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

**ROAD TRANSPORT LEGISLATION  
AMENDMENT REGULATION 2010 (No 1)**

**SUBORDINATE LAW SL2010 - 5**

**EXPLANATORY STATEMENT**

Presented by  
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# AUSTRALIAN CAPITAL TERRITORY

## ROAD TRANSPORT LEGISLATION AMENDMENT REGULATION 2010 (No 1)

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#### EXPLANATORY STATEMENT

##### BACKGROUND

The Australian Road Rules (ARRs) 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 ARRs 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 ARRs. The National Transport Commission's 5th package of amendments to the ARRs was approved by the Australian Transport Council on 3 October 2006, the 6<sup>th</sup> package of amendments was approved on 16 May 2007 and the 7<sup>th</sup> package of amendments was approved on 25 January 2008.

A copy of the revised ARRs and Regulatory Impact Statements can be downloaded from the National Transport Commission's website at [www.ntc.gov.au](http://www.ntc.gov.au). The Regulatory Impact Statements provide a detailed outline of the changes made to the ARRs.

##### OVERVIEW

The *Road Transport Legislation Amendment Regulation 2010 (No 1)* adopts the revised version of the ARRs published in February 2008 and gives effect to the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> packages of amendments to the ARRs.

The regulation also makes some technical amendments to the *Road Transport (Offences) Regulation 2005*, the *Road Transport (Public Passenger Services) Regulation 2002* and the *Road Transport (Safety and Traffic Management) Regulation 2000*.

## DETAIL

### **PART 1 – PRELIMINARY**

#### **Section 1 – Name of regulation**

This section names the amendment regulation as the *Road Transport Legislation Amendment Regulation 2010 (No 1)* hereafter referred to as the Amendment Regulation.

#### **Section 2 – Commencement**

This section provides for the commencement of the changes to the Road Transport legislation. Most of the sections in the Amendment Regulation will commence on 15 March 2010. Subsection (2) lists a number of provisions that will commence on the day 1 year after the day the Amendment Regulation commences, ie on 15 March 2011. These provisions relate to the new child restraint laws, which have a 12 month transitional period. See section 52 which refers to transitional arrangements.

### **PART 2 – ROAD TRANSPORT (OFFENCES) REGULATION 2005**

#### **Section 3 – Legislation amended – pt 2**

This section specifies that Part 2 of the Amendment Regulation amends the *Road Transport (Offences) Regulation 2005*.

#### **Section 4 – Section 8 (1)**

This section amends section 8(1) of the *Road Transport (Offences) Regulation 2005* which deals with the administering authority for the infringement notice offences mentioned in schedule 1. When new infringement notice offences are added to the *Road Transport (Offences) Regulation 2005* section 8(1) has to be amended so that the road transport authority can issue infringement notices for the new offences.

#### **Section 5 – Section 21 (2) (a)**

This section amends section 21(2)(a) of the *Road Transport (Offences) Regulation 2005* which deals with offences in schedule 1 for which double demerit points apply during holiday periods. New ARR 265(3) adds a new infringement notice offence for a driver who does not ensure that all passengers 16 years old or older are using a seatbelt. This new offence attracts double demerit points during holiday periods, so it has been added to section 21(2)(a) of the *Road Transport (Offences) Regulation 2005*.

#### **Consequential amendments to Schedule 1**

Sections 6 to 45 make consequential amendments to Part 1.2 and Part 1.13 of Schedule 1 of the *Road Transport (Offences) Regulation 2005* by inserting references to new ARR offences in the schedule of offences for which a traffic infringement notice can be issued.

Part 1.2 provides a short description of the offences in the ARRs, 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) Regulation 2000*.

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

**Section 6 – Schedule 1, part 1.2, new item 3A**

This section inserts a new item for the offence provision in new ARR 28(1A) which provides that if a slip lane is present at an intersection, a driver turning left must use the slip lane.

**Section 7 – Schedule 1, part 1.2, new item 6A**

This section inserts a new item for the offence provision in new ARR 32(2A) which provides for the rules at bicycle storage areas at intersections. These are designated spaces on the road at traffic lights that allow cyclists to stop in front of motor vehicles at an intersection and then leave the intersection before the motor vehicles. Bicycle storage areas are common in Melbourne, however there are none in the ACT at present.

