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**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**ROAD TRANSPORT LEGISLATION (AUSTRALIAN ROAD RULES)
AMENDMENT REGULATIONS 2004 (No 1)**

SL2004-16

EXPLANATORY STATEMENT

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AUSTRALIAN CAPITAL TERRITORY

ROAD TRANSPORT LEGISLATION (AUSTRALIAN ROAD RULES) AMENDMENT REGULATIONS 2004 (No 1)

SUBORDINATE LAW No. SL 2004 - 16

EXPLANATORY STATEMENT

BACKGROUND

The Australian Road Rules (ARR) were initially developed and approved by the ministerial council on transport issues, the Australian Transport Council, in 1999, and subsequently incorporated into the law of each State and Territory.

At this time it was also agreed that a national advisory group, consisting of representatives from each State and Territory, would be established, to ensure that the ARR remain up to date and support the road safety and traffic management objectives of all jurisdictions.

The advisory group identified and recommended a number of changes, which have resulted in the development of a revised version of the ARR. This first package of amendments to the ARR was approved by the Australian Transport Council on 30 June 2003.

A copy of the revised ARR and Regulatory Impact Statement can be downloaded from the National Transport Commission's website at www.ntc.gov.au. The Regulatory Impact Statement provides a detailed outline of the changes made to the ARR.

OVERVIEW

The Road Transport Legislation (Australian Road Rules) Amendment Regulations 2004 adopt the revised version of the ARR and give effect to the first package of amendments. However, it should be noted that as a result of new ARR 236(6), which allows a jurisdiction to pass a law permitting certain roadside activities, new ARR 236(4) and 236(5) do not apply in the ACT.

New ARR 236(4) prohibits pedestrians from washing windscreens, hitchhiking, displaying advertisements, selling articles or soliciting contributions, employment or business from an occupant of a vehicle.

New ARR 236(5) prohibits a person in a vehicle from buying an article or service from a person standing on a road.

The regulations also make some technical amendments to the Road Transport (Offences) Regulations 2001 and the Road Transport (Safety and Traffic Management) Regulations 2000.

DETAIL

PART 1 – PRELIMINARY

Regulation 1 – Name of regulations

This regulation names the amendment regulations as the Road Transport Legislation (Australian Road Rules) Amendment Regulations 2004 (No) (hereafter referred to as the Amendment Regulations).

Regulation 2 – Commencement

This regulation provides for the commencement of the changes to the Road Transport legislation. All these regulations will commence on a day fixed by the Minister by written notice.

PART 2 – ROAD TRANSPORT (OFFENCES) REGULATIONS 2001

Regulation 3 – Legislation amended – pt 2

This regulation specifies that Part 2 of the Amendment Regulations amends the Road Transport (Offences) Regulations 2001.

Regulation 4 – Regulation 6 (3)

This regulation omits regulation 6(3) which defines a *camera-detected offence*. This regulation is unnecessary because this term is defined in the dictionary.

Regulation 5 – Regulation 15 heading

This regulation substitutes a new heading for regulation 15 which is more informative and brings the heading into line with current drafting practice.

Consequential amendments to Schedule 1

Regulations 6 to 23 make consequential amendments to Part 1.2 and Part 1.13 of Schedule 1 of the Road Transport (Offences) Regulations 2001.

Part 1.2 provides a short description of the offences in the ARR, which can be used in an information summons or warrant notice, order or other document, to sufficiently state the offence.

Part 1.13 provides a short description of the offences in the Road Transport (Safety and Traffic Management) Regulations 2000.

The Schedule also provides the offence penalty, infringement penalty (if applicable), and demerit points (if applicable).

Regulation 6 – Schedule 1, part 1.2 (Australian Road Rules), items 36 to 39

This regulation amends the short description of items 36 to 39 of Schedule 1, Part 1.2 as a result of amendments made to ARR 57 (Stopping for a yellow traffic light or arrow). The amendments to ARR 57 clarify the policy intent of the rule and bring it into line with the drafting of similar provisions.

Regulation 7 – Schedule 1, part 1.2, new items 59.1A and 59.1B

This regulation inserts two new items as a result of the inclusion of two new offences in new ARR 69(2A), which require drivers to give way to vehicles and pedestrians when using a slip lane. A slip lane is an area of road for vehicles turning left that is separated, at some point, from other parts of the road by a painted island or traffic island.

Regulation 8 – Schedule 1, part 1.2, new items 67A and 67B

This regulation inserts two new items as a result of the inclusion of two new offences in ARR 74(1)(d). ARR 74(1)(d) provides that it is an offence for drivers not to give way to vehicles when entering a road from a road-related area (such as a service station).

Regulation 9 – Schedule 1, part 1.2, item 75

This regulation inserts a new item as a result of the inclusion of a new offence in ARR 77(1). ARR 77(1) provides that it is an offence for drivers, or bicycle riders in a bicycle lane, to not give way to a bus that has stopped in the lane to pick up or set down passengers and is about to enter or proceed in the lane.

