

Australian Capital Territory

Road Transport (Offences) Amendment Regulation 2016 (No 2)

Subordinate law SL2016–18

made under the

Road Transport (General) Act 1999, Section 23 (Regulations about infringement notice offences) and the Victims of Crime Act 1994.

EXPLANATORY STATEMENT

Outline

This regulation is made under the *Road Transport (General) Act 1999*, section 23 (Regulations about infringement notice offences) and the *Victims of Crime Act 1994*.

The purpose of this regulation is to increase infringement notice penalties for offences under ACT road transport law, give effect to an increase in the Victims Services Levy (VSL), and clarify the application of the VSL to a number of offences under the *Heavy Vehicle National Law (ACT)* (HVNL) and offences relating to parking more than two motorbikes in meter or ticket parking spaces.

Infringement notice penalties are being increased by 6%.

An increase in the VSL from \$40 to \$50 was announced in the 2016-17 Budget. Most road transport infringement notice penalty amounts include a component, not identified separately, accounting for the VSL. The VSL is, in effect, built into the penalty amount. Offences to which the VSL is intended to apply have been increased by an additional \$10 to account for the increase in the VSL.

Road transport laws to which the VSL does not apply are prescribed under section 49A of the *Victims of Crime Regulation 2000*. They can be generally described as parking and stopping offences.

Most penalties under the HVNL are determined through a national process and have been adjusted accordingly. Two offences in the HVNL about producing a drivers licence and disclosing the identity of a driver are “local” offences. The *Victims of Crime Regulation 2000* has been amended to clarify that the VSL applies to these offences.

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.

Indexation has been undertaken by deducting the current value of the VSL from the penalty, applying indexation to the remainder (ie the base penalty) and adding the new VSL amount.

However, where an existing infringement notice penalty amount already exceeds the 20% limit the only adjustment has been to add \$10 to reflect the increase in the VSL. Where an existing penalty amount would exceed the 20% limit, if indexed by 6%, the penalty amount has been increased up to the 20% limit and the new VSL amount added.

For offences to which the VSL does not apply, the infringement penalty amounts are indexed by 6% only.

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

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 25 July 2016. This will allow time for agencies which issue infringements to make necessary system changes to apply the new penalty amounts.

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* and the *Victims of Crime Regulation 2000*.

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 Victims 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.

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.

Additionally, a number of minor corrections and clarifications have been made in the schedule as follows:

Part 1.2 Column 1 Item 2: has been split into items 2.1 and 2.2 clarifying the differences in offences committed by drivers and bicycle riders.

Part 1.2 Column 1 Item 12: has been separated to clarify the offences of a bicycle rider making a hook turn at an intersection with or without a bicycle hook turn storage area.

Part 1.2 Column 1 Items 31, 32, and 33: have been amended and consolidated to remove unnecessary references to toll booths.

Part 1.2 Column 1 Items 240 and 241: have been amended and consolidated to remove unnecessary references to clearways/transit ways/bus lanes.

Part 1.2 Column 1 Items 350 and 351: have had short descriptions amended to clarify the offence is about using wheeled recreational devices on footpaths and shared paths.

Part 1.3 Column 1 Item 1: has been amended in column 2 to make it clear the offence is against section 15 (5) not just 15(5)(a).

Part 1.3 Column 1 Item 12: has had the short description changed to clarify that the offence is about both alcohol and drug screening tests.

Part 1.3 Column 1 Item 13: has been inserted to clarify that there is an offence for failing to undergo alcohol or drug screening.

Part 1.6 Column 1 Items 14 and 16: have been omitted. The offence provisions do not exist in the identified sections. They exist in another section and are now correctly identified in Column 1 Items 21.1 and 21.3. The Part is also renumbered from this point.

Part 1.6 Column 1 Items 21: has been expanded to identify the separate conditions of the licence that may be contravened.

Part 1.6 Column 1 Item 57: has a changed short description to better describe the offence is about a foot operated accelerator on the passenger side of the vehicle.

Part 1.7 Column 1 Item 15: has had the offence provision in Column 2 amended to reflect the offence is against sub section 231(1)

Part 1.13 Column 1 Item 26: the part has been renumbered from this point to take account of offences created by another regulation at items 26, 27, 39, and 40.

Part 1.13 Column 1 Item 56: has been consolidated as a single offence as the offence provision does not reference a clearway, transit lane, or bus lane.

Part 1.15 Column 1 Item 72.35: has clarified that the offence provision includes subsection 1.67 of the Schedule.

Schedule 1 Victims of Crime Regulation 2000 – Consequential amendments

Clause 6 Section 49A(b)

This clause clarifies that offences 567A and 567B of the HVNL are offences to which the VSL is applicable.

Clause 7 Schedule 2, part 2.2, new items 3A and 3B

This clause clarifies that the parking offences about parking motorbikes in metered parking spaces with more than two other motorbikes or in a manner blocking another motorbike's path out of the space that have been created by another regulation are offences to which the VSL does not apply.

Clause 8 Schedule 2, part 2.2, new items 10A and 10B

This clause clarifies that the parking offences about parking motorbikes in ticket parking spaces with more than two other motorbikes or in a manner blocking another motorbike's path out of the space that have been created by another regulation are offences to which the VSL does not apply.