**Section 8 – Schedule 1, part 1.2, item 7.2**

This section inserts a new item for the new offence provision in revised ARR 33(3) which clarifies how a driver must make a right turn at an intersection.

**Section 9 – Schedule 1, part 1.2, items 20 and 21**

This section omits two items relating to offence provisions in ARR 43 - Starting and making turns. ARR 43 has been repealed, as it created a contradiction in the ARRs.

**Section 10 – Schedule 1, part 1.2, new items 44A and 44B**

This section inserts two new items for the offence provisions in the new ARR 60A which provides for the rules at bicycle storage areas at intersections (see section 7).

**Section 11 – Schedule 1, part 1.2, item 47, column 2**

This section amends the numbering of the ARR reference 62(a) to 62(1)(a) due to improvements to the wording of ARR 62 – Giving way when turning at an intersection with traffic lights.

**Section 12 – Schedule 1, part 1.2, item 48, column 2**

This section amends the numbering of the ARR reference 62(b) to 62(1)(b) due to improvements to the wording of ARR 62 – Giving way when turning at an intersection with traffic lights.

**Section 13 – Schedule 1, part 1.2, item 49, column 2**

This section amends the numbering of the ARR reference 62(c) to 62(1)(c) due to improvements to the wording of ARR 62 – Giving way when turning at an intersection with traffic lights.

**Section 14 – Schedule 1, part 1.2, item 97, column 3**

This section amends the wording of the short description of the offence due to the correction of an omission in the ARRs. For some turning lanes, drivers enter the turning lane from the right and for other turning lanes, drivers enter the turning lane from the left.

**Section 15 – Schedule 1, part 1.2, new item 97A**

This section inserts an offence provision for the new ARR 85(c) to correct an omission in the ARRs. For some turning lanes, drivers enter the turning lane from the right and for other turning lanes, drivers enter the turning lane from the left (see section 14).

**Section 16 – Schedule 1, part 1.2, new item 121A**

This section inserts a new item for the offence provision in the new ARR 101A(1) which prohibits a driver from driving on a safety ramp or arrester bed unless necessary.

**Section 17 – Schedule 1, part 1.2, item 143**

This section inserts two new items for the offence provision in ARR 115 – Driving in a roundabout to the left of the central traffic island - due to improvements to the wording of the rule. The amendment to ARR 115 clarifies that although the drivers of large vehicles are permitted to mount the central traffic island in a roundabout, they must always keep their vehicle to the left of the island.

**Section 18 – Schedule 1, part 1.2, new items 168A, 168A.1 and 168A.2**

This section inserts new items for the offence provision in the new ARR 132(2A) which clarifies the situations where a driver is prohibited from driving across dividing lines to perform a U-turn.

**Section 19 – Schedule 1, part 1.2, new item 186A**

This section inserts a new item for the offence provision in the new ARR 148A which clarifies that where there are two vehicles within one lane (eg a bicycle and a motor vehicle) and one of those vehicles diverges into the path of the other, the deviating vehicle must give way.

**Section 20 – Schedule 1, part 1.2, new item 195A**

This section inserts a new item for the offence provision in the new ARR 155A which is about driving in a tramway.

**Section 21 – Schedule 1, part 1.2, new item 209A**

This section re-inserts a short description of the offence provision for ARR 170(1) - Stopping in or near an intersection – which was inadvertently deleted from the current version of the ARRs by the National Transport Commission. This oversight was corrected in the ACT's legislation by including a new offence in the *Road Transport (Safety and Traffic Management) Regulation 2000* which is modelled on ARR 170(1). See section 45 of this Amendment Regulation.

**Section 22 – Schedule 1, part 1.2, new item 242A**

This section inserts a new item for the offence provision in the new ARR 197(1A) which is about drivers stopping or parking on a painted island.

**Section 23 – Schedule 1, part 1.2, new item 254A**

This section inserts a new item for the offence provision in the new ARR 208A which requires drivers parking in an indented parking bay to position the vehicle to face the same direction as the vehicles travelling next to the indented parking bay.

**Section 24 – Schedule 1, part 1.2, item 259**

This section omits item 259 because a rewording of ARR 211(1) – Parking in parking bays - has removed the offence provision.

