

Australian Capital Territory

Road Transport Legislation Amendment Regulation 2019 (No 1)

Subordinate law SL2019–31

made under the

Road Transport (General) Act 1999, section 23 (regulations about infringement notice offences) and section 233 (General regulation-making power)

Road Transport (Safety and Traffic Management) Act 1999, section 33 (General regulation-making power) and section 42 (Regulations about parking)

Road Transport (Vehicle Registration) Act 1999, section 13 (General regulation-making power), section 14 (Regulations to establish registration system) and section 15 (Regulations to establish system for vehicle standards and inspections).

EXPLANATORY STATEMENT

Purpose of the Regulation

The purpose of this Regulation is to make a number of amendments to the Territory's road transport legislation.

Overview

This Regulation amends the *Road Transport (Road Rules) Regulation 2017*, the *Road Transport (Safety and Traffic Management) Regulation 2017* and the *Road Transport (Vehicle Registration) Regulation 2000*. It also makes consequential amendments to the *Road Transport (Offences) Regulation 2005*.

The amendments in this Regulation:

- establish the regulatory framework for personal use of e-scooters and other similar devices through amendments to the existing framework for personal mobility devices;
- provide the road transport authority with the power to refuse, cancel or suspend the registration of vehicles with offensive messaging;
- provide the road transport authority with the power to refuse, cancel or suspend the registration of vehicles that fail to comply with a recall notice issued under the Australian Consumer Law;
- introduce an exemption to the requirement to wear a helmet on religious grounds; and

- introduce an offence for displaying in or on a vehicle a copy of a parking permit or mobility parking scheme authority.

This Regulation also makes other minor and technical amendments to improve the administration and efficiency of the Territory's road transport legislation.

The authority to make this Regulation is contained in:

- sections 23 and 233 of the *Road Transport (General) Act 1999*;
- sections 33 and 42 of the *Road Transport (Safety and Traffic Management) Act 1999*; and
- sections 13, 14 and 15 of the *Road Transport (Vehicle Registration) Act 1999*.

Section 23 of the *Road Transport (General) Act 1999* gives the Executive the power to make regulations about infringement notice offences. A regulation may prescribe an offence as an infringement notice offence and the amount of the penalty payable, including different amounts payable for different offences and different amounts payable for the same offence committed by different people.

Section 233 of the *Road Transport (General) Act 1999* gives the Executive the power to make regulations under that Act.

Section 33 of the *Road Transport (Safety and Traffic Management) Act 1999* gives the Executive the power to make regulations under that Act.

Section 42 of the *Road Transport (Safety and Traffic Management) Act 1999* gives the Executive the power to make regulations about parking, including parked or stopped vehicles on roads or road related areas and paid parking schemes.

Section 13 of the *Road Transport (Vehicle Registration) Act 1999* gives the Executive the power to make regulations under that Act.

Section 14 of the *Road Transport (Vehicle Registration) Act 1999* gives the Executive the power to make regulations to provide a system of registration of registrable vehicles used on roads or road related areas.

Section 15 of the *Road Transport (Vehicle Registration) Act 1999* gives the Executive the power to make regulations in relation to vehicles standards, inspection or testing of registrable vehicles and the production of registrable vehicles for inspection and testing.

Human rights considerations

During the development of this Regulation due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004* (HRA).

Broadly this Regulation could be seen to engage with, and place limitations on, the following HRA rights:

- Section 12 Privacy and reputation
- Section 13 Freedom of movement
- Section 16 Freedom of expression

- Section 22 Rights in criminal proceedings

This Regulation also engages, and supports, the following HR Act rights:

- Section 14 Freedom of thought, conscience, religion and belief

The preamble to the HRA notes that few rights are absolute and that they may be subject only to the reasonable limits in law that can be demonstrably justified in a free and democratic society.

Section 28 (2) of the HRA provides that in deciding whether a limit on a human right is reasonable, all relevant factors must be considered, including:

- a) the nature of the right affected
- b) the importance of the purpose of the limitation
- c) the nature and extent of the limitation
- d) the relationship between the limitation and its purpose
- e) any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve

An assessment against section 28 of the HRA is provided below.

The limitations on human rights in this Regulation are proportionate and justified in the circumstances because they are the least restrictive means available to achieve road safety. The achievement of road safety is an important objective for the ACT community.

