

Australian Capital Territory

Road Transport (Offences) Amendment Regulation 2015 (No 1)

Subordinate law SL2015–25

made under the

Road Transport (General) Act 1999, Section 23 (Regulations about infringement notice offences).

EXPLANATORY STATEMENT

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). An additional one-off 57 cent increase was applied in 2014–15 to transport related fees and charges, including infringement notice penalties, to provide ongoing funding for the alcohol interlock program.

An increase in the Victims Services Levy from \$30 to \$40 was announced in the 2015–16 Budget. Most road transport infringement notice penalty amounts include a component, not identified separately, accounting for the Victims Services Levy. Offences to which the Victims Services Levy is intended to apply have generally been increased by an additional \$10 to account for the increase in the Victims Services Levy.

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 is based on a penalty unit of \$150 for an offence committed by an individual.

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.

Where an existing penalty is not approaching the 20% limit the indexation has been undertaken by deducting \$30 from the existing penalty, indexing that amount by 6% and then adding \$40, and rounding that amount to the nearest whole dollar. The amount of \$30 is the previous Victims Services Levy and \$40 is the new Victims Services Levy.

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, other than the addition of \$10 to account for the increased Victims Services Levy.

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 \$10, the penalty is increased by a lesser amount so that it equals 20% of the maximum court imposed fine for the offence plus \$10 to account for the increased Victims Services Levy.

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 a day fixed by the Minister by written notice.

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 Section 6(2)(b)

This clause amends the formula for camera detected offences by corporations to take into account the revised level of Victim's Services Levy.

Clause 5 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.

Some offences under the Road Transport Legislation are not dealt with by infringement notice. For these offences, there is no amount prescribed in column 5 of the table.