**Section 25 – Schedule 1, part 1.2, item 272, column 3**

This section amends the wording of the short description for the offence in ARR 217 – Using fog lights – due to an amendment to the rule, which now refers to front fog lights in addition to rear fog lights.

**Section 26 – Schedule 1, part 1.2, new item 285A**

This section inserts a new item for the offence provision in the new ARR 225(2) which prohibits passengers travelling in a vehicle with a device for preventing the effective use of a speed measuring device, or a device for detecting a speed measuring device.

**Section 27 – Schedule 1, part 1.2, new items 307A to 307E**

This section inserts 3 new items for the offence provisions in the new ARR 235(2A) – Crossing a level crossing and 2 new items for the offence provisions in the new ARR 235A – Crossing a pedestrian level crossing that has a red pedestrian light.

**Section 28 – Schedule 1, part 1.2, new item 312A**

This section inserts a new item for the offence provision in the new ARR 238(2)(ab) which provides that a pedestrian travelling along a road must face approaching traffic.

**Section 29 – Schedule 1, part 1.2, new item 315A**

This section inserts a new item for the offence provision in the new ARR 240A which provides that a person on a wheeled recreational device must not travel past a 'no wheeled recreational devices or toys' sign.

**Section 30 – Schedule 1, part 1.2, item 317, column 3**

This section amends the wording of the short description for the offence in ARR 240(1)(b), reducing the speed limit from 60km/h to 50km/h. This is consequential to the introduction of the 50km/h urban default speed limit nationally.

**Section 31 – Schedule 1, part 1.2, item 320**

This section inserts a new item for the offence provision in the revised ARR 240(2) which provides that a person must not travel on a wheeled recreational device (eg a skateboard or roller-skates) on a road at night.

**Section 32 – Schedule 1, part 1.2, item 331A**

This section inserts a new item for the offence provision in the new ARR 244C which provides that if there is a law of the jurisdiction, a person must not travel on a motorised scooter on a road or road-related area. The ACT will have a law of the jurisdiction prohibiting motorised scooters at the new section 23 of the *Road Transport (Safety and Traffic Management) Regulation 2000*. See section 57 below.

**Section 33 – Schedule 1, part 1.2, item 335**

This section inserts two new items for the offence provisions in the new ARR 246(2) and 246(3) which deal with passengers on bicycles.

**Section 34 – Schedule 1, part 1.2, new items 336A to 336C**

This section inserts three new items for the offence provisions in the new ARR 247A and 247B which provide for the rules at bicycle storage areas at intersections (see section 7).

**Section 35 – Schedule 1, part 1.2, new item 349A**

This section inserts a new item for the offence provision in the new ARR 256(3) which provides that the rider of a bicycle commits an offence if the passenger is not wearing a bicycle helmet.

**Section 36 – Schedule 1, part 1.2, items 359 and 360**

This section amends the wording of the short descriptions for the offence provision in ARR 262 – Proceeding when bicycle crossing lights change to yellow or red - as a result of amendments to the wording of the rule.

**Section 37 – Schedule 1, part 1.2, item 362 and items 362.1 to 362.3**

This section amends the wording of the short descriptions for the offence provision in ARR 265 as a result of amendments to the wording of the rule. The revised ARR 265(3) creates an offence for a driver who drives with passengers 16 years or older who are not using a seatbelt.

**Section 38 – Schedule 1, part 1.2, item 363 and items 363.1 to 363.3**

This section substitutes new short descriptions for the offence provisions in the revised ARR 266 as a result of amendments to the wording of the rule. This ARR

deals with a driver's responsibility to ensure all passengers under 16 years old are restrained in an appropriate child restraint or seatbelt. This section will commence on the day 1 year after the day this Amendment Regulation commences.

**Section 39 – Schedule 1, part 1.2, item 368, column 3**

This section amends the wording of the short description for the offence provision in the revised ARR 268(4A) as a result of amendments to the wording of the rule. A driver is now responsible for ensuring that all passengers (not just those under 16 years) are not travelling in a part of the vehicle that is not designed for passengers or goods.

**Section 40 – Schedule 1, part 1.2, item 369, column 3**

This section amends the wording of the short description for the offence provision in the revised ARR 268(4B) as a result of amendments to the wording of the rule. A driver is now responsible for ensuring that all passengers (not just those under 16 years) are not travelling in a part of the vehicle that is designed for the carriage of goods unless that part is enclosed. For example a utility has a goods area that is not enclosed.

