

Australian Capital Territory

# Road Transport (Offences) Amendment Regulation 2026 (No 1)

Subordinate law SL2026-7

made under the

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

## EXPLANATORY STATEMENT

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This amendment regulation amends the *Road Transport (Offences) Regulation 2005* (the offences regulation) for the purposes of increasing penalty amounts for infringement notice penalties under road transport legislation. Road transport legislation means:

- a) the [Road Transport \(General\) Act 1999](#);
- b) the [Motor Accident Injuries Act 2019](#);
- c) the [Road Transport \(Alcohol and Drugs\) Act 1977](#);
- d) the [Road Transport \(Driver Licensing\) Act 1999](#);
- e) the [Road Transport \(Public Passenger Services\) Act 2001](#);
- f) the [Road Transport \(Safety and Traffic Management\) Act 1999](#); and
- g) the [Road Transport \(Vehicle Registration\) Act 1999](#).

### Overview

#### Power to set and amend penalty amounts

Arrangements for infringement notices under road transport legislation are set out in part 3 of the *Road Transport (General) Act 1999*. In particular, the power to make regulations about infringement notice offences is set out in section 23. Under section 23 different penalty amounts may be prescribed for:

- different offences; or
- different people who commit the same offence; or
- different circumstances in which people commit the same offence.

Schedule 1 of the offences regulation lists the infringement notice offences. For each infringement notice offence, the schedule prescribes the penalty payable and the demerit points (if any).

Section 13 of the *Heavy Vehicle National Law (ACT) Act 2013* provides for infringement notice penalties to be prescribed in accordance with the part 3 of the *Road Transport (General) Act 1999* for the purposes of the *Heavy Vehicle National Law (ACT)*. However, heavy vehicle offence penalty (HVOP) amounts and heavy vehicle infringement notice offence (HVINO) amounts are published on the National Heavy Vehicle Regulator website at [www.nhvr.gov.au](http://www.nhvr.gov.au). The ACT applies the HVOP and HVINO amounts and does not set penalty amounts for these infringement notice offences.

### Penalty amount increase

The penalty amount prescribed for most road transport legislation infringement notice penalties is made up of two components that can be thought of as the ‘core penalty’ amount and an additional amount used to offset the cost of delivery of supports and services to victims of crime.

The core penalty amount is increased in line with the estimated Wage Price Index annually. This indexation of penalty amounts maintains the value of those penalties in real terms in order to preserve their deterrent effect. The regulation increases the core penalty amount is increased by 3.5% (reflecting the estimated Wage Price Index).

In circumstances where indexation of the core penalty amount by 3.5% would result in that amount exceeding 20% of the maximum fine that a court can impose for the same offence, the core penalty amount has either not been increased or not been increased by the full 3.5%.

Further, where a fixed penalty amount is an appropriate deterrent, penalty amounts are not indexed. For this reason, penalty amounts for the following were not increased in the amendment regulation:

- public passenger ticketing and conduct offences by children under the *Road Transport (Public Passenger Services) Regulation 2002*; and
- offences under section 236 (4A) of the *Road Transport (Road Rules) Regulation 2017* about pedestrians engaging in commercial activities, such as window washing, at designated intersections.

The Victims of Crime Financial Assistance Scheme (under the *Victims of Crime (Financial Assistance) Act 2016*) provides financial assistance and the Victim Support Scheme (under the *Victims of Crime Act 1994*) facilitates access to therapeutic supports for victims of crime. Both schemes contain legislated entitlements and are administered by Victim Support ACT to assist victims with their recovery from crime. Support and assistance may include counselling, emergency medical cost payments and personal security measures.

Currently, an infringement penalty increase amount of \$60 is included in each traffic infringement issued. This amount is intended to offset the cost of delivery of supports and services to victims of crime. It applies to most road transport offence infringement notice penalties under the *Road Transport (Offences) Regulation 2005* (excluding parking and a small number of other infringement notice penalties).

The demand for support and assistance provided to victims of crime in the ACT has increased since 2017, when this additional infringement penalty amount was last increased.

The amending regulation increases the penalty increase amount from \$60 to \$110 per traffic infringement issued to ensure that services and assistance can continue for victims of crime. A number of other Australian jurisdictions apply a certain amount to summary offence infringement notices in order to support victims of crime services. For example, South Australia attaches an amount of \$105 to each summary offence infringement notice for this purpose, which is commensurate with the amount of \$110 provided in the amending regulation<sup>1</sup>.

All infringement notices issued clearly state the proportion of the penalty that will be used for ACT victims of crime services.

All infringement notice penalty amounts are rounded down to the nearest dollar.

### **Human rights implications**

Infringement notices attach to strict liability offences, and as such, might be seen to engage the presumption of innocence. Section 22 (1) of the *Human Rights Act 2004* (HRA) provides that everyone charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. In a strict liability offence, there is no requirement to establish a fault element and the prosecution need only show that the defendant did the prohibited act.

While an infringement notice scheme offers the opportunity for a person to pay the infringement notice rather than face prosecution, it does not prevent them from choosing to challenge the notice and instead face prosecution in court. This means the minimum guarantees in criminal proceedings under section 22 (2) and rights to a fair trial under section 21 of the HRA remain available and are not undermined by the possibility of an infringement notice scheme.

A central purpose across road transport legislation is road safety, which supports the right to life (HRA, section 9) and the right to security of person (HRA, section 18). The deterrent effect of infringement notices directly supports the effective enforcement of road transport legislation, and the promotion of road safety. Any limitation of the minimum guarantees in criminal proceedings and right to a fair trial as a consequence of the infringement notice scheme is proportionate and justified as it is targeted to its legitimate purpose of protecting the right to life and the right to security of person.

This regulation does not create any new offences.

### **Climate change implications**

There are not considered to be any climate change implications arising from these amendments.

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<sup>1</sup> Schedule 1, *Victims of Crime (Fund and Levy) Regulations 2018* (SA).

## **Clause notes**

### **Clause 1      Name of regulation**

This is a technical clause that states the name of the regulation as the *Road Transport (Offences) Amendment Regulation 2026 (No 1)*.

### **Clause 2      Commencement**

This clause provides that the regulation commences on 1 July 2026.

### **Clause 3      Legislation amended**

This clause identifies the regulation being amended is the *Road Transport (Offences) Regulation 2005*.

### **Clause 4      Section 6 (2) (b)**

When penalty units apply to corporations their value is five times the amount that applies to individuals. Section 6 (2) (b) replicates this outcome for infringement notice penalty amounts. However, only the core penalty amount is intended be higher for corporations than individuals.

This amendment has been made as a consequence of the increase to the additional amount used to offset the cost of delivery of supports and services to victims of crime. It ensures that this component of the penalty amount is the same for individuals and corporations.

### **Clause 5                      Schedule 1, parts 1.6 to 1.19**

This clause updates infringement penalty amounts prescribed in Schedule 1, parts 1.6 to 1.19. The clause remakes parts 1.6 to 1.19 with updated amounts in column 5.