Privacy and reputation

Section 12 of the HRA provides that everyone has the right to not have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily.

a) The nature of the right affected

This Regulation could be considered to be engaging this right by amending the particulars required to be provided by a driver involved in a crash. The required particulars must be provided to any other driver (or that driver's representative) involved in the crash; any other person involved in the crash who is injured, or the person's representative; the owner of any property (including any vehicle) damaged in the crash and to a police officer.

This Regulation amends the existing definition of required particulars to specify that the driver must provide either their address, phone number or email address and the owner of the vehicle's address, phone number or email address.

b) The importance of the purpose of the limitation

This amendment balances personal safety and privacy concerns associated with sharing personal information with the need to be able to locate the driver of a vehicle

involved in a crash or the registered owner of a vehicle involved in crash for insurance and/or enforcement purposes.

c) Nature and extent of the limitation

The amendment in this Regulation provides flexibility in terms of the personal information required to be provided while also ensuring that sufficient information is provided to identify a driver involved in crash or the registered owner of a vehicle involved in a crash.

d) Relationship between the limitation and its purpose

Members of the public are generally aware that if they are the driver involved in a crash that they are required to provide their contact details to the other parties involved. This requirement ensures that the parties can communicate directly, details can be provided to insurance companies and any necessary enforcement action can be taken.

e) Any less restrictive means reasonably available to achieve the purpose

It is not considered that there are any less restrictive means reasonably available to achieve the purpose of this amendment.

Right to freedom of movement

Section 13 of the HRA provides that everyone has the right to move freely within the ACT and to enter and leave it, and the freedom to choose his or her residence in the ACT. This is relevant in the ACT today, in respect to circumstances involving people's access to public places. The right to move freely within the ACT means that a person cannot be arbitrarily forced to remain in, or move to or from, a particular location.

(a) The nature of the right affected

This Regulation:

- provides the road transport authority the ability to refuse to approve an application for registration of a registrable vehicle if the vehicle displays words or images that may be considered as indecent, insulting or offensive or if the vehicle is subject of a recall notice issued by the Australian Competition and Consumer Commission
- provides the road transport authority the ability to cancel or suspend the registration of a registrable vehicle if the vehicle displays words or images that may be considered as indecent, insulting or offensive or if the vehicle is subject of a recall notice issued by the Australian Competition and Consumer Commission
- establishes the road and road-related areas where personal mobility devices can be used in the ACT.

(b) The importance of the purpose of the limitation

The purpose of the limitation is to protect the public from being exposed to offensive messaging on vehicles registered in the ACT, unsafe vehicles and ensuring the safety of all road users and reducing the risk of collision between road users.

The ACT Government is committed to ensuring that people are depicted in a respectful, empowering and dignified way, including people of different cultures, ages, genders and abilities.

The ACT Government is also committed through the *ACT's Road Safety Strategy 2010 – 2020* to vision zero, which aims to achieve zero road fatalities or serious injuries; and the Safe System approach to road safety. The Safe System approach relies on safe roads and roadsides, safe speeds, safe vehicles and safe people and safe behaviours.

(c) Nature and extent of the limitation

The ability to refuse, suspend or cancel registration is limited to circumstances:

- where a compulsory recall notice has been issued under the Australian Consumer Law or a voluntary recall notice has been issued and the road transport authority is satisfied that the recall relates to a significant road safety risk; or
- the vehicle contains words or images that a reasonable adult would consider indecent, insulting or offensive displayed on an area of the vehicle greater than 297mm x 105mm. The intention is not to cover things such as bumper stickers.

Guidelines are being developed which will be made publicly available prior to these new provisions commencing on 13 January 2020 that outline the types of messaging that is intended to be addressed. This includes messaging that:

- uses sexual appeal in an exploitative or degrading manner
- uses strong or obscene language
- discriminates against or vilifies a section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

The messaging which these amendments are designed to apply to is that which is determined to fall below prevailing community standards.

Personal mobility devices are limited to being used on footpaths, shared paths, bicycle paths and the bicycle side of separated paths. Use is permitted on roads when there is no footpath, nature strip or shared path adjacent to the road or it is impracticable to travel on that area.

(d) Relationship between the limitation and its purpose

This Regulation seeks to protect the safety of the Territory's road users and the broader community and promote a community that respects others.

If a person's vehicle is refused registration or the registration is cancelled or suspended, the person may make their vehicle registerable by either removing the offensive words or images or taking action to address a compulsory or voluntary recall notice. In a case where the road transport authority proposes to suspend or cancel the registration of a vehicle, the authority must give the vehicle's owner at least 14 days' notice of its intention to do so including advice as to what action the owner must take to avoid or reverse the decision. The period could be longer if the road transport authority believes that the owner needs more time to remove the words

or images or comply with the recall notice. Decisions to refuse, suspend or cancel a vehicle's registration are reviewable.

