

2013

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

**ROAD TRANSPORT LEGISLATION AMENDMENT REGULATION 2013
(No 3)**

SL2013-20

EXPLANATORY STATEMENT

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ROAD TRANSPORT LEGISLATION AMENDMENT REGULATION 2013 (No 3)

Outline

This regulation adopts into the ACT the latest version of the Australian Road Rules (ARRs).

The ARRs contain the basic rules of the road for motorists, motorcyclists, cyclists, pedestrians, passengers and others. They are ‘model laws’ that were initially created in 1999 under an agreement under which each Australian state and territory agreed that it would adopt the ARRs into its laws. The purpose of the agreement was to provide for uniformity across Australia in relation to road rules so that people were not confronted with different requirements as they travelled from one state or territory to another. Thus the ARRs now form the basis of the road rules in each state and territory. As ‘model laws’, however, they have no legislative force of their own, and they require legislative action by each state or territory to incorporate them into the law of that state or territory.

Because the ARRs form the basis of the road traffic laws of each state and territory, it is important that they continue to be as up to date as possible. To this end they are review and updated on a regular basis. .

A working group of the National Transport Commission (NTC) is responsible for this ongoing maintenance of the Rules. The NTC has an Australian Road Rules Maintenance Group that includes representatives from road traffic authorities and the police from the states and territories and the Commonwealth. This Group develops amendments and updates to the ARRs (referred to as ‘amendment packages’), which are then formally approved by the Standing Committee on Transport and Infrastructure (SCOTI). SCOTI is the Ministerial council comprising transport ministers from all Australian jurisdictions.

This Regulation adopts into the ACT road transport legislation the 8th and 9th ARRs amendment packages. The 8th amendment package was approved by SCOTI on 6 February 2009, and the 9th amendment package was approved on 23 December 2011. The NTC then published a consolidated version of the ARRs, incorporating the 8th and 9th amendment packages, in February 2012.

In the ACT the ARRs are incorporated by reference. Section 6(1) of the *Road Transport (Safety and Traffic Management) Regulation 2000* states that the ARRs “are to be read with, and as if they formed part of, this regulation”. That Regulation defines the ARRs, as “that part of the publication known as the Australian Road Rules, ISBN 0 7240 8874 1 published by the National Transport Commission in February 2008”. Along with other changes, this Regulation amends that definition to refer to the publication published by the NTC on February 2012.

This Regulation amends the *Road Transport (Offences) Regulation 2005* and the *Road Transport (Safety and Traffic Management) Regulation 2000*. The substantive amendments are to the *Road Transport (Safety and Traffic Management) Regulation 2000*, whereas the amendments to the *Road Transport (Offences) Regulation 2005* are consequential on amendments to offence provisions in the ARRAs.

These minor amendments are considered to be consistent with human rights, and do not engage any rights protected by the *Human Rights Act 2004*. They are aimed at protecting the interests and safety of all road users by providing for consistent road rules throughout Australia.

Notes on clauses

Part 1 Preliminary

Clause 1 Name of regulation

This is a formal provision that sets out the name of the regulation.

Clause 2 Commencement

This is a formal provision that provides for the commencement of the regulation. The regulation commences on 1 August 2013.

Clause 3 Legislation amended

This clause lists the legislation to be amended by the regulation. This regulation will amend the following legislation:

- *Road Transport (Offences) Regulation 2005*
- *Road Transport (Safety and Traffic Management) Regulation 2000*.

Part 2 Road Transport (Offences) Regulation 2005

All amendments in this part are consequential to the substantive amendments to the ARRAs, as implemented by the *Road Transport (Safety and Traffic Management) Regulation 2000*.

Clauses 4 to 23 make consequential amendments to Part 1.2 of Schedule 1 of the *Road Transport (Offences) Regulation 2005* by amending references to 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 ARRAs, which can be used in an information summons or warrant notice, order or other document, to sufficiently state the offence. The Schedule also provides the offence penalty, infringement penalty (if applicable), and demerit points (if applicable).

Clause 4 Schedule 1, part 1.2, item 50, column 3

This clause amends the short description for the offence provision in the revised ARR 62 (1) (a) as a result of amendments to that rule. The rule now provides that when a driver turns left or right at an intersection, the driver is required to give way to any pedestrian crossing the road that the driver is entering.

Clause 5 Schedule 1, part 1.2, item 141, column 3

This clause amends the short description of the offence provision in revised ARR 112 (2) as a result of amendments to the wording of the rule. The amended rule clarifies that a driver approaching a roundabout must operate the vehicle's left indicator for long enough to give sufficient warning to other drivers and pedestrians (not just on entering the roundabout).

