

2004

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

**ROAD TRANSPORT LEGISLATION
AMENDMENT REGULATIONS 2004 (NO 1)**

SL2004 47

EXPLANATORY STATEMENT

Circulated by authority of

Jon Stanhope MLA
A/g Minister for Urban Services

AUSTRALIAN CAPITAL TERRITORY

ROAD TRANSPORT LEGISLATION AMENDMENT REGULATIONS 2004 (NO 1)

EXPLANATORY STATEMENT

Overview

The Road Transport Legislation Amendment Regulations 2004 (No 1) update a number of regulations to improve the administration of the Road Transport legislation.

In particular, these regulations:

- (a) Allow driving instruction vehicles to be fitted with a dual control accelerator;
- (b) Amend or delete a number of items in the Service Standard Schedules for bus and taxi accreditation, as they have been found unnecessary for an effective accreditation regime;
- (c) Provide that certain new models of speed measuring devices are approved laser speed measuring devices;
- (d) Modify references to radar devices and testing authorities as a result of operational changes;
- (e) Facilitate the use of new mediums to store digital camera images; and
- (f) Include various other technical amendments to adopt changed requirements or to bring the regulations into line with current drafting practice.

Detail

Regulation 1 – Name of Regulations

This is a formal provision which sets out the name of the amending Regulations.

Regulation 2 – Commencement

This regulation provides for the commencement of the regulations the day after their notification day.

Part 2

Regulation 3 – Legislation amended – pt 2

This regulation specifies that Part 2 of the amending Regulations amends the Road Transport (Driver Licensing) Regulations 2000.

Regulation 4 – Regulations 3 and 4

This regulation brings regulations 3 and 4 dealing with the dictionary and notes in the regulations into line with current drafting practice. It also clarifies that the Criminal Code applies to certain offences under the regulations, such as the offence of driving a vehicle that has a foot-operated accelerator on the passenger side (regulation 12 refers).

Regulations 5 to 9

These regulations make minor changes in line with current drafting practice. Regulation 7 clarifies that an applicant for a public vehicle licence must have undertaken an approved training course within the 1-year period before the application is made.

Regulations 9, 10 and 11 – Regulation 114(1)(c) and (d) and regulation 114(2)

These amendments clarify that the requirement to have a dual control vehicle does not apply to a driving instructor if the vehicle is provided by the person being instructed or assessed.

Regulation 12 – New regulation 114A

The purpose of this new regulation is to allow driving instruction vehicles to be fitted with a dual control accelerator, to assist in the teaching of students. A dual control accelerator is currently not permitted in driving instruction vehicles.

This new regulation makes it an offence for a person to drive a vehicle that has a foot-operated accelerator on the passenger side, subject to the following exceptions:

- The person is under driving instruction;
- The accelerator is inoperable; or
- The vehicle has full dual controls.

The offence is a strict liability offence and there is a maximum penalty of 20 penalty units.

Regulation 13 – Dictionary heading

This amendment is consequential on the renumbering of regulation 3 as regulation 2.

Regulations 14 to 20

These regulations make minor changes to a number of definitions in the regulations in line with current drafting practice.

Part 3

Regulation 21 – Legislation amended – pt 3

This regulation specifies that Part 3 of the amending Regulations amends the Road Transport (Offences) Regulations 2001.

Regulation 22 – Regulation 8(1)(a)

This regulation substitutes a new reference to offences in the Australian Road Rules, as a result of recent amendments to those Rules.

Regulation 23 – Schedule 1, part 1.6, item 40

This regulation amends the Road Transport (Offences) Regulations 2001 to include in Schedule 1 the new short title and infringement notice penalty amount for the offence contained in new regulation 114A. The effect of this is that a person who drives a dual accelerator vehicle may be issued an infringement notice and be liable to pay a penalty of \$76.

Part 4**Regulation 24 – Legislation amended – pt 4**

This regulation specifies that Part 4 of the amending Regulations amends the Road Transport (Public Passenger Services) Regulations 2002.

Regulation 25 – Regulation 13

This regulation deals with the amendment of accepted service standards for accredited persons.

New regulation 13A is inserted to provide that the Road Transport Authority (RTA) may ask an accredited person to agree to an amendment to the person's accepted service standards. This action would be taken where the RTA considers it necessary to ensure the person provides a safe, reliable and efficient regulated service. For example, the RTA may ask the person to amend the accepted service standards to include that the accredited operator of the bus service will give every driver a copy of the service standard for driving hours.