(e) Any less restrictive means reasonably available to achieve the purpose

It is not considered that there are any less restrictive means reasonably available to achieve the purpose of this Regulation.

Similar provisions relating to offensive messaging have been introduced in Queensland, Tasmania and Victoria. There is also national commitment through the Transport and Infrastructure Council to address this issue.

Further, New South Wales has introduced similar provisions in relation to vehicles subject to compulsory recall notices issued under the Australian Consumer Law. There is a national commitment through the Transport and Infrastructure Council to address this issue.

Access Canberra have undertaken significant community engagement relating to recall notices issued under the Australian Consumer Law and the need for owners of these vehicles to take action to address the recall notice for their safety, the safety of passengers in their vehicle and the safety of other road users.

Right to freedom of expression

Section 16 of the HRA provides that everyone has the right to hold opinions without interference and the right to freedom of expression. The right to freedom of expression includes the freedom to seek, receive and impart information and ideas of all kinds, orally, in writing, in print, by way of art or in any other way a person chooses.

Under article 19 (3) of the International Covenant on Civil and Political Rights ('the ICCPR') (from which section 16 derives), freedom of expression may be limited as provided for by law and in circumstances where it is necessary to protect the rights or reputations of others, national security, public order, public health or morals.

(a) The nature of the right affected

This Regulation could be seen to limit this right as the road transport authority may refuse an application to register a registrable vehicle or suspend or cancel the registration of a registered vehicle if they are satisfied that it displays words or images that are indecent, insulting or offensive.

(b) The importance of the purpose of the limitation

The purpose of the limitation is to protect the public from being exposed to offensive slogans or images. This ensures that all people are depicted in a respectful, empowering and dignified way, including people of different cultures, ages, genders and abilities.

(c) Nature and extent of the limitation

The ability to refuse, suspend or cancel registration is limited to circumstances:

- where a compulsory recall notice has been issued under the Australian Consumer Law or a voluntary recall notice has been issued and the road transport authority is satisfied that the recall relates to a significant road safety risk; or

- the vehicle contains words or images that a reasonable adult would consider indecent, insulting or offensive displayed on an area of the vehicle greater than 297mm x 105mm. The intention is not to cover things such as bumper stickers.

Guidelines are being developed which will be made publicly available prior to these new provisions commencing on 13 January 2020 that outline the types of messaging that is intended to be addressed. This includes messaging that:

- uses sexual appeal in an exploitative or degrading manner
- uses strong or obscene language
- discriminates against or vilifies a section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

The messaging which these amendments are designed to apply to is that which is determined to fall below prevailing community standards.

(d) Relationship between the limitation and its purpose

This Regulation seeks to protect the broader community and promote a community that respects others.

If a person's vehicle is refused registration or the registration is cancelled or suspended, the person may make their vehicle registerable by either removing the offensive words or images. In a case where the road transport authority proposes to suspend or cancel the registration of a vehicle, the authority must give the vehicle's owner at least 14 days' notice of its intention to do so including advice as to what action the owner must take to avoid or reverse the decision. The period could be longer if the road transport authority believes that the owner needs more time to remove the words or images. Decisions to refuse, suspend or cancel a vehicle's registration are reviewable.

(e) Any less restrictive means reasonably available to achieve the purpose

It is not considered that there are any less restrictive means reasonably available to achieve the purpose of this Regulation.

Similar provisions relating to offensive messaging have been introduced in Queensland, Tasmania and Victoria. There is also national commitment through the Transport and Infrastructure Council to address this issue.

These restrictions are proportionate to the aim of ensuring all people are depicted in a respectful, empowering and dignified way and are the least restrictive means possible in the circumstances.

Strict liability offences

This Regulation creates new strict liability offences and makes minor and technical amendments to existing strict liability offences in the *Road Transport (Road Rules) Regulation 2017*.

A strict liability offence means that there are no fault elements for the physical elements of the offence to which strict liability applies which essentially means that the conduct alone is sufficient to make the defendant culpable. There is a specific defence of mistake of fact for strict liability offences (section 23, Criminal Code).

