

Road Transport (General) Application Order 2020 (No 2)

Disallowable instrument DI2020-253

made under the

Road Transport (General) Act 1999, section 14 (Application orders and emergency orders)

EXPLANATORY STATEMENT

OVERVIEW

This instrument is made under section 14 of the *Road Transport (General) Act 1999* (the Act).

Section 14 (1) allows the Minister to order that the operation of regulations made under the road transport legislation, or a provision of such regulations, is suspended for a stated period or varied in the way stated in the order.

An order under subsection (1) is a disallowable instrument.

Road transport legislation is defined in section 6 of the Act and includes any other Act or any regulation prescribed by regulation.

The *Road Transport (Vehicle Registration) Regulation 2000* and the *Road Transport (Driver Licensing) Regulation 2000* form part of the road transport legislation.

This instrument orders that section 32B of the *Road Transport (Vehicle Registration) Regulation 2000*, and sections 91 and 92 of the *Road Transport (Driver Licensing) Regulation 2000* are varied in response to the current health emergency.

BACKGROUND

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.

COVID-19 and the Taxi Industry

Section 32B of the *Road Transport (Vehicle Registration) Regulation 2000* provides that the road transport authority must refuse an application to register a vehicle as a standard taxi if the vehicle is more than 8 years of age or has been used as a taxi for more than 6 years. Similarly, for wheelchair accessible taxis (WATs), the road transport authority must refuse an application to register a vehicle as a single capacity WAT if the vehicle is more than 8 years of age or a dual capacity WAT if the vehicle is more than 10 years old. Vehicles are also prevented from being registered as a WAT if it has been used as a single capacity WAT for 10 years or more or a dual capacity WAT for 12 years or more. The age of a vehicle is measured from 6 months after the end of the month shown on the vehicle's compliance plate.

COVID-19 has seen a significant decline in taxi customers and as such, registered taxi vehicles are being used less often than they usually would.

In light of the current COVID-19 health emergency, the current legislative requirement has resulted in a situation where vehicles that reach their respective maximum age or use limit during the COVID-19 health emergency are unable to continue to operate notwithstanding the decline in their use since the beginning of the public health emergency declaration.

This instrument temporarily extends the maximum taxi vehicle age and use requirements for standard taxis and WATs under section 32B of the *Road Transport (Vehicle Registration) Regulation 2000* by one year for a period of 12 months. This temporary extension allows vehicles that reach the maximum age or use limit during the COVID-19 health emergency to be eligible for registration and continue to operate up until August 2021, after which the vehicle will need to be replaced with a vehicle that has not reached the maximum age or use limit.

This temporary extension is not designed to encourage vehicles being registered as a taxi that are unsafe to the community and all applications to register a vehicle as a standard taxi or WAT remain subject to existing powers to refuse an application for registration under section 32 (1) (Deciding applications for registration general) and section 68 (Renewal of registration) of the *Road Transport (Vehicle Registration) Regulation 2000*. Where applicable, an annual roadworthy inspection will also remain required for an application to register a vehicle as a standard taxi or WAT.

COVID-19 and Non-ACT Licence Holders

Section 92 of the *Road Transport (Driver Licensing) Regulation 2000* provides that the period for which holders of a non-ACT driver licence (e.g. interstate licence holders, holders of an external territory licence, New Zealand citizens) and foreign driver licence can drive on ACT roads on their non-ACT or foreign driver licence is three months. This period was temporarily extended to six months as a result of the *Road Transport (Driver Licensing) Amendment Regulation 2020* (No 1), which came into effect on 17 April 2020. This amendment will expire on 31 March 2021 unless repealed earlier.

Section 31 of the *Road Transport (Driver Licensing) Act 1999* makes it an offence to drive a vehicle in the ACT unless that person is the holder of an Australian driver licence that

authorises the person to drive a motor vehicle of that kind. Exemptions to this offence are found under division 6.2 of the *Road Transport (Driver Licensing) Regulation 2000*. Section 94 of this Regulation exempts a holder of a foreign driver licence from holding an Australian driver licence while driving on a road or road related area in the ACT, a motor vehicle of the kind that the licence held by the person authorises the person to drive. A person ceases to be exempted under section 94 (2) of this Regulation if an automatic disqualification circumstance applies.