Regulation 26 – Regulation 14(1), example 2

New regulation 14(1), example 2, inserts 'convicted' of a mandatory disqualifying offence as an example of a circumstance that would result in the particulars in an application for accreditation becoming inaccurate, and about which the accredited person must notify the RTA in writing.

Regulation 27 – Schedule 1 heading

This regulation inserts a reference to 'reg 13A' as a cross-reference to Schedule 1 Service Standards. This amendment is consequential upon the insertion of new regulation 13A by Regulation 25.

Regulations 28 to 36

A review of RTA policies and guidelines for bus and taxi accreditation applications found that several items in the Service Standards Schedules were not essential standards, or not expressed in a useful way, based on experience with the accreditation regime since it was introduced in 2002. These items are amended or deleted.

Regulation 28 – Schedule 1, part 1.1, paragraphs (d) and (e)

This regulation deals with service standards for cleaning, maintaining, servicing and repairing buses.

Paragraph (d), in part, requires a service standard for the operation of cleaning facilities and the training of people who carry out cleaning of vehicles. As it is unlikely that specialist cleaning services or training would be required for buses this part of the requirement is deleted. The service standard for cleaning in general is retained in paragraph (c).

Paragraph (d) is also separated into two service standards, one as described above and the other as new paragraph (e). Paragraph (e) is now a separate service standard to deal with the situation where another person carries out the servicing, maintenance or repairs on behalf of the accredited operator. It requires that the accredited operator demonstrates the steps taken to ensure the services will comply with the Act.

Repealed paragraph (e) provided a service standard for the auditing of records and systems. The requirement is not applicable to bus operators as they are not required to report on performance or financial status. The requirement is not related to RTA audits of operators for compliance with the legislation and accepted service standards.

Regulation 29 – Schedule 1, part 1.1, paragraph (f) (ix) to (xi)

Existing paragraph (f) provides a service standard about ensuring an adequate number of buses are available to operate the service. This standard is not relevant to tour and charter operators and, for regular route service providers, the matter is more appropriately dealt with under the service requirements of a service contract under section 17 of the *Road Transport (Public Passenger Services) Act 2001*.

Existing paragraphs (x) and (xi) are renumbered as paragraphs (ix) and (x).

Regulation 30 – Schedule 1, part 1.2, paragraph (b) (iv)

This regulation deals with the service standard for the driving hours of taxi drivers. Unlike heavy vehicle drivers, including drivers of buses, no policies have been developed locally or nationally on driving hours for taxi drivers and paragraph (b) (iv) is therefore deleted.

Regulation 31 – Schedule 1, part 1.2, paragraph (b) (viii)

This paragraph is amended to clarify that the service standard is about how the taxi network processes Taxi Subsidy Scheme vouchers not the operation of the Scheme itself.

Regulation 32 – Schedule 1, part 1.3, paragraph (b)

This paragraph about the parking arrangements for taxis is omitted as parking arrangements for taxis do not raise the same residential amenity issues as might be generated by parking arrangements for larger vehicles like buses.

Regulation 33 – Schedule 1, part 1.3, paragraphs (d) and (e)

This regulation deals with service standards for cleaning, servicing, maintaining and repairing taxis.

Paragraph (d), in part, requires a service standard for the operation of cleaning facilities and the training of people who carry out cleaning of vehicles. As it is unlikely that specialist cleaning services or training would be required the part of the requirement dealing with this is deleted. The service standard for cleaning in general is retained in paragraph (c).

Paragraph (d) is also separated into two service standards, one as described above and the other as new paragraph (e). Paragraph (e) is now a separate service standard for the situation where another person carries out the servicing, maintenance or repairs on behalf of the accredited operator. It requires that the accredited operator demonstrates the steps taken to ensure the services will comply with the Act.

Repealed paragraph (e) provided a service standard for the auditing of records and systems. The requirement is not applicable to taxi operators as they are not required to report on performance or financial status. The requirement is not related to RTA audits of operators for compliance with the legislation and accepted service standards.

Regulation 34 - Schedule 1, part 1.3, paragraph (f) (iii)

This regulation deals with the service standard for the driving hours of taxi drivers. Unlike heavy vehicle drivers, including drivers of buses, no policies have been developed locally or nationally on driving hours for taxi drivers and the provision is therefore deleted.

Regulation 35 – Schedule 1, part 1.3, paragraph (f) (vi)

This regulation deals with the arrangements for standby taxis. It has become apparent, since the implementation of the accreditation scheme, that arrangements for standby taxis are satisfactorily dealt with as part of the vehicle registration scheme and therefore the paragraph is deleted.