Clause 6 Schedule 1, part 1.2, item 143, column 3

This clause amends the short description of the offence provision in revised ARR 113 (2) as a result of amendments to the wording of the rule. The amended rule clarifies that a driver approaching a roundabout must operate the vehicle's right indicator for long enough to give sufficient warning to other drivers and pedestrians (not just on entering the roundabout).

Clause 7 Schedule 1, part 1.2, item 170, column 2

This clause amends a reference to the offence provision, from ARR 128A, to ARR128A (1), reflecting the current drafting practice to identify the specific subsection of the offence provision to which it refers.

Clause 8 Schedule 1, part 1.2, new item 185A

This clause inserts a new item for the offence provision in new ARR 143 (1A), which deals with passing or overtaking to the left of a vehicle displaying a *do not overtake turning vehicle* sign.

Clause 9 Schedule 1, part 1.2, new items 216A and 216A.1 to 216A.3

This clause inserts new items for the offence provisions in new ARR 164A. These provisions require drivers who are stopped at a tram stop to remain stopped if a tram comes from behind and stops next to the driver.

Clause 10 Schedule 1, part 1.2, item 280, column 2

This clause amends the reference to the offence provision in ARR 213 (4), which has been renumbered.

Clause 11 Schedule 1, part 1.2, item 281, column 2

This clause amends the reference to the offence provision in ARR 213 (4), which has been renumbered.

Clause 12 Schedule 1, part 1.2, item 303.1, column 3

Clauses 12 to 15 reflect the changes to ARR 227 (2), which applies to drivers of vehicles with a gross vehicle mass of over 12 tonnes. It applies where the driver either stops the vehicle on a road, or if some or all of any load being carried by the vehicle falls on to a road, at a place where the speed limit is 80 kilometres per hour or more and the vehicle is not visible at any time for at least 300 metres in all directions from that place. The rule requires that the driver must use at least 3 portable warning triangles, placed in accordance with subrules (4) (a) – (d), to warn other road users of the stopped vehicle or load.

Clause 12 amends the short description of the offence in ARR 227 (4) (a) to reflect the changes to that rule. That rule requires drivers of vehicles with a gross vehicle mass of over 12 tonnes to place 1 warning triangle at least 200 metres, but not over 250 metres, behind the vehicle or fallen load.

Clause 13 Schedule 1, part 1.2, item 303.2, column 3

This clause amends the short description of the offence in ARR 227 (4) (b) to reflect the changes to that rule. That rule requires drivers of vehicles who were required to place a warning triangle on a road under ARR 227 (4) (a) to place an additional warning triangle between the first triangle and their truck or fallen load.

Clause 14 Schedule 1, part 1.2, item 303.3, column 3

This clause amends the short description of the offence in ARR 227 (4) (c) to reflect the changes to that rule. That rule requires drivers of vehicles who were required to place a warning triangle on a road under ARR 227 (4) (a) and (b), and who are not on a one-way or divided road, to place an additional warning triangle at least 200 metres, but not over 250 metres, in front of the vehicle or fallen load.

Clause 15 Schedule 1, part 1.2, new item 303.4

This clause inserts a new item for the offence in ARR 227 (4) (d) to reflect the changes to that rule. That rule requires drivers of vehicles who were required to place a warning triangle on a road under ARR227 (4) (a) – (c) to place an additional triangle beside the stopped vehicle or fallen load.

Clause 16 Schedule 1, part 1.2, items 304 and 304.1 to 304.3

This clause inserts offence provisions for the new offence in ARR 227 (3).

This rule applies to a driver of a vehicle with a gross vehicle mass of over 12 tonnes who stops on a road, or where some or all of any load being carried by the vehicle falls on to a road, at a place where the speed limit is less than 80 kilometres per hour and the vehicle is not visible at any time for at least 200 metres in all directions. The driver must use at least 3 portable warning triangles, placed in accordance with subrules (5) (a) to (d), to warn other road users of the vehicle or load.

Clause 17 Schedule 1, part 1.2, item 310.3, column 3

This clause amends the short description of the offence in ARR 232 (3) (b), which was altered to clarify that a pedestrian or cyclist is able to return to the near side of the road if the pedestrian lights change while the pedestrian or cyclist is crossing the road, rather than have to continue to the far side of the road.

Clause 18 Schedule 1, part 1.2, item 393.2, column 3

This clause corrects a technical error in the short description of the offence in ARR 266 (2A). The reference to a person “over 6 months” has been changed to “6 months or older” to reflect the wording in the rule.

Clause 19 Schedule 1, part 1.2, item 393.3, column 3

This clause amends the short description for the offence in ARR 266 (2B) to reflect the change to that rule. The changed rule allows passengers 4 years old and older but under 7 years old to use additional seats (dickie seats) in the load area of vehicles, e.g. station wagons. This practice is already permitted in the ACT, by section 23B of the

Road Transport (Safety and Traffic Management) Regulation 2000. That section is being repealed by clause 29 below, as separate provision is now unnecessary.

