

Australian Capital Territory

Road Transport (Safety and Traffic Management) Regulation 2017

Subordinate law SL2017–45

made under the

Road Transport (Safety and Traffic Management) Act 1999, s 33 (General regulation-making power)

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the new *Road Transport (Safety and Traffic Management) Regulation 2017* (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.

Overview

This regulation contains provisions of the *Road Transport (Safety and Traffic Management) Regulation 2000* that were not incorporated in the *Road Transport (Road Rules) Regulation 2017*.

The regulation contains provisions about impounding vehicles, unsafe loads, traffic offence detection devices (police speedometers, speed detection devices, camera, digital and laser speed measuring devices), parking schemes (meter and ticket parking schemes, heavy vehicle parking in residential areas, parking permits and mobility parking schemes) and some transitional arrangements to ensure continuity of existing arrangements.

Other than as identified below and under the heading Notes on Clauses, the regulation does not amend the provisions from those in the *Road Transport (Safety and Traffic Management) Regulation 2000*. Therefore this explanatory statement does not provide notes on provision that have transitioned from the *Road Transport (Safety and Traffic Management) Regulation 2000*.

Section headings have been amended to bring them into line with current drafting practices.

The location of definitions has been brought into line with ACT drafting practices. For example, the definition of a term that is used in one section only is located in that section. However, where the term is used in more than one section of the regulation it has been moved to the dictionary of the regulation.

The term ‘pay parking device’ has been removed and replaced with ‘parking meter’ and ‘parking ticket machine’ where appropriate.

The term ‘pay parking sign’ has been removed and replaced with ‘metered parking sign’ and ‘ticket parking sign’ where appropriate.

There are no human rights implications associated with this regulation.

There are no climate change implications associated with this regulation.

Notes on clauses

Clause 1 Name of regulation

This clause specifies the name of the regulation as the *Road Transport (Safety and Traffic Management) Regulation 2017*.

Clause 2 Commencement

This clause provides that the regulation will commence on the commencement of the *Road Transport (Road Rules) Regulation 2017*.

Clause 3 Dictionary

This clause provides that the dictionary at the end of the regulation is part of the regulation.

Clause 4 Notes

This clause provides that notes provided in the regulation are explanatory and do not form part of the regulation.

Clause 5 Offences against regulation-application of Criminal Code etc

This clause provides that other legislation applies in relation to offences against this regulation.

Clause 6 Offences against regulation-defence

This clause provides that a defendant has a defence to an offence if they can prove that the offence was the result of an accident or that the offence could not have been avoided by any reasonable efforts of the defendant.

Clause 10 Standards for safe carriage of loads-Act, s 14 (2)

This clause has been amended to incorporate the *Load Restraint Guide – Guidelines and Performance Standards for the Safe Carriage of Loads on Road Vehicles*, 2nd ed (2004) published by the National Transport Commission. Due to the incorporation of

this load restraint guide, the amendment also disapplies section 47 (5) of the *Legislation Act 2001*. The *Legislation Act 2001*, section 47 (5) provides that an incorporated document is taken to be a notifiable instrument. A notifiable instrument must be notified on the legislation register under the *Legislation Act 2001*. However, the *Legislation Act 2001*, section 47 (5) may be displaced by the authorising law (the Act) or the incorporating instrument (this regulation) (see section 47 (7)). The *Legislation Act 2001*, section 47 (5) is displaced here because the incorporated document is subject to copyright and available on the Internet.

Clause 15 **Average speed detection systems-Act, s 22AA and s 23B**

This clause has been amended by inserting Schedule 1 (Average speed detection systems) in place of the table in section 103B of the *Road Transport (Safety and Traffic Management) Regulation 2000*. This amendment is in line with current drafting practices.

In addition, the opportunity was taken to remove the Athllon Drive average speed detection system listed in Schedule 1 as it was decommissioned in October 2016.

Clause 18 **Major testing of laser speed measuring devices-Act, s 24 (1)**

This clause has been amended to include Australian Standard AS 4691.1-2003. Section 47 (6) of the *Legislation Act 2001* provides that an incorporated document, and any amendment or replacement of such a document, are taken to be notifiable instruments. A notifiable instrument must be notified on the legislation register under the *Legislation Act 2001*. However, section 47 (6) of the *Legislation Act 2001* may be displaced by the authorising law (the Act) or the incorporating instrument (this regulation) (see section 47 (7)). Section 47 (6) of the *Legislation Act 2001* is displaced here because the incorporated standards are subject to copyright and may be purchased over the Internet.

Clause 19 **Major testing of other traffic offence detection devices-Act, s 24 (1)**

This clause has been amended to include Australian Standard AS 2898.1-2. Section 47 (6) of the *Legislation Act 2001* provides that an incorporated document, and any amendment or replacement of such a document, are taken to be notifiable instruments. A notifiable instrument must be notified on the legislation register under the *Legislation Act 2001*. However, section 47 (6) of the *Legislation Act 2001* may be displaced by the authorising law (the Act) or the incorporating instrument (this regulation) (see section 47 (7)). Section 47 (6) of the *Legislation Act 2001* is displaced here because the incorporated standards are subject to copyright and may be purchased over the Internet.

Clause 32 **Additional police powers-removing cars from metered parking areas**

This clause has been amended as a result of splitting Section 109 (Additional police powers – removing parked cars) of the *Road Transport (Safety and Traffic Management) Regulation 2000* into two separate provisions to better reflect the

removal of cars from metered parking areas and the removal of cars from ticket parking areas.

Clause 45 Additional police powers-removing cars from ticket parking areas

This clause has been amended as a result of splitting Section 109 (Additional police powers – removing parked cars) of the *Road Transport (Safety and Traffic Management) Regulation 2000* into two separate provisions to better reflect the removal of cars from ticket parking areas and the removal of cars from metered parking areas.

Clause 74 Responsible person to inspect driver licence

This clause has been amended by inserting a note to subsection (3) to identify that the defendant has a legal burden in relation to the matters mentioned in subsection (3).

Part 10 Transitional

This part identifies a number of approvals, declarations and guidelines made under the repealed *Road Transport (Safety and Traffic Management) Regulation 2000* that need to continue to be in force to provide for the continuation of existing administrative arrangements without needing to remake those instruments. The transitional arrangements do not change how the approvals, declaration and guidelines function.

The transitional arrangements cover approvals for helmets for bicycle and motorbike riders, child safety equipment, parking authority guidelines, e-payment methods and police speedometers and declarations about Airservices Australia, emergency workers, parking authorities and parking permits.

Part 10 expires two years after the commencement of the regulation to provide time for the approvals, declarations and guidelines to be remade.