Regulation 36 - Schedule 1, part 1.3, paragraph (f) (viii)

This regulation deals with the service standard for customer complaints. The standard is amended to encompass all complaints, not just those referred to the operator by the network.

Regulation 37- Schedule 1, part 1.3

This regulation is a technical amendment.

Regulation 38 – Dictionary, definition of accepted service standard

This regulation inserts in the dictionary a new definition of “accepted service standard” and is consequential upon regulation 25.

Part 5

Regulation 39 – Legislation amended – pt 5

This regulation specifies that Part 5 of the amending Regulations amends the Road Transport (Safety and Traffic Management) Regulations 2000.

Regulation 40 – Regulation 102, definition of laser speed measuring device

The current definition of a “laser speed measuring device” in regulation 102 includes the “Laser Technology Inc. LTI 20-20 UltraLyte.” Two other devices, the “Laser Technology Inc. LTI 20-20 UltraLyte LR” and “Laser Technology Inc. LTI 20-20 Compact” are variants of this model, with a number of different features. This amendment includes these variants in the definition of “laser speed measuring device” as separate devices.

Regulation 41 – Regulation 102, definition of radar speed measuring device

This amendment deletes references to four radar devices which are no longer in service.

Regulation 42 – Regulation 102, definition of testing authority, paras (b) and (c)

This regulation:

- deletes a reference to a testing authority which is no longer required as slant radar devices are no longer in operation;
- includes a reference to an organisation that holds National Association of Testing Authorities accreditation so that such an organisation can be used for the testing of laser speed measuring devices; and
- includes a new reference to the National Measurement Institute, as a result of relocation and renaming of the former National Measurement Laboratory of the CSIRO.

Regulation 43 – Regulation 102, new definition of WORM disk

The current definition of WORM disk, in regulation 107A, refers to a device consisting of a “magneto-optical write once read many disk”. This new definition deletes the term “magneto-optical” to facilitate the use of new mediums, such as DVD, for the storage of camera images. This will not result in any reduced integrity in the storage of such images.

Regulation 44 – Regulation 104

Repealed regulation 104 dealt with the major testing of traffic offence detection devices. This regulation has been replaced with three new regulations 104, 104A and 104B as a result of the new reference, in Regulation 42 above, allowing an organisation that holds NATA accreditation to be used for the testing of laser speed measuring devices.

New regulation 104 deals with the major testing of laser speed measuring devices and provides that tests must be undertaken in accordance with Australian Standard AS 4691.1-2 Laser Based Speed Detection Devices. This recent Standard, dating from August 2003, provides performance specifications, device requirements, and operating procedures for laser based speed detection devices.

The text of an applied, adopted or incorporated law or instrument (such as an Australian Standard) is taken to be a notifiable instrument if the operation of the Legislation Act, section 47(5) or 47(6) is not disapplied.

This regulation disapplies the requirement to notify Australian Standard AS 4691.1-2. The text of Australian Standards is not generally or freely available to the public because the copyright in the Standards is owned by Standards Australia. Australian Standards can be accessed through public libraries or purchased from Standards Australia. In addition, the website www.standards.com.au provides free access to summary information and an outline of contents for this and other Australian Standards.

New regulation 104A provides for the major testing of traffic offence detection devices other than laser speed measuring devices. New regulation 104B is consequential on the replacement of the former regulation 104 with new regulations 104 and 104A.

Regulation 45 – Regulation 107A

This is a consequential amendment arising from the changed definition of WORM disk.

Regulation 46 – Dictionary, definition of WORM disk

This is a consequential amendment arising from the changed definition of WORM disk.

Part 6

Regulation 47 – Legislation amended – pt 6

This regulation specifies that Part 6 of the amending Regulations amends the Road Transport (Vehicle Registration) Regulations 2000.

Regulation 48 – Regulation 32B(2)(a)

Regulation 32B(2) currently requires the Road Transport Authority to refuse to register a vehicle as a wheelchair accessible taxi if the vehicle is more than 6 years old. The amendment to this regulation will allow vehicles to be registered as a wheelchair-accessible taxi providing the vehicle has not been used as a taxi for 8 years or more. Regulation 32(B)(b) states that a vehicle must be less than 2 years of age on first registration as a wheelchair-accessible taxi.

Regulation 49 – Regulation 159(2)(k)

These regulation makes a minor change in line with current drafting practice.