**Section 41 – Schedule 1, part 1.2, new items 383A to 383C**

This section inserts 3 new items for the offence provisions in the revised ARR 271 which now provides that children under 8 years of age will not be allowed to ride on a motor bike as a pillion passenger but they will be able to travel in a sidecar. A passenger in a sidecar must be seated safely.

**Section 42 – Schedule 1, part 1.2, new item 415A**

This section inserts a new item for the offence provision in the new ARR 297(1A) which provides that a person may not drive a vehicle if a person or animal is in the driver's lap.

**Section 43 – Schedule 1, part 1.2, new item 416A**

This section inserts a new item for the offence provision in the new ARR 297(3) which provides that a person may not ride a motor bike with an animal on the petrol tank of the motor bike.

**Section 44 – Schedule 1, part 1.2, item 421**

This section inserts a new item for a new offence provision in the revised ARR 301 which provides that a passenger in a motor vehicle must not lead an animal while the motor vehicle is moving.

**Section 45 – Schedule 1, part 1.13, item 1**

This omits item 1 of part 1.13 of the Schedule, which relates to the *Road Transport (Safety and Traffic Management) Regulation 2000*, as a result of the repeal of section 12A of the *Road Transport (Safety and Traffic Management) Regulation 2000*.



When the ARR's were revised by the National Transport Commission in 2004 the offence provision for ARR 170(1) 'A driver must not stop in an intersection' was inadvertently omitted. This oversight was corrected in the ACT's legislation by including a new offence in the *Road Transport (Safety and Traffic Management) Regulation 2000* which is modelled on ARR 170(1). This omission in the ARR's has now been rectified and section 21 of this Amendment Regulation re-inserts a short description of the offence provision for ARR 170(1).

### **PART 3 – ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) REGULATION 2002**

#### **Section 46 – Legislation amended – pt 3**

This section specifies that Part 3 of the Amendment Regulation amends the *Road Transport (Public Passenger Services) Regulation 2002*.

#### **Section 47 – Section 132 (3), notes 1 and 2**

This section amends the wording of Note 1 at section 132(3) of the *Road Transport (Public Passenger Services) Regulation 2002* resulting from revised wording in ARR 265 which now requires all passengers to occupy a seating position that is fitted with a seatbelt. It also amends the wording of Note 2 resulting from revised wording in ARR 267(3) which deals with exemptions from wearing seatbelts.

#### **Section 48 – Section 138 (2), notes 1 and 2**

This section amends the wording of Note 1 at section 138(2) of the *Road Transport (Public Passenger Services) Regulation 2002* resulting from revised wording in ARR 265 which now requires all passengers to occupy a seating position that is fitted with a seatbelt. It also amends the wording of Note 2 resulting from revised wording in ARR 267(3) which deals with exemptions from wearing seatbelts.

#### **Section 49 – Section 270 (5), notes 1 and 2**

This section amends the wording of Note 1 at section 270(5) of the *Road Transport (Public Passenger Services) Regulation 2002* resulting from revised wording in ARR 265 which now requires all passengers to occupy a seating position that is fitted with a seatbelt. It also amends the wording of Note 2 resulting from revised wording in ARR 267(3) which deals with exemptions from wearing seatbelts.

### **PART 4 – ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) REGULATION 2000**

#### **Section 50 – Legislation amended – pt 4**

This section specifies that Part 4 of the Amendment Regulation amends the *Road Transport (Safety and Traffic Management) Regulation 2000*.

### **Section 51 – Section 5**

This section amends section 5 to refer to the new edition of the ARR published by the National Transport Commission in February 2008.

### **Section 52 – New section 6A**

This section inserts transitional arrangements for ARR 266 and 267 which deal with the wearing of seatbelts and exemptions from wearing seatbelts. These provisions will expire on the day 1 year after the day this Amendment Regulation commences.

### **Section 53 to 56 – Division 2.2.1, note 2, table**

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

Sections 53 to 56 of the Amendment Regulation make a number of consequential amendments to the first of these tables as a result of amendments to the *Road Transport (Safety and Traffic Management) Regulation 2000*.

### **Section 53 - Division 2.2.1, note 2, table, item 6**

This section omits item 6 from the table, section 12A - ARR 170(1), for the reason described in section 56 below.