Clause 20 Schedule 1, part 1.2, item 393.5, column 3

This clause corrects a technical error in the short description of the offence in ARR 266 (3A). The reference to a person “over 4 yrs” has been changed to “4 yrs or older” to reflect the wording in the rule.

Clause 21 Schedule 1, part 1.2, item 393.6, column 3

This clause corrects a technical error in the short description of the offence in ARR 266 (4). The reference to a person “over 7 yrs” has been changed to “7 yrs or older” to reflect the wording in the rule.

Clause 22 Schedule 1, part 1.2, new item 393.7

This clause inserts offence provisions for the new offence in ARR 266 (5A). This rule requires taxi or public minibus drivers to ensure child passengers 1 year old or older but less than 7 years are restrained by a seatbelt if an approved child restraint is not available.

Clause 23 Schedule 1, part 1.2, item 451, column 3

This clause amends the short description of the offence in ARR 297 (3), which previously prohibited the rider of a motorbike from riding with an animal on the petrol tank. However, some motorbikes do not have the petrol tank between the rider and the handle bars. The rule has been amended to ensure that the original intent of the rule applies to all motor bikes by referring to the area between the rider and the handle bars rather than the petrol tank.

**Part 3 Road Transport (Safety and Traffic Management)
Regulation 2000**

Clause 24 Section 5

This clause amends section 5, to update the definition of the Australian Road Rules so that it now refers to the publication known as the Australian Road Rules published by the National Transport Commission in February 2012.

Clause 25 Section 6B

This clause deletes section 6B, which dealt with rule 300 — Use of mobile phones.

Section 6B was introduced in 2010 following the approval of the 8th amendment package, to ensure that the rules relating to the use of mobile phones whilst driving were consistent with other jurisdictions. Section 6B is now redundant, as rule 300 is incorporated into the February 2012 version of the ARRs. There is no change to the existing requirement to comply with rule 300 from this amendment.

Clause 26 Division 2.2.1 heading, note 2 table, items 22 and 23

Division 2.2.1 contains two tables, which set out the provisions of the ARR 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.

Clauses 26 to 28 of this 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*.

Clause 26 omits items 22 and 23 from the table, which relate to rules 266 and 266 (2B) respectively. These rules were previously applied in the ACT through sections 23A and 23B of the *Road Transport (Safety and Traffic Management) Regulation 2000*. These sections are being repealed by clause 29 below.

Clause 27 Division 2.2.1 heading, note 2 table, item 25

This clause corrects a technical error by removing item 25 from the table, which relates to section 25 of the *Road Transport (Safety and Traffic Management) Regulation 2000*. Item 25 in the table was inadvertently not removed when section 25 was deleted by a previous amendment to that regulation.

Clause 28 Division 2.2.1 heading, note 2 table, new item 34A

This clause inserts a reference to the definition of approved seatbelt inserted into section 33 (1) of the *Road Transport (Safety and Traffic Management) Regulation 2000* by clause 30 below.

Clause 29 Sections 23A and 23B

This clause deletes sections 23A, which deals with children travelling in interstate registered vehicles, and 23B, which is concerned with children travelling in goods compartments.

Section 23A has been deleted as it was a transitional provision introduced because jurisdictions had not yet introduced ARR 266 (Wearing of seatbelts by passengers under 16 years old). Now that all jurisdictions have enacted that rule the exemption provided for by section 23A is no longer necessary.

Section 23B is now redundant as ARR 266 (2B) now applies within the ACT following the incorporation of the 2012 version of the ARRs, so separate provision for the rule is unnecessary.

Clause 30 Section 33 (1), new definition of approved seatbelt

The 2012 version of the ARRs introduces a new concept of approved seatbelt — previously there was only a generic reference to seatbelt. The ARRs dictionary defines approved seatbelt as ‘a seatbelt approved, for the Australian Road Rules, under another law of this jurisdiction’. This clause provides that a seatbelt that complies with the relevant Australian Design Rule (ADR4 or 68) is an approved seatbelt for the ARRs.

Clause 31 New section 33 (5)

This clause is consequential on the definition of approved seatbelt inserted by clause 30 above, which contained a reference to an ADR. The ADRs (Australian Design

Rules) are rules for designing and building vehicles. This term was not previously defined in this regulation, and so this clause inserts a definition of ADR. The definition is a signpost definition, and refers back to the definition of ADR in the *Road Transport (Vehicle Registration) Regulation 2000*, schedule 1, section 1.11 and section 1.13.