

Australian Capital Territory

# Road Transport (General) Withdrawal of Infringement Notices Guidelines 2018 (No 1)

Disallowable instrument DI2018-70

made under the

Road Transport (General) Act 1999, section 38 (1) (Infringement notices – guidelines for withdrawal)

## EXPLANATORY STATEMENT

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This instrument sets out the Guidelines that administering authorities are to apply when considering applications for the withdrawal of an infringement notice issued under the road transport legislation.

Section 38 (1) of the *Road Transport (General) Act 1999* provides that the Minister may issue guidelines for the withdrawal of infringement notices, and section (2) explains that the administering authority for an infringement notice offence must comply with any guidelines issued by the Minister. Section 38 (3) provides that a guideline is a disallowable instrument.

Clauses 1 and 2 of the instrument are formal provisions providing for its name and commencement.

Clause 3 explains that the Minister issues the Guidelines set out in the table in Schedule 1, and that the Guidelines contain the criteria that will apply to applications for withdrawal of infringement notices issued under the road transport legislation.

Clause 4 explains how the Guidelines in Schedule 1 are to apply to an infringement notice offence. While most of the Guidelines in Schedule 1 apply in the same way to all types of infringement notice offences, in some limited circumstances (particularly in relation to criteria relating to good behaviour and the display of parking permits and tickets), the Guidelines make special provision in relation to certain categories of offences. Specifically, a person's previous good behaviour cannot be considered as a reason for withdrawal for certain offences relating to disability parking offences and stopping in or near intersections, children's crossings, pedestrian crossing or contrary to a "No Stopping" sign. The inability to withdraw an infringement notice on good behaviour grounds does not prevent its withdrawal on other grounds mentioned in the Guidelines. Part 2 of the table contains additional Guidelines that apply only to certain parking offences, including Guidelines relating to incorrectly displayed tickets and permits and guidelines for immobilised or broken down vehicles. Part 2 of the

table has been amended in relation references to the *Road Transport (Safety and Traffic Management) Regulation 2000* and the Australian Road Rules which have been replaced with references to the *Road Transport (Safety and Traffic Management) Regulation 2017* and the *Road Transport (Road Rules) Regulation 2017* which commence on 30 April 2018.

Clause 5 contains definitions of certain terms that are mentioned in the instrument that are not otherwise defined in the Act under which the instrument is made. Minor amendments have been made to Clause 5 to reflect the commencement of the *Road Transport (Safety and Traffic Management) Regulation 2017* on 30 April 2018.

Clause 6 provides for the repeal of instruments made under section 38 (1) of the *Road Transport (General) Act 1999*.