

# Road Transport (Driver Licensing) Amendment Regulation 2020 (No 1)

Subordinate law SL2020–14

made under the

***Road Transport (Driver Licensing) Act 1999*, section 26 (Regulation-making power) and section 28 (Driver licensing system).**

## EXPLANATORY STATEMENT

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This Regulation amends the *Road Transport (Driver Licensing) Regulation 2000* (the principle regulation), made under the *Road Transport (Driver Licensing) Act 1999* (the Act) to support the Government's response to the current public health emergency.

On 30 January 2020, the Director-General of the World Health Organisation (WHO) declared the outbreak of COVID-19 a Public Health Emergency of International Concern. On 11 March 2020, the Director-General of the WHO declared COVID-19 a global pandemic. The WHO requested that every country urgently take necessary measures to ready emergency response systems.

On 16 March 2020, the Minister for Health declared a public health emergency under section 119 of the *Public Health Act 1997* (the Public Health Act) due to the public health risk to the ACT community posed by COVID-19. It is the first time that a public health emergency has been declared under the Public Health Act. The emergency declaration has already been extended a number of times and it is expected that there will be a continued need for the declaration to be further extended.

This Regulation makes amendments to the principle regulation which are necessary to respond to the current public health emergency. The reforms ensure that licence holders are not disadvantaged at this time due to the necessary suspension of Government and other Services.

These reforms will apply retrospectively to a person who holds a current learner car licence or a motorcycle learner licence. The retrospective application is non-prejudicial and is necessary to ensure that the holder of such a licence is not disadvantaged, as a result of the declaration of a public health emergency.

The authority to make this Regulation is contained in sections 26 and 28 of the *Road Transport (Driver Licensing) Act 1999*. The majority of the changes in this Regulation are authorised by section 28 of the *Road Transport (Driver Licensing) Act 1999*. This provides

for a regulation to establish the driver licensing system including fixing the periods for which a driver licence or renewal remains in force and allowing for people to be exempt from the requirement to hold an ACT driver licence.

### **HUMAN RIGHTS IMPLICATIONS**

The Regulation does not engage any human rights set out in the *Human Rights Act 2004*.

### **CLIMATE CHANGE IMPLICATIONS**

There are no climate change implications associated with this Regulation.

## CLAUSE NOTES

### **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 (Driver Licensing) Amendment Regulation 2020* (No 1).

### **Clause 2 Commencement**

This clause provides for the commencement of the Regulation. This Regulation will commence on the day after notification.

As outlined above and in the clause notes below, certain amendments contained in this Regulation will have retrospective application to ensure that holders of certain licences are not disadvantaged as a result of the declaration of a public health emergency and the cessation of certain services.

### **Clause 3 Legislation amended**

This clause names the regulation that is being amended by this Regulation. This regulation amends the *Road Transport (Driver Licensing) Regulation 2000*.

### **Clause 4 New section 18 (4) and (5)**

This clause inserts new subsections 18 (4) and (5) to provide that a motorcycle learner licence that expires between 23 March 2020 and 1 January 2021, will now expire 12 months after the day of the licence's original expiry. This clause has retrospective application to ensure that holders of certain licences are not disadvantaged as a result of the declaration of a public health emergency and the cessation of certain services.

This is a transitional provision that will expire on 31 March 2022.

### **Clause 5 New section 85A**

This clause is a technical amendment consequential on the changes made at clause 4. This clause inserts a new section 85A to provide that a person who has had their learner motorcycle licence period extended under clause 4, also has the requirement in relation to when they must have completed an approved road ready training course extended from 2 years to 3 years. This new section is a transitional provision that will expire on 31 March 2022.

### **Clause 6 New section 92 (4) and (5)**

This clause inserts new subsection 92 (4) to provide that the holder of a non-ACT driver licence who moves to the ACT to reside is required to obtain an ACT driver licence within six months of taking up residency in the ACT. This is currently required to occur within three months.

This clause inserts new subsection 92 (5) to provide that the holder of a foreign driver licence who has become a permanent resident is required to obtain an ACT driver licence within six

months of obtaining permanent residency. This is currently required to occur within three months.

This new section is a transitional provision that will expire on 31 March 2021. These arrangements will revert back to three months after that time.

**Clause 7      New section 172A**

This clause inserts a new provision into new Part 11 of the regulation (the transitional arrangements in relation to drivers who held a learner licence prior to 1 January 2020).

Since 1 January 2020, any person who has renewed their learner licence has transitioned to the new ACT driver licensing scheme for learner and provisional drivers and must satisfy any new eligibility requirements for a provisional licence.

This clause inserts new section 172A to preserve the old licensing scheme for a person who holds a learner licence learner under the pre-amendment regulation (i.e. a licence issued before 1 January 2020) that expires between 23 March 2020 and 1 January 2021. The person will retain their status as a holder of a learner licence under the old licence requirements for an additional 12 months.

This clause has retrospective application to ensure that holders of certain licences are not disadvantaged as a result of the declaration of a public health emergency and the cessation of certain services.

**Clause 8      Section 179 (2)**

This clause is a technical amendment consequential on the changes made at clause 7. This clause amends subsection 179 (2) to provide that a person who has had their learner car licence period extended under clause 7, also has the requirement in relation to when they must have completed an approved road ready training course extended from 2 years to 3 years.