of the Segway (including getting on and off the Segway, stopping and starting the Segway, braking, riding on slopes, managing intersections and conditions), and assesses the rider’s competency to ride the Segway before allowing the rider to participate in a supervised tour;
- (m) the operator allows the rider to ride the Segway only as part of a tour (a *supervised tour*) supervised by a staff member of the operator or for training the rider in the use of the Segway;
- (n) supervised tours are undertaken only during daylight hours;
- (o) there is a minimum of 1 staff member of the operator to 10 riders on a supervised tour;
- (p) the operator prepares a training manual for staff members of the operator for, and trains staff members in, the delivery of rider training, work health and safety, customer service and incident management, and gives a copy of the manual to the road transport authority;
- (q) at least 1 staff member on-site during business hours holds a senior first-aid certificate or equivalent;

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- (r) a staff member on a supervised tour carries a first-aid kit;
 - (s) the operator prepares a plan (an *intersection management plan*) for reducing the risks to the safety of riders and other road users at intersections or other places where riders will cross from 1 road related area to another, which, as a minimum, requires a rider to—
 - (i) if an intersection or other place is controlled by a traffic signal—enter the intersection or place only in accordance with the traffic signal; or
 - (ii) if an intersection or other place is not controlled by a traffic signal—enter the intersection or place only after stopping;

Examples—other places

driveway, pedestrian crossing

Note An example is part of the statutory instrument, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (t) the operator provides the road transport authority with that intersection management plan;
- (u) the operator prepares a plan for how the operator will respond to particular categories of incident, including accident, medical emergency and other categories of threat, and gives a copy of the plan to the road transport authority;

Example—other categories of threat

fire

- (v) the operator tells the rider of the circumstances applying to riders mentioned in schedule 2, and that failure to comply with the requirements may expose the rider to penalties under the road transport legislation;
- (w) the operator monitors the rider's compliance with the circumstances applying to riders mentioned in schedule 2;

- (x) the operator keeps records about the following:
 - (i) any loss, damage, injury or death to people or property caused by the operator or a staff member of the operator in relation to the operation of a Segway commercially or by anyone else arising in relation to the use of a Segway;
 - (ii) any failure by the operator or a staff member to comply with the circumstances applying to operators mentioned in this schedule;
 - (iii) any failure by a rider to comply with the circumstances applying to riders mentioned in schedule 2;
- (y) the operator gives a report to the road transport authority quarterly about the matters mentioned in paragraph (x).

Note If a form is approved under the Act, s 225 for this provision, the form must be used.

Schedule 2 Circumstances applying to riders

(see s 3 (2))

2.1 Circumstances applying to riders

For section 3 (2), the circumstances applying to the rider are as follows:

- (a) the rider uses the Segway only with the permission of an operator operating the Segway commercially;
- (b) the rider wears an approved bicycle helmet;
- (c) the rider is at least 12 years old;
- (d) the rider is of a height so that the rider's elbows are at the same height or higher than the Segway's handle bar when standing in the riding position on the Segway's platform;
- (e) the rider rides the Segway only as part of a supervised tour or for being trained by the operator in the use of the Segway;
- (f) the rider does not carry any passengers, including animals, on the Segway;
- (g) the rider does not use the Segway to tow another vehicle;
- (h) the rider does not allow the Segway to be towed by another vehicle;
- (i) the rider does not ride the Segway on a dividing strip or median strip;
- (j) the rider keeps to the left of any path, except when overtaking, and gives way to all pedestrians, including pedestrians riding wheeled recreational devices;
- (k) the rider complies with the Australian Road Rules, part 14 (Rules for pedestrians) as if the rider were a pedestrian;
- (l) the rider complies with the operator's intersection management plan;
- (m) the rider only uses the Segway within a declared area.

Schedule 3 Declared area

(see s 5, def *declared area*)