Strict liability offences more typically arise in a regulatory context where for reasons such as public safety and ensuring that regulatory schemes are complied with, requires the sanction of criminal penalties. Where a defendant can reasonably be expected, because of his or her involvement with the regulated activity, to know what the requirements of the law are, the mental, or fault, element can justifiably be excluded.

The rights under section 22 of the HRA are very important rights that have long been recognised in the common law and are now codified in the ACT through the HRA. These rights may be subject to limits, particularly when those who are subject to the offence would be expected to be aware of its existence.

This Regulation may be seen as engaging the following rights under section 22 of the HRA:

- the presumption of innocence until proven guilty (section 22 (1))
- right against self-incrimination (section 22 (2) (i))

a) The nature of the right affected

This Regulation includes five new strict liability offences in the *Road Transport (Road Rules) Regulation 2017*:

- section 213U (2) Interfering with parking permit and mobility parking scheme authority
- section 244FA Travelling in or on personal mobility device on bicycle path or separated footpath
- section 244FB Speed limit travelling in or on personal mobility device
- section 244GA Use of mobile device in or on personal mobility device
- section 244HA Carrying passenger in or on personal mobility device

This Regulation amends the following two existing strict liability offences in the *Road Transport (Road Rules) Regulation 2017*:

- section 213U (a) Interfering with parking permit and mobility parking scheme authority
- section 244I Warning device—personal mobility device.

b) The importance of the purpose of the limitation

This Regulation amends the existing regulatory framework for the use of personal mobility devices to include a broader range of devices and thus creates a number of new strict liability offences considered necessary to support the safe use of these devices. It also makes minor amendments to an existing offence relating to the use of warning devices when travelling in or on a personal mobility device. The framework is designed to provide a balance between safe use of these devices and these devices being a viable alternative transport mode.

This Regulation also introduces a new strict liability offence for a person who displays in or on a vehicle a copy of parking permit or mobility parking scheme authority or a parking permit or mobility parking scheme authority that has been changed, damaged or defaced.

It is considered appropriate for these offences be ones of strict liability to discourage certain behaviour on personal mobility devices to ensure public safety and protect public revenue.

Road users are generally on notice as to the rules that apply to them when on a road or road related area.

For a person to commit an offence under this Regulation they would be required to be actively involved in the behaviour resulting in the offence.

c) Nature and extent of the limitation

The requirements to which the offences apply are not burdensome in nature and relate to the safe operation of personal mobility devices and ensure that mobility parking scheme authorities are only displayed in accordance with their conditions.

Offences that are being classified as strict liability offences have an infringement penalty attached. The penalties for these offences are within the normal range for strict liability offences and are comparable to existing offences. In developing and amending these offences due regard was given to the guidance provided in the *Guide for Framing Offences*.

d) Relationship between the limitation and its purpose

The requirements to which the offences apply are not burdensome in nature and relate to ensuring the safe operation of personal mobility devices and to the authorised display of mobility parking scheme authorities.

The inclusion of strict liability offences supports an effective infringement notice scheme. Effective infringement notice schemes minimise the cost of litigation for the Territory while offering people a choice concerning whether to accept a lesser penalty without admitting the offence or remaining liable to prosecution.

The potential risks of ineffective regulation of the operation of personal mobility devices include an environment where public safety measures are not in place.

The offences address matters which the community either regards as generally unacceptable behaviour or are a risk to health and safety, property or revenue.

The new offences created mirror existing offences for wheeled toys and wheeled recreational devices, use of mobile phones while driving and other offences that apply to bicycle riders to support the safe operation of personal mobility devices.

e) Any less restrictive means reasonably available to achieve the purpose

It is not considered that there are any less restrictive means reasonably available to achieve the purpose of this Regulation. The strict liability offences in this Regulation are relevant to ensuring the safety of public and to protect public revenue.

Section 23 (1) (b) of the *Criminal Code 2002* provides a specific defence of mistake of fact for strict liability offences. Section 23 (3) of the *Code* provides that other defences may also be available for strict liability offences, including the defence of intervening conduct or event (section 39), duress (section 40), sudden or extraordinary emergency (section 41), self-defence (section 42) or lawful authority (section 43).

Freedom of thought, conscience, religion and belief

Section 14 of the HRA provides that everyone has the right to freedom of thought, conscience and religion which includes the freedom to demonstrate his or her religion or belief in worship, observance, practice and teaching.

