

**2015**

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

**ROAD TRANSPORT (OFFENCES) AMENDMENT  
REGULATION 2015 (No 2)**

**SL2015-44**

**EXPLANATORY STATEMENT**

**Circulated by authority of  
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# ROAD TRANSPORT (OFFENCES) AMENDMENT REGULATION 2015 (No 2)

## Introduction

This explanatory statement relates to the *Road Transport (Offences) Amendment Regulation 2015 (No 2)* (the regulation). It has been prepared in order to assist the reader of the regulation. This explanatory statement must be read in conjunction with the regulation. It is not, and is not meant to be, a comprehensive description of the regulation. What is said about a provision is not taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

## Outline

This regulation amends the *Road Transport (Offences) Regulation 2005*.

The purpose of this regulation is to introduce double demerit points during holiday periods for the following offences under the Australian Road Rules:

- using a mobile phone while driving (rule 300 (1));
- not wearing a helmet while riding a motor bike (rules 270 (1) (a) and 270 (1) (b)); and
- travelling in or on a motor vehicle that is not designed primarily for carriage of passengers or goods (rules 268 (4A) and 268 (4B)).

Double and additional demerit points do not automatically apply to all public holidays in the ACT.

Section 22 of the *Road Transport (Offences) Regulation 2005* specifies the meaning of a holiday period for when the application of double and additional demerit points come into effect.

In particular, section 22 (1) (a) specifies the exact dates to which double and additional demerit points apply during the Christmas and New Year holiday period regardless of the day on which 25 December (Christmas Day) occurs.

Section 22 (1) (b) specifies when the application of double and additional demerit points come into effect for any other public holidays.

As a general practice, double and additional demerit points are applied in the ACT only when double demerit points also apply in NSW. This allows road safety authorities to coordinate their safe holiday driving campaigns and to reduce confusion for motorists in the ACT/NSW region.

The regulation creates uniformity in the ACT's road transport legislation by ensuring that offences going to driver and passenger protection, analogous to seat belt offences, are treated in a similar manner and are captured by the operation of double demerit points during holiday periods.

The regulation also promotes greater uniformity of the ACT's traffic penalties in the road transport legislation with other Australian jurisdictions, and particularly with New South Wales.

This regulation does not engage or limit human rights.

## 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. This regulation will commence on the day after its notification day.

### Clause 3 Legislation amended

This clause lists the legislation amended by the regulation. The regulation amends the *Road Transport (Offences) Regulation 2005*.

### Clause 4 Section 21 (2) (a)

Section 21 of the *Road Transport (Offences) Regulation 2005* deals with offences in schedule 1 of that regulation for which double and additional demerit points apply during holiday periods.

This clause substitutes new section 21(2)(a) with an expanded list of offences, incorporating the following, which are not currently referenced in section 21:

- rules 268 (4A) and (4B) (How persons must travel in or on a motor vehicle);
- rules 270 (1) (a) and (b) (Wearing motor bike helmets); and
- rule 300 (1) (Use of mobile phones).

The effect of this is that these additional offences become double demerit point offences in holiday periods.

### Clause 5 Schedule 1, part 1.2, items 400 and 401, column 6

The offences under rules 268 (4A) and 268 (4B) relating to how people must travel in a vehicle did not previously attract any demerit points in the ACT.

This clause amends schedule 1 to provide these offences attract three demerit points if they are committed other than during a holiday period. This is consistent with the treatment of other offences directed at the use of protective equipment by occupants of vehicles, and brings the treatment of these offences in line with other jurisdictions.