Regulation 10 – Schedule 1, part 1.2, new item 157A

This regulation inserts a new item as a result of the inclusion of a new offence in ARR 128A which covers drivers who enter a children's crossing, marked foot crossing or pedestrian crossing when the road beyond the crossing is blocked.

Regulation 11 – Schedule 1, part 1.2, items 199 and 200

This regulation amends items 199 and 200 as a result of amendments made to ARR 163 and 164 (Driving past the rear of a stopped tram; Giving way to pedestrians crossing the road near a stopped tram). The amendments to ARR 163 and 164 clarify that if a tram is simply stopped in traffic and not in the process of picking up or dropping off passengers, a driver may proceed past the tram.

Regulation 12 – Schedule 1, part 1.2, item 204

This regulation omits item 204 as a result of the omission of the offence provision for ARR 170(1) (A driver must not stop in an intersection) from the revised version of the ARR. This is the result of an oversight and is corrected in the ACT's legislation by including a new offence in the Road Transport (Safety and Traffic Management) Regulations 2000 which is modelled on ARR 170(1). See regulation 32 of these Amendment Regulations.

Regulation 13 – Schedule 1, part 1.2, new item 217A

This regulation inserts a new item as a result of the inclusion of a new offence in ARR 179(2), which prohibits stopping in a loading zone longer than permitted by a loading zone permit or by another ACT law.

Regulation 14 – Schedule 1, part 1.2, new item 244A

This regulation inserts a new item as a result of the inclusion of a new offence in new ARR 203A (Stopping in a slip lane).

Regulation 15 – Schedule 1, part 1.2, item 251

This regulation amends item 251 as a result of amendments made to ARR 210 to clarify the rules about Angle Parking.

Regulation 16 – Schedule 1, part 1.2, item 257

This regulation amends item 257 as a result of amendments made to ARR 213 to clarify the policy intent of the rule (Making a motor vehicle secure). It ensures that in all cases, the driver must switch off the engine and apply the handbrake before leaving the vehicle, including for the purpose of paying a parking fee.

Regulation 17 – Schedule 1, part 1.2, items 306 and 307

This regulation amends items 306 and 307 as a result of amendments to ARR 240(1). The amendments to ARR 240(1) clarify that wheeled recreational devices (eg skateboards and rollerblades) are only to be used on roads which have a speed limit not exceeding 60 km/h.

Regulation 18 – Schedule 1, part 1.2, item 318

This regulation amends item 318 as a result of amendments to ARR 244. The amendments to ARR 244 correct an anomaly by expanding the current offence to prohibit a person on a wheeled recreational device from being towed by a vehicle or travelling within two metres of the rear of a moving vehicle for a distance of 200 metres or more. Bicycle riders are currently prohibited from these activities under ARR 254 and 255.

Regulation 19 – Schedule 1, part 1.2, item 324

This regulation amends item 324 as a result of an amendment to ARR 248. The amendment to ARR 248 provides an exemption, which now allows cyclists to cross on a marked foot crossing if there is a green bicycle crossing light. The offences have been amended accordingly.

Regulation 20 – Schedule 1, part 1.2, new items 353A and 353B

This regulation creates new items as a result of the creation of two new offences under ARR 268. The amended rule provides that it is an offence for a driver to allow passengers under the age of 16 years to travel in a part of the vehicle not designed for the carriage of passengers, eg the back of a utility.

Regulation 21 – Schedule 1, part 1.2, item 367

This regulation amends item 367 as a result of an amendment to ARR 271(5), which covers the carrying of passengers in the back of a “trike” that has seating at the back, ie it is not a “sidecar”. The amended offence is for exceeding the number of passengers on a motorbike seat or in a sidecar.

Regulation 22 – Schedule 1, part 1.2

This regulation provides for the renumbering of the items and sub items in Schedule 1, part 1.2 when the regulations are next republished under the Legislation Act.

Regulation 23 – Schedule 1, part 1.13 (Road Transport (Safety and Traffic Management) Regulations 2000), item 1

This regulation substitutes item 1 of the Schedule, as a result of the repeal of regulation 23A of the Road Transport (Safety and Traffic Management) Regulations 2000. Revised ARR 248 (No riding across a road on a crossing) allows the rider of a bicycle to ride across a marked foot crossing if there is a green bicycle crossing light, so there is no longer a need for the ACT to have a regulation (regulation 23A) to cover this situation.

New item 1 provides a short description and offence penalty for regulation 12A. Regulation 12A is a new offence modelled on the existing ARR 170 (1) ‘A driver must not stop in an intersection’. The offence provision for this rule was inadvertently omitted when the ARR were revised by the National Transport Commission.

PART 3 – ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) REGULATIONS 2000

Regulation 24 – Legislation amended – pt 3

This regulation specifies that Part 3 of the Amendment Regulations amends the Road Transport (Safety and Traffic Management) Regulations 2000.

Regulation 25 – Regulation 5

This regulation amends regulation 5 to refer to the new edition of the ARR published by the National Road Transport Commission on 22 October 2003.