This Regulation can be considered to support this human right as it provides an exemption to wearing a helmet while riding a bicycle, travelling in a bicycle trailer and travelling in or on a personal mobility device on religious grounds. The requirement to wear a helmet does not apply if the person is a member of a religious group, wearing a headdress customarily worn by members of that group and the wearing of the headdress makes it impractical for the person to wear an approved bicycle helmet.

This amendment reflects similar legislation in Queensland, Victoria, South Australia and Western Australia.

Climate change implications

There are no climate change implications associated with this Regulation.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of regulation

This clause specifies the name of the regulation. This clause provides that the Regulation may be cited as the *Road Transport Legislation Amendment Regulation 2019 (No 1)*.

Clause 2 Commencement

This clause provides for the commencement of the Regulation. This clause provides for a staged commencement of the Regulation. Parts 1, 2, 3 and Schedule 1 commence on 20 December 2019. Part 4 will commence on 13 January 2020.

Clause 3 Legislation amended

This clause names the regulation that is being amended by this Regulation. This Regulation amends the *Road Transport (Road Rules) Regulation 2017*, the *Road Transport (Safety and Traffic Management) Regulation 2017* and the *Road Transport (Vehicle Registration) Regulation 2000*. It also makes consequential amendments to the *Road Transport (Offences) Regulation 2005*.

Part 2 Road Transport (Road Rules) Regulation 2017

This part amends the *Road Transport (Road Rules) Regulation 2017* to establish the regulatory framework for e-scooters and other similar devices; introduce an offence for displaying in or on a vehicle a copy of a parking permit or mobility parking scheme authority; clarify the use of visual display units and mobile devices as dispatch systems; introduce an exemption from the requirement to wear an helmet on religious grounds and amendments to the particulars required to be provided following an accident.

Clause 4 Section 18A, definition of *personal mobility device*

This clause substitutes the existing definition of personal mobility device (PMD) to establish a framework that supports emerging technologies and a broad range of the devices. The definition of *personal mobility device* supports continued coverage of existing devices (for example, segway-like devices) and new devices (such as e-scooters, electric skateboards).

A *personal mobility device* is a device:

- propelled by an electric motor; and
- designed for use by only one person; and
- weighing not more than 60kg unladen; and
- with 1 or more wheels; and
- with a brake system; and
- that cannot travel faster than 25km/h on level ground; and

- with dimensions not more than:
 - 1250mm in length; and
 - 700mm in width; and
 - 1350mm in height.

A *personal mobility device* does not include a motorised wheelchair.

Clause 5 **Section 203 (1) (a) and (b)**

This clause is a minor and technical amendment to replace the reference to a parking permit for people with disabilities with a reference to a mobility parking scheme authority which is the term used for this type of parking permit.

Clause 6 **Section 206 (1) (a) and (b)**

This clause is a minor and technical amendment to replace the reference to a parking permit for people with disabilities with a reference to a mobility parking scheme authority which is the term used for this type of parking permit.

Clause 7 **Section 213U (a)**

This clause amends an existing strict liability offence for a person who changes, damages or defaces a parking permit or mobility parking scheme authority and is consequential on the changes made by clause 8. This amendment removes any duplication between the strict liability offence in section 213U (a) and the new strict liability offence in new subsection 213U (2).

Clause 8 **New section 213U (2)**

This clause introduces a new strict liability for a person who displays in or on a vehicle a copy of a parking permit or mobility parking scheme authority or a parking permit or mobility parking scheme authority that has been changed, damaged or defaced. This offence applies to any person including the driver of the vehicle displaying the authority, the responsible person for the vehicle and the person to whom the permit or authority was issued.

Clause 9 **Section 215 (1) (a)**

This clause is a technical amendment to align current drafting relating to the term numberplate.

Clause 10 **Section 217 (2), definition of *rear fog light***

This clause is a technical amendment to align current drafting relating to the term numberplate.

Clause 11 **Section 236 (4)**

This clause clarifies that a person travelling in or on a personal mobility device, wheeled recreational device or wheeled toy may not stand on, or move onto, a road, including a designated intersection, to:

- solicit contributions, employment or business from a person in a vehicle;
- hitchhike;
- display an advertisement;
- sell or offer articles for sale;
- wash or clean, or offer to clean, the windscreen of a vehicle.

Clause 12 **Section 236 (6), definition of *pedestrian***

This clause omits the definition of *pedestrian* and is consequential on the changes made by clause 11.

Clause 13 **Sections 244A and 244C**

This clause omits existing sections 244A and 244C. Section 244A defines *scooter* and *motorised scooter* and section 244C prohibits the use of a motorised scooter on a road or road related area.

