

**2016**

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

**ROAD TRANSPORT (OFFENCES) AMENDMENT  
REGULATION 2016 (No 1)**

**SL2016-1**

**EXPLANATORY STATEMENT**

**Circulated by authority of  
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Minister for Road Safety**

# ROAD TRANSPORT (OFFENCES) AMENDMENT REGULATION 2016 (No 1)

## Introduction

This explanatory statement relates to the *Road Transport (Offences) Amendment Regulation 2016 (No 1)* (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 offences regulation).

A primary purpose of the offences regulation is to describe maximum court imposed, and infringement notice, penalties applicable for offences against the road transport law and the *Heavy Vehicle National Law (ACT)* (the HVNL).

The purpose of the regulation is to describe penalties for new offences created through amendment of the HVNL through the *Heavy Vehicle National Law Amendment Act 2015*. Additionally, the regulation aligns penalties in the offences regulation with those applicable under the HVNL, and increases penalties for offences that are effectively ACT penalties that were not increased with similar local penalties in August 2015.

## Operation and amendment of the Heavy Vehicle National Law

The *Heavy Vehicle National Law (ACT) Act 2013* (the Act) which commenced on 10 February 2014 provides that the Heavy Vehicle National Law set out in the schedule to the Queensland Act, as amended from time to time, applies as a territory law, as modified by schedule 1 of the Act, and as so applying may be referred to as the *Heavy Vehicle National Law (ACT)* (the HVNL).

Regulations under the HVNL are published on the NSW legislation register.

Maintenance of the national heavy vehicle legislation is the responsibility of the National Transport Commission (NTC), and is subject to approval by the Transport and Infrastructure Council (the Council) comprised of each State and Territory Government's Transport and Infrastructure portfolio Ministers.

Where the Council approves an amendment to the HVNL, that amendment is progressed through the Queensland Parliament and, in the case of the ACT, adopted automatically.

## **Amendments by the regulation**

Maximum court imposed penalty amounts are prescribed by the HVNL. The HVNL also prescribes indexation arrangements for penalties under the HVNL. Penalties for new offences are described in the HVNL and then indexed as prescribed by the HVNL. The HVNL provides that maximum court imposed penalties for offences under regulations under the HVNL should not exceed \$4,000. For ease of reading in the ACT, the penalties in column 4 of the regulation mirror the HVNL penalty including indexation as advised by the National Heavy Vehicle Regulator.

Infringement notices issues under the HVNL are issued under the infringement arrangements of each participating jurisdiction and need to be prescribed by each jurisdiction. As such the offences regulation needs to describe infringement notice penalties for all HVNL offences applicable in the ACT. The Transport and Infrastructure Council agreed that infringement notice penalties should not be more than 10% of the maximum court imposed penalty. The infringement penalties in column 5 of the regulation reflect the 10% limit.

There are two exceptions to the above. These relate to offences against sections 567A and 567B of the HVNL which are effectively local provisions relating to the driver of a heavy vehicle not producing a driver licence when requested to do so by an authorised officer and the responsible person for a heavy vehicle not disclosing the identity of a driver in the form of a written statement when required to do so by an authorised officer. These are effectively local provisions and the offence and infringement penalties for these offences have been aligned with the similar offences in the road transport law as increased in August 2015 when most road transport law offences were increased.

The regulation promotes greater uniformity of the penalties under the HVNL by aligning infringement penalties with those of other participating jurisdictions.

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. The regulation commences on the latter of the day after notification, or 6 February 2016.

### **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 parts 1.2A and 1.2B of the existing schedule 1 with revised parts that incorporate all the adjusted penalties for offences under the HVNL. The adjusted amounts are set out in columns 4 and 5 of the table in parts 1.2A and 1.2B.

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