

2016

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT)
AMENDMENT REGULATION 2016 (No 1)
SL2016-15**

EXPLANATORY STATEMENT

**Circulated by authority of
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EXPLANATORY STATEMENT

This explanatory statement relates to the *Road Transport (Safety and Traffic Management) Amendment Regulation 2016 (No 1)* (the amending regulation) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the amending regulation and to help inform debate on it. It does not form part of the amending regulation and has not been endorsed by the Legislative Assembly.

This statement must be read in conjunction with the amending regulation. It is not, and is not meant to be, a comprehensive description of the amending 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.

Background

The ACT Government has reviewed parking arrangements for motorbikes in the ACT. As an outcome, this regulation amendment has been prepared to allow more than one motorbike to park in a single metered and ticket parking bay. The amendments to the *Road Transport (Safety and Traffic Management) Regulation 2000* allow for better utilisation of parking resources by providing greater availability of parking for motorbikes and freeing up more parking spaces for cars.

Overview

The regulation amends the *Road Transport (Safety and Traffic Management) Regulation 2000* and the *Road Transport (Offences) Regulation 2005*.

Sections 44(2) and 49(3) of the *Road Transport (Safety and Traffic Management) Regulation* regulate parking in a metered parking space and ticket parking space respectively. These sections state that a driver must not park their vehicle in a metered or ticket parking space if another vehicle is parked in the space. These provisions prevent the parking of more than one motorbike in a metered or ticket parking space.

The amending regulation, in clauses 5 and 7, amends sections 44 and 49 of the *Road Transport (Safety and Traffic Management) Regulation* to exempt motorbike riders from the rule prohibiting a vehicle from parking in a space if another vehicle is already parked there. The amending regulation, in clauses 6 and 8, also inserts new sections 44AA and 49AAA to allow for up to three motorbikes to be parked in a space. Clauses 6 and 8 create new offences of parking a motorbike in a metered or ticketed parking space if there are more than 2 bikes already parked in the space. These clauses also require any motorbikes parking in a space where another bike is already parked to park in a way that does not unreasonably obstruct the path of the other motorbike out of the space.

The amendments set a maximum limit of three motorbikes to park in a single metered and ticket bay to minimise the potential impacts and impediments to safety of other riders and motorists that could be caused if a greater number of motorbikes attempted to park in one bay.

Further, section 6(1) of the *Road Transport (Safety and Traffic Management) Regulation* incorporates the Australian Road Rules (ARR) into ACT law. Section 6(2) states that the ARR have effect subject to the Regulation. Part 2.2 of the *Road Transport (Safety and Traffic Management) Regulation* sets out how the ARR are incorporated. This part contains provisions that define terms for application of the ARR in the ACT, permit things to be done in the ACT otherwise prohibited by the ARR or to exempt persons in the ACT from complying with the ARR.

Rule 189 of the ARR prohibits double parking. The rule provides that a driver of a car or motorbike must not stop if the vehicle is between a vehicle that is parked on a road and the centre of the road.

Clause 4 of the amending regulation inserts a new section 13BA into the *Road Transport (Safety and Traffic Management) Regulation 2000* to allow for the double parking of motorbikes, provided that the motorbikes are parked in the same parking bay and will therefore not be impeding the flow of traffic.

Part 1.13 of schedule 1 of the *Road Transport (Offences) Regulation 2005* prescribes offence and infringement penalties for road transport offences. Clause 9 of the bill inserts new items 25A and 25B into part 1.13 of schedule 1 to prescribe offence and infringement penalties for parking offences relating to metered spaces. Clause 10 of the bill inserts new items 36A and 36B to do the same for parking offences relating to ticket spaces. These new items relate to the new offences inserted by clauses 6 and 8 as outline above. The prescribed amount for the offence penalty is 20 penalty points and the infringement penalty is \$102, consistent with other similar offences of this nature.

Regulatory Impact Statement

It is considered that a regulatory impact statement is not required for this regulation amendment as it is not imposing appreciable costs on the community (see s 34(1) of the Legislation Act). As each motorcycle rider will continue to need to pay the applicable fee to park their motorcycle, there will be no increase in costs to individual motorbike riders as a result of this amendment.

There is only a very limited ability to affect a person's rights as a motorbike rider currently only obtains a right to exclusive use of a parking space once they have

purchased a parking ticket. Therefore, the Regulation can only potentially impact the rights of those holding a valid parking ticket at the time the new Regulation commences.

While it could be argued that the regulation amendment will operate to the disadvantage of motorbike riders who will no longer have exclusive use of a parking space, the loss of exclusivity is not felt to be a disadvantage. It is considered that there is plenty of available space within an existing parking space to allow for more motorbikes to park, while not impacting on other motorbike riders' ability to enter and exit the parking space, and park their own bike, in a safe manner. The relaxation of parking restrictions is expected to operate to the advantage of motorbike riders by potentially tripling the amount of motorbike parking available in the territory, without compromising on safety and ability to access parking spaces.

Human Rights

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference requires consideration of human rights, among other matters. In this case, no human rights are impacted.

Outline of Provisions

Clause 1 Name of regulation

This clause names the regulation as the *Road Transport (Safety and Traffic Management) Amendment Regulation 2016 (No 1)*.