Regulations 26 to 30 – Division 2.2.1

Division 2.2.1 of the Road Transport (Safety and Traffic Management) Regulations 2000 contains two tables, which set out the provisions of the ARR for which provision is made in the regulations and other Territory laws. The ARR must be read subject to these provisions, and any other associated laws of the Territory.

Amendment Regulations 26 to 30 make a number of consequential amendments to the first of these tables as a result of amendments to the revised ARR.

Regulation 26 – Division 2.2.1, note 2, table

This regulation omits regulation 8A - ARR 25(2) from the table because revised ARR 25(2) provides for a national default speed limit in built-up areas of 50 kilometres per hour. Therefore the ACT no longer needs a regulation stating that it has a default speed limit in built-up areas of 50km/h. See Amendment Regulation 31.

Regulation 27 - Division 2.2.1, note 2, table

This regulation adds new regulation 12A - ARR 170(1) to the table, for the reason described in regulation 12 above. This new regulation inserts an offence provision for ARR 170(1) 'A driver must not stop in an intersection' which was inadvertently omitted when ARR 170(1) was revised by the National Transport Commission. See Amendment Regulation 32.

Regulation 28 – Division 2.2.1, note 2, table

This regulation omits regulation 16A - ARR 213, from the table and substitutes regulation 16A - ARR 213(5). The revision of the wording of ARR 213 has resulted in a renumbering of the ACT's exemption from the requirement to lock the doors of the vehicle. The current ARR reference is to ARR 213(4)(b) and the new reference will be to ARR 213(5). See Amendment Regulation 33.

Regulation 29 – Division 2.2.1, note 2, table

This regulation inserts a new regulation 22A into the table which relates to new ARR 236(6). The roadside activities prohibited by new ARR 236(4) and (5) will not be prohibited in the ACT. See Amendment Regulation 34.

Regulation 30 – Division 2.2.1, note 2, table

This regulation omits regulation 23A - ARR 248 from the table, because regulation 23A in the Road Transport (Safety and Traffic Management) Regulations 2000 is being repealed. Revised ARR 248 (No riding across a road on a crossing) allows the rider of a bicycle to ride across a marked foot crossing if there is a green bicycle crossing light, so there is no longer a need for the ACT to have a regulation (regulation 23A) to cover this situation. See Amendment Regulation 35.

Regulation 31 – Regulation 8A

This regulation omits regulation 8A because revised ARR 25(2) provides for a national default speed limit in built-up areas of 50 kilometres per hour. Therefore the ACT no longer needs a regulation stating that it has a default speed limit in built-up areas of 50km/h.

Regulation 32 – New regulation 12A

This new regulation inserts an offence provision for ARR 170(1) 'A driver must not stop in an intersection' which was inadvertently omitted when ARR 170(1) was revised by the National Transport Commission. (See regulation 12 above.)

Regulation 33 – Regulation 16A

This regulation updates the reference to ARR 213(4)(b) because this provision has been renumbered in the revised ARR. The current ARR reference to ARR 213(4)(b) has been replaced by a reference to ARR 213(5).

Regulation 34 – New regulation 22A

New regulation 22A permits the roadside activities prohibited by new ARR 236 (4) and (5).

New ARR 236(4) prohibits pedestrians from washing windscreens, hitchhiking, displaying advertisements, selling articles or soliciting contributions, employment or business from an occupant of a vehicle.

New ARR 236(5) prohibits a person in a vehicle from buying an article or service from a person standing on a road.

New ARR 236(6) allows a jurisdiction to pass a regulation permitting these roadside activities.

Regulation 35 – Regulation 23A

This regulation omits regulation 23A, which relates to ARR 248, from the Road Transport (Safety and Traffic Management) Regulations 2000. Revised ARR 248 (No riding across a road on a crossing) allows the rider of a bicycle to ride across a marked foot crossing if there is a green bicycle crossing light, so there is no longer a need for the ACT to have a regulation (regulation 23A) to cover this situation.

Regulation 36 – Regulation 29

This regulation corrects an omission in the original legislation by adding an exemption for postal vehicles to regulation 29, which relates to ARR 289(1)(g) – Driving on a nature strip. Small motorbikes used by postal workers are permitted to be driven on nature strips.

Regulation 37 – Regulation 29

This regulation provides for the renumbering of the paragraphs in regulation 29 when the regulations are next republished under the Legislation Act.

Regulation 38 – Dictionary, definition of *emergency worker*

This regulation corrects an error in the original legislation by omitting the definition of emergency worker from the dictionary in the Road Transport (Safety and Traffic Management) Regulations 2000. This definition is unnecessary because this term is already defined in regulation 33(1) of these regulations.

Regulation 39 – Dictionary, definition of *postal vehicle*, note

This regulation corrects an error in the original legislation by omitting the note about the definition of postal worker from the dictionary in the Road Transport (Safety and Traffic Management) Regulations 2000. The note says 'Postal worker is defined in reg 32 for the Australian Road Rules'. 'Postal worker' is not defined in regulation 32 of the Road Transport (Safety and Traffic Management) Regulations 2000. It is defined in regulation 33(1).