Motorised scooters are now covered by the definition of personal mobility device and their use is now permitted on a road and road-related area in certain circumstances.

Clause 14 **New sections 244FA and 244FB**

This clause introduces two new provisions relating to the use of personal mobility devices.

New section 244FA (1) provides that it is a strict liability offence for a person travelling in or on a personal mobility device to be on a part of a separated footpath designated for the use of pedestrians unless the person is crossing the separated footpath by the shortest safe route and does not stay on the separated path for longer than necessary to cross the separated footpath safely. The maximum penalty for this offence is 20 penalty units.

New section 244FA (2) provides that it is a strict liability offence for a person travelling in or on a personal mobility device on a bicycle path, or a part of the separated footpath designated for the use of bicycles, to not keep out of the path of any bicycle. The maximum penalty for this offence is 20 penalty units.

New section 244FB sets the speed limit when travelling in or on a personal mobility device. It is a strict liability offence for a person travelling in or on a personal mobility device to travel faster than 15km/h when travelling on a footpath. In all other locations (shared paths, bicycle paths, the bicycle side of separated paths) where these

devices are permitted a person travelling in or on a personal mobility device must not travel faster than 25km/h.

Clause 15 **New section 244GA**

This clause creates a new strict liability offence that prohibits the use of mobile devices while travelling in or on a personal mobility device. This mirrors the existing offence for drivers in section 300 of the *Road Transport (Road Rules) Regulation 2017*. The maximum penalty for this offence is 20 penalty units.

Clause 16 **New section 244H (2)**

This clause introduces an exemption to the requirement for a person in or on a personal mobility device to wear an approved bicycle helmet in the circumstances where the person is a member of a religious group and the person is wearing a type of headdress customarily worn by members of the group and the wearing of the headdress makes it impractical for the person to wear an approved bicycle helmet.

Clause 17 **New sections 244HA and 244HB**

This clause introduces new section 244HA that creates a new strict liability offence that prohibits a person travelling in or on a personal mobility device from carrying a passenger. The maximum penalty for this offence is 20 penalty units.

This clause introduces new section 244HB that provides that a child under the age of 12 may only use a personal mobility device with adult supervision.

Clause 18 **Section 244I**

This clause remakes the existing provision relating to use of warning devices by a person travelling in or on a personal mobility device to accommodate that with new devices it is not always possible to have a warning device affixed to the device. In those circumstances, the person travelling in or on a personal mobility device must have ready access to a bell, horn or similar warning device in working order.

Clause 19 **New section 256 (4)**

This clause introduces an exemption to the requirement for the rider of a bicycle or a passenger on a bicycle to wear an approved bicycle helmet in the circumstances where the person is a member of a religious group and the person is wearing a type of headdress customarily worn by members of the group and the wearing of the headdress makes it impractical for the person to wear an approved bicycle helmet.

Clause 20 **New section 257 (1A)**

This clause introduces an exemption to the requirement for a person travelling in or on a bicycle trailer to wear an approved bicycle helmet in the circumstances where the person is a member of a religious group and the person is wearing a type of headdress customarily worn by members of the group and the wearing of the headdress makes it impractical for the person to wear an approved bicycle helmet.

Clause 21 **Section 287 (4), definition of *required particulars*, paragraph (a) (i) and (ii)**

This clause remakes the current definition of *required particulars* to provide the driver involved in a crash the option to provide either their address, phone number or email address and the owner of the vehicle's address, phone number or email address to the relevant parties.

Clause 22 **Section 299 (2) (c), examples**

This clause inserts examples of visual display units to clarify that a visual display unit includes a rideshare driver's mobile device that is showing passenger information and a taxi's driver's visual display unit showing passenger information.

Clause 23 **Section 300 (1) (a)**

This clause is a minor and technical amendment consequential on the changes at clauses 25 and 26.

Clause 24 **New section 300 (1) (ac)**

This clause clarifies that rideshare, taxi and hire car drivers are able to use their mobile device as a drivers aid (for example, a dispatch system) in relation to the transport of passengers. The body of the device must be secured in a mounting affixed to the vehicle while being used.

Clause 25 **Section 300 (4), new definition of *audio call***

This clause inserts a new definition of *audio call* and is consequential on the changes made by clause 23 and amendments made to section 300 in the *Road Transport (Road Rules) Amendment Regulation 2019 (No 1)*.