Clause 2 Commencement

This clause states the regulation commences on 1 July 2016.

Clause 3 Legislation amended

This clause states the regulation amends the *Road Transport (Safety and Traffic Management) Regulation 2000*. This clause includes a note that the regulation also amends the *Road Transport (Offences) Regulation 2005*.

Clause 4 New section 13BA

Clause 4 inserts a new section 13BA into the Road Transport (Safety and Traffic Management) Regulation. This clause provides an exception to ARR 189 (double parking) for motorbike riders. ARR 189 prohibits stopping on a road if to do so would put any part of the driver's vehicle between a vehicle parked on the road and the centre of the road.

This clause excepts the rider of a motorbike from the rule prohibiting double parking where motorbikes are parked in the same parking bay. This amendment facilitates the policy change of allowing up to three motorbikes to park in a single parking space.

Clause 5 New section 44 (2A)

Clause 5 inserts new section 44(2A) into the Road Transport (Safety and Traffic Management) Regulation. New section 44(2A) states that subsection (2) does not apply to the rider of a motorbike if the other vehicle is also a motorbike. Section 44(2) states that a driver must not park their vehicle in a metered parking space if another vehicle is already parked in that space.

This amendment allows for more than one motorbike to be parked in a single metered parking space, by disapplying the prohibition in subsection (2) for motor bike riders. This facilitates the policy change of allowing up to three motor bikes to park in a single parking space.

Clause 6 New section 44AA

Clause 6 inserts new section 44AA into the Road Transport (Safety and Traffic Management) Regulation. New section 44AA creates a new offence of a motorbike

rider parking in a metered parking space where there are more than 2 other motorbikes already parked in the space.

This clause, in conjunction with the other amendments in this regulation, allows for up to three motorbikes to be parked in the same parking space. New section 44AA(1) states that a maximum of three bikes are allowed to be parked in a space and any subsequent bike that is parked will be committing an offence.

New section 44AA(2) states that a motorbike rider commits an offence if they park in a metered space where another bike is already parked, and the rider parks in such a way that does not allow previously parked bikes to freely and safely exit the space. This offence is designed to ensure that riders are considerate of safety and access to vehicles of other riders. Also, this provision implies that there may be situations where it is unreasonable to park another motorbike in a parking space, even though an offence is not committed under section 44AA(1).

Clause 7 New section 49 (3A)

Clause 7 inserts new section 49(3A) into the Road Transport (Safety and Traffic Management) Regulation. New section 49(3A) states that subsection (3) does not apply to the rider of a motorbike if the other vehicle is also a motorbike. Section 49(3) states that a driver must not park their vehicle in a ticket parking space if another vehicle is already parked in that space.

This amendment allows for more than one motorbike to be parked in a single ticket parking space, by disapplying the prohibition in subsection (3) for motorbike riders. This facilitates the policy change of allowing up to three motorbikes to park in a single parking space.

Clause 8 New section 49AAA

Clause 8 inserts new section 49AAA into the Road Transport (Safety and Traffic Management) Regulation. New section 49AAA creates a new offence of a motorbike rider parking in a ticket parking space where there are more than 2 other motorbikes already parked in the space.

This clause, in conjunction with the other amendments in this regulation, allows for up to three motorbikes to be parked in the same parking space. New section 49AAA(1) states that a maximum of three bikes are allowed to be parked in a ticket space and any subsequent bike that is parked will be committing an offence.

New section 49AAA(2) states that a motorbike rider commits an offence if they park in a ticket space where another bike is already parked, and the rider parks in such a way that does not allow previously parked bikes to freely and safely exit the space.

This offence is designed to ensure that riders are considerate of safety and access to vehicles of other riders. Also, this provision implies that there may be situations where it is unreasonable to park another motorbike in a parking space, even though an offence is not committed under section 49AAA(1).

**Clause 9 Road Transport (Offences) Regulation 2005, schedule 1, part 1.13
New items 25A and 25B**

Clause 9 inserts new items 25A and 25B into part 1.13 of schedule 1 of the Road Transport (Offences) Regulation. New items 25A and 25B insert offence and infringement penalties for the new offences in sections 44AA, inserted by clause 6 above.

The amendments in this clause are consequential amendments to the creation of new offences by clause 6. The new items 25A and 25B prescribe the offence penalty and infringement penalty amounts for new offences in sections 44AA(1) and 44AA(2). For both of these new offences, the offence penalty amount is 20 penalty units and the infringement penalty amount is \$102, consistent with other similar offences in that part.

**Clause 10 Road Transport (Offences) Regulation 2005, schedule 1, part 1.13
New items 36A and 36B**

Clause 10 inserts new items 36A and 36B into part 1.13 of schedule 1 of the Road Transport (Offences) Regulation. New items 36A and 36B insert offence and infringement penalties for the new offences in sections 49AAA, inserted by clause 8 above.

The amendments in this clause are consequential amendments to the creation of new offences by clause 8. The new items 36A and 36B prescribe the offence penalty and infringement penalty amounts for new offences in sections 49AAA(1) and (2). For both of these new offences, the offence penalty amount is 20 penalty units and the infringement penalty amount is \$102, consistent with other similar offences in that part.