Section 91 (a) and (b) of this Regulation provides that an automatic disqualifying circumstance applies to a holder of an interstate or foreign driver licence who resides in the ACT for a continuous period of longer than three months. Due to an oversight, this section was not amended by the *Road Transport (Driver Licensing) Amendment Regulation 2020 (No 1)*. This oversight results in an inconsistency with the current wording of section 92 of the Regulation, which allows holders of a non-ACT driver licence and foreign driver licence the ability to drive on ACT roads on their non-ACT or foreign driver licence for up to six months of taking up residency in the ACT.

Any non-ACT driver licence holder or foreign driver licence holder who was required to transfer to an ACT licence by April 2020, but received a temporary extension by virtue of the *Road Transport (Driver Licensing) Amendment Regulation 2020 (No 1)*, has now reached the temporarily extended six month time limit to transfer to an ACT driver licence.

The further extension to the period for which holders of a non-ACT driver licence and foreign driver licence can drive on ACT roads under section 91 (a) and (b) and section 92 (2) and (3) of the *Road Transport (Driver Licensing) Regulation 2000* ensures that those licence holders are not disadvantaged as a result of the period during which driving assessments were suspended. All ACT Government driving assessments were suspended between 23 March 2020 and 9 August 2020.

HUMAN RIGHTS IMPLICATIONS

The instrument 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 instrument.

CLAUSE NOTES

Clause 1 Name of instrument

This clause specifies the name of the instrument. This clause provides that the instrument may be cited as the *Road Transport (General) Application Order 2020 (No 2)*.

Clause 2 Commencement

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

Clause 3 Application order

This clause orders that for the duration of the period set out in clause 6 that section 32B of the *Road Transport (Vehicle Registration) Regulation 2000* is varied to extend the age and use limits for registering a vehicle as a taxi.

The age limit for a standard taxi is being extended from 8 years to 9 years. The use limit for a standard taxi is being extended from 6 years to 7 years.

The age limit for a single capacity WAT is being extended from 8 years to 9 years. The use limit for a single capacity WAT is being extended from 10 years to 11 years.

The age limit for a dual capacity WAT is being extended from 10 years to 11 years. The use limit for a dual capacity WAT is being extended from 12 years to 13 years.

Extending the maximum age limit for vehicles seeking registration as a standard taxi, single capacity WAT or dual capacity WAT will allow an additional 12 months of registration which will enable the operators of these vehicles to continue to operate up until August 2021, after which the vehicle will need to be replaced with a vehicle that has not reached the maximum age or limits.

Clause 4 Application order

This clause orders that for the duration of the period set out in clause 6 that section 91 of the *Road Transport (Driver Licensing) Regulation 2000* is varied.

Section 91 of the *Road Transport (Driver Licensing) Regulation 2000* is varied to amend the definition of *automatic disqualifying circumstance* to align with the further extension introduced by clause 5. This variation ensures the extended time period is reflected consistently throughout the Regulation.

Clause 5 Application order

This clause orders that for the duration of the period set out in clause 6 that section 92 of the *Road Transport (Driver Licensing) Regulation 2000* is varied to extend the period a person can drive on ACT roads on their interstate, external territory driver licence, New Zealand licence or foreign driver licence from six months to nine months.

Clause 6 Period of effect of application order

This clause sets out the period for which the application orders in clauses 3, 4 and 5 apply.

The application order in clause 3 will have effect for 12 months after the commencement date.

The application orders in clauses 4 and 5 will expire on 31 March 2021 to align with the expiry of the temporary extension introduced by the *Road Transport (Driver Licensing) Amendment Regulation 2020* (No 1).

Clause 7 Expiry

This clause states that this instrument expires 12 months and one day after the commencement date.