Clause 26 **Section 300 (4), definition of *audio phone call***

This clause omits the definition of *audio phone call* and is consequential on the changes made by clauses 23 and 25.

Clause 27 **Dictionary, definition of *mobility parking scheme authority***

This clause remakes the current definition of *mobility parking scheme authority* to recognise similar permits or authorities issued under the equivalent legislation of other jurisdictions and is consequential on the changes made by clauses 5 and 6.

Clause 28 **Dictionary, definition of *motorised scooter***

This clause omits the definition of *motorised scooter* and is consequential on the changes made by clauses 4 and 13.

Clause 29 **Dictionary, definition of *motor vehicle***

This clause is a minor and technical amendment to the definition of *motor vehicle* consequential on the changes made by clauses 4 and 13.

Clause 30 **Dictionary, definition of *motor vehicle*, new note**

This clause inserts a note after the definition of *motor vehicle* consequential on the changes made by clause 4 to clarify that a vehicle does not include a personal mobility device.

Clause 31 **Dictionary, definition of *parking permit for people with disabilities***

This clause omits the definition of *parking permit for people with disabilities* consequential on the changes made by clauses 5, 6 and 27.

Clause 32 **Dictionary, definition of *scooter***

This clause omits the definition of *scooter* consequential on the changes made by clause 13.

Clause 33 **Dictionary, definition of *wheeled recreational device*, paragraph (a)**

This clause omits parts of the definition of *wheeled recreational device* consequential on the changes made by clauses 4 and 13.

Clause 34 **Dictionary, definition of *wheeled recreational device*, paragraph (b)**

This clause omits parts of the definition of *wheeled recreational device* consequential on the changes made by clauses 4 and 13.

Clause 35 **Dictionary, definition of *wheeled toy***

This clause is a minor and technical amendment to the definition of *wheeled toy* to clarify that a wheeled toy is not a personal mobility device consequential on the changes made by clause 4.

Part 3 **Road Transport (Safety and)
Traffic Management
Regulation 2017**

This part makes minor and technical amendments to the *Road Transport (Safety and Traffic Management) Regulation 2017*.

Clause 36 **Section 26 (3) (e)**

This clause is a technical amendment to align current drafting relating to the term numberplate.

Clause 37 **Section 65 (4), definition of *scooter***

This clause omits the definition of *scooter* consequential on the changes made by clauses 13 and 32.

Part 4 **Road Transport (Vehicle
Registration) Regulation 2000**

This part amends the *Road Transport (Vehicle Registration) Regulation 2000* to provide the road transport authority with the power to refuse, cancel or suspend the registration of vehicles with offensive messaging; provide the road transport authority with the power to refuse, cancel or suspend the registration of vehicles that fail to comply with a recall notice issued under the Australian Consumer Law and other amendments to support the efficiency and administration of the Territory's road transport legislation.

Clause 38 **New section 32 (1) (c) (v) and (vi)**

This clause provides the road transport authority with the ability to refuse to approve an application for registration of a registrable vehicle if the authority believes on reasonable grounds that words or images that a reasonable adult would consider indecent, insulting or offensive are displayed on an area of the vehicle greater than 297mm x 105mm.

It also provides the road transport authority with the ability to refuse to approve to approve an application for registration of a registrable vehicle if the authority believes on reasonable grounds that the vehicle is subject to a compulsory recall notice or voluntary recall notice.

Clause 39 **New section 32 (4)**

This clause supports the amendments made by clause 38 and clarifies that a vehicle is subject to a compulsory recall notice if a recall notice has been issued under section 122 of the *Australian Consumer Law (ACT)* in relation to the vehicle or a part of the vehicle for which an application for registration has been made.

This clause clarifies that a vehicle for which an application for registration has been made is subject to a voluntary recall notice if it meets the following criteria:

- a person has voluntarily recalled the vehicle or a part of the vehicle; and
- the recall notice has been published on a website under section 128 of the *Australian Consumer Law (ACT)*; and
- the road transport authority is satisfied the recall relates to a significant road safety risk; and

- reasonable steps have not been taken in relation to the vehicle or part to address the road safety risk.

Clause 40 **New section 84 (1) (da) and (db)**

This clause provides the road transport authority with the ability to suspend or cancel the registration of a registered vehicle if the authority is satisfied on reasonable grounds that words or images that a reasonable adult would consider indecent, insulting or offensive are displayed on an area of the vehicle greater than 297mm x 105mm.

