

Australian Capital Territory

Road Transport (Offences) Amendment Regulation 2020 (No 2)

Subordinate law SL2020–22

made under the

Road Transport (General) Act 1999, section 23 (Regulations about infringement notice offences)

EXPLANATORY STATEMENT

This Regulation amends the *Road Transport (Offences) Regulation 2005* (the offences regulation).

The authority to make this Regulation is contained in sections 23 and 233 of the *Road Transport (General) Act 1999*.

Section 23 of the *Road Transport (General) Act 1999* gives the power for a regulation to be made that prescribes 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.

The purpose of this Regulation is to identify infringement notice penalty amounts for offences under the *Heavy Vehicle National Law* (HVNL) and associated regulations.

The HVNL commenced in the ACT on 10 February 2014 and is applied by the *Heavy Vehicle National Law (ACT) Act 2013* (the Act).

Human rights implications

There are no human rights implications associated with this regulation.

Climate change implications

There are no climate change implications associated with this regulation.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of regulation

This is a technical clause that states the name of the regulation as the *Road Transport (Offences) Amendment Regulation 2020 (No 2)*.

Clause 2 Commencement

This clause provides that the regulation will commence on 1 July 2020.

Clause 3 Legislation amended

This clause lists the legislation amended by the Regulation. The Regulation amends the *Road Transport (Offences) Regulation 2005*.

Clause 4 Schedule 1, parts 1.2A and 1.2B

This clause replaces the existing parts 1.2A, 1.2B and 1.2C of schedule 1 with new parts 1.2A, 1.2B and 1.2C.

The effect of the amendments is to prescribe infringement notice penalty amounts for all offences in the HVNL and regulations under it that Ministers convening as the Transport and Infrastructure Council have agreed can be dealt with by infringement notice.

The level of penalty for offences, apart from offences against sections 567A and 567B of the HVNL, are prescribed in the section of the HVNL where the offence is described. The amount of the penalty stated at the end of a provision for an offence is indexed in accordance with section 737 of the HVNL and section 70 of the *Heavy Vehicle (General) National Regulation (NSW)*. Under these provisions the maximum possible court-imposed penalty is multiplied by the calculated CPI indexation amount and rounded up or down to the nearest \$10, with calculated amounts ending in an even \$5 being rounded up.

The Transport and Infrastructure Council agreed that where it was decided that an offence could be dealt with by infringement notice, the infringement notice penalty would be set at 10% of the maximum penalty as indexed from time to time.

The National Heavy Vehicle Regulator (NHVR) issues as schedule each year identifying the level of the maximum penalty and the infringement notice penalty where the offence can be dealt with by infringement notice. The infringement notice penalty amounts prescribed in the parts of the schedule substituted by this Regulation are aligned with that schedule. This equates to the infringement notice penalty amounts being indexed by a CPI indexation amount of 1.6% and rounded to the nearest whole dollar. No additional offences, apart from offences against sections 567A and 567B, are identified as being infringeable.

Sections 567A and 567B of the HVNL are ACT specific provisions relating to the requirement for a driver of a vehicle to produce their driver licence on request and for the responsible person for a vehicle alleged to have been involved in the commission

of an offence to give information about the name and address of the driver at the time of the alleged offence. The infringement notice penalty amounts for these provisions have not been amended by this Regulation.

Minor consequential amendments to Part 1.2A of the schedule have been made. These include:

- offences in item 9 have been reordered to align with the order of the relevant provisions in section 60 of the HVNL;
- offences under section 568 (3) that were previously included in items 278 and 279 are now included in item 276 to align with drafting for the rest of the Part; and
- renumbering of item numbers in column 1 as a result of this Regulation and the omission of previous item numbers 263 and 264 as a result of amendments made by the *Road Transport (Offences) Amendment Regulation 2020 (No 1)*.