

2014

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

**ROAD TRANSPORT (OFFENCES) AMENDMENT REGULATION 2014
(NO 1)**

SL2014-18

EXPLANATORY STATEMENT

**Presented by
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Attorney-General**

ROAD TRANSPORT (OFFENCES) AMENDMENT REGULATION 2014 (NO 1)

Outline

This regulation is made under the *Road Transport (General) Act 1999*, section 23 (Regulations about infringement notice offences).

The purpose of this regulation is to increase the infringement notice penalties.

Infringement notice penalties are being increased by 6% (in accordance with the 2014/15 Budget decision that the Government will set the Traffic and Parking fines indexation to 6% in 2014-15 and over each year of the forward estimates), plus 57 cents. The one-off increase of 57 cents is being added to transport related fees and charges, including infringement notice penalties, to provide ongoing funding for the alcohol interlock program.

Heavy Vehicle Penalties are determined nationally and these penalties have been adjusted in accordance with advice from the National Transport Commission. Two heavy vehicle penalties specific to ACT Road Transport law have been increased by 6% plus 57 cents. The penalties refer to not giving a licence when required and not giving the particulars of driver when required. The penalties are at Item 90 and 91 of Part 1.2A Heavy Vehicle National Law (ACT).

All infringement penalty amounts are rounded down to the nearest dollar.

The *Road Transport (Offences) Regulation 2005*, schedule 1, lists the offences contained in each Act and regulation that form part of the road transport legislation. If an offence may be dealt with by infringement notice, the schedule prescribes the infringement notice penalty amount that is payable.

Government policy is that, in general, the infringement notice penalty for an offence should not exceed 20% of the maximum fine that may be imposed by a court for that offence (the 20% level). The 20% level was based on a penalty unit of \$150 for an offence committed by an individual, as proposed by the Legislation (Penalty Units) Amendment Bill 2014, which was presented to the Legislative Assembly on 5 June 2014.

The 20% limit was fixed at a level that makes it an attractive alternative to disputing the matter in court, while still providing an effective deterrent against re-offending.

Accordingly, where the existing infringement notice penalty for an offence is already at or above the 20% limit, there is no increase in the prescribed penalty by this regulation.

Where the existing infringement notice penalty amount is near the 20% limit and would exceed that limit if the amount were increased by the full 6% plus 57 cents, the

penalty is increased by a lesser amount so that it equals 20% of the maximum court imposed fine for the offence.

Notes on clauses

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 the day after its notification.

Clause 3 Legislation amended

This clause lists the legislation to be amended by the regulation. This regulation will amend the *Road Transport (Offences) Regulation 2005*.

Clause 4 Schedule 1

This clause substitutes existing schedule 1 with a revised Schedule that incorporates all the adjusted infringement notice penalties for offences under the road transport legislation. The adjusted amounts are set out in column 5 of the table in parts 1.2 to 1.15 of the schedule.

It should be noted that some offences under the road transport legislation cannot be dealt with by infringement notice. For these offences, there is no amount prescribed in column 5 of the table.