It also provides the road transport authority with the ability to suspend or cancel the registration of a registered vehicle if the authority is satisfied on reasonable grounds that the vehicle is subject to a compulsory recall notice or voluntary recall notice.

Clause 41 **Section 84 (2), new definitions**

This clause supports the amendments made by clause 40 and provides definitions of *subject to voluntary recall notice* and *subject to a voluntary recall notice* by reference to those definitions in section 32 for consistency across the road transport legislation.

Clause 42 **Section 85 (5) (d)**

This clause is a minor and technical amendment to correct an incorrect cross reference.

Clause 43 **Section 146 (2)**

This clause provides that the proprietor of the approved premises where a vehicle is tested or inspected is no longer required to give the certificate of inspection to the driver and instead is only required to give the certificate to the road transport authority. Currently the proprietor is only required to provide a copy to the road transport authority. This amendment supports the Government's commitment to the delivery of digital services.

Clause 44 **Section 146 (4)**

This clause makes minor and technical amendments consequential on the changes at clause 43 and aligns the drafting with current drafting practices.

Clause 45 **Schedule 1, part 1.5, section 1.43 examples, new dot point**

This clause is a minor and technical amendment consequential on the changes made by clause 22.

Clause 46 **Schedule 1, part 1.11, section 1.151 (2) and (3)**

This clause is a technical amendment to align current drafting relating to the term numberplate.

Schedule 1 Consequential amendments – Road Transport (Offences) Regulation 2005

This schedule amends the *Road Transport (Offences) Regulation 2005* to incorporate the new offences and consequential amendments.

Section 1.1 Schedule 1, part 1.12A, item 323

This section substitutes item number 323 with items 323, 323A and 323B consequential on the changes made by clauses 7 and 8.

It sets the infringement notice penalty for the new offence of displaying a copy of a parking permit or mobility parking scheme authority. The penalty is set at \$615 which is consistent with existing penalties for improper use of a parking permit or mobility parking scheme authority. The penalty is set in accordance with the *Guide to Framing Offences*.

It also sets the infringement notice penalty for the new offence of displaying a changed, damaged or defaced parking permit or mobility parking scheme authority. The penalty is set at \$615 which is consistent with existing penalties for improper use of a parking permit or mobility parking scheme authority. The penalty is set in accordance with the *Guide to Framing Offences*.

Section 1.2 Schedule 1, part 1.12A, item 324, column 3

This section is a technical amendment to align current drafting relating to the term numberplate.

Section 1.3 Schedule 1, part 1.12A, item 400

This section omits item 400 consequential on the changes made by clause 13.

Section 1.4 Schedule 1, part 1.12A, new items 406A to 406C

This section inserts items 406A, 406B and 406C consequential on the changes made by clause 14.

It sets the infringement notice penalty for the new strict liability offence of using a personal mobility device on the pedestrian part of a separated path. The penalty is set at \$153 which is consistent with existing penalties for similar offences. The penalty is set in accordance with the *Guide to Framing Offences*.

It sets the infringement notice penalty for the new strict liability offence of a person travelling in or on a personal mobility device obstructing a bicycle on a bicycle path or the bicycle side of a separated path. The penalty is set at \$153 which is consistent with existing penalties for similar offences. The penalty is set in accordance with the *Guide to Framing Offences*.

It also sets the infringement notice penalty for the new strict liability offence exceeding the speed limit for a person travelling in or on a personal mobility device. The penalty is set at \$153 which is consistent with existing penalties for similar offences. The penalty is set in accordance with the *Guide to Framing Offences*.

Section 1.5 Schedule 1, part 1.12A, new item 411A

This section inserts items 411A consequential on the changes made by clause 15.

It sets the infringement notice penalty for the new strict liability offence of a person travelling in or on a personal mobility device using a mobile device. The penalty is set at \$480 which is consistent with the existing penalty for drivers and riders. The penalty is set in accordance with the *Guide to Framing Offences*.

Section 1.6 Schedule 1, part 1.12A, item 413

This section inserts items 413 and 413A consequential on the changes made by clauses 17 and 18.

It sets the infringement notice penalty for the new strict liability offence of carrying a passenger on a personal mobility device. The penalty is set at \$153 which is consistent with existing penalties for similar offences. The penalty is set in accordance with the *Guide to Framing Offences*.

It also sets the infringement notice penalty for the new strict liability offence of not having a warning device when travelling in or on a personal mobility device. The penalty is set at \$153 which is consistent with existing penalties for similar offences. The penalty is set in accordance with the *Guide to Framing Offences*.