### **Section 54 - Division 2.2.1, note 2, table, item 22**

This section omits item 22 from the table, section 23 - ARR 240(2), for the reason described in section 57 below. It also inserts new item 22 into the table, section 23 – ARR 244C, for the reason described in section 57 below.

### **Section 55 - Division 2.2.1, note 2, table, item 23**

This section omits item 23 from the table, which relates to section 23B – ARR 266(3)(b), for the reason described in section 58 below. This section will be made redundant by the new seatbelt rules in revised ARR 266.

This section also inserts new items 23 and 23A into the table, for the reason described in section 58 below. These sections deal with children travelling in additional seats ('dickie seats') installed in the goods area of station wagons and children travelling in interstate registered vehicles. This section will commence on the day 1 year after the day this Amendment Regulation commences.

### **Section 56 – Section 12A**

This section omits section 12A from the *Road Transport (Safety and Traffic Management) Regulation 2000*. This section was created to make 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 in 2004. The omission in the ARRs has been corrected, so this section is no longer required.

### **Section 57 – Section 23**

This section omits section 23 from the *Road Transport (Safety and Traffic Management) Regulation 2000*. This section relates to the prohibition on using a wheeled recreational device (eg a skateboard or roller skates) on any road at night. The new ARR 240(2)(b) has made this ACT law redundant.

This section also inserts a new section 23 into the *Road Transport (Safety and Traffic Management) Regulation 2000*. The new ARR 244C provides for a law of the jurisdiction prohibiting the use of a motorised scooter on a road or road-related area. The new section 23 of the *Road Transport (Safety and Traffic Management) Regulation 2000* is the ACT's law of the jurisdiction prohibiting motorised scooters from roads and road-related areas.

### **Section 58 – Section 23B**

This section omits section 23B from the *Road Transport (Safety and Traffic Management) Regulation 2000*. This section will be made redundant by the new seatbelt rules in the revised ARR 266. This provision will commence on the day 1 year after the day this Amendment Regulation commences.

This section also inserts a new section 23A into the *Road Transport (Safety and Traffic Management) Regulation 2000* which relates to children travelling in interstate registered vehicles. For new ARR 266 - Wearing of seatbelts by passengers under 16 years old – passengers under 7 years old will be exempt from the new rule if the motor vehicle is registered in a State or Territory that has not yet introduced the new child restraint laws. For these passengers, the seatbelt laws in the existing ARR 266 will apply. This provision will commence on the day 1 year after the day this Amendment Regulation commences.

This section also inserts a new section 23B into the *Road Transport (Safety and Traffic Management) Regulation 2000* which relates to children travelling in additional seats ('dickie seats') installed in the goods area of station wagons. It has been nationally agreed that children aged between 4 years and under 7 years will be permitted to use a dickie seat without having to use a booster seat, provided the dickie seat is suitable for the child's height and weight and a lap/sash seatbelt or a lap-only seatbelt with a child safety harness is used. This provision will commence on the day 1 year after the day this Amendment Regulation commences.

### **Section 59 - Section 24, new definitions**

This section inserts two new definitions into section 24 of the *Road Transport (Safety and Traffic Management) Regulation 2000*. The new child restraint laws require a definition of 'approved booster seat' and 'approved child safety harness'. This provision will commence on the day 1 year after the day this Amendment Regulation commences.

**Section 60 - Section 25**

This section omits section 25 from the *Road Transport (Safety and Traffic Management) Regulation 2000* which relates to certificates of exemption from wearing seatbelts. New ARR 267(3A) has made this ACT law redundant. This provision will commence on the day 1 year after the day this Amendment Regulation commences.

**Section 61 – New section 66 (1) (aa)**

This section inserts a provision for ‘approve a booster seat’ into subsection 66(1) of the *Road Transport (Safety and Traffic Management) Regulation 2000* – Approvals etc by road transport authority. This section will commence on the day 1 year after the day this Amendment Regulation commences.

**Section 62 – New section 66 (1) (ba)**

This section inserts a provision for ‘approve a child safety harness’ into subsection 66(1) of the *Road Transport (Safety and Traffic Management) Regulation 2000* – Approvals etc by road transport authority. This section will commence on the day 1 year after the day this Amendment Regulation commences.