

Road Transport (Safety and Traffic Management) Traffic Offence Detection Device Approval 2026

Disallowable instrument DI2026—199

made under the

Road Transport (Safety and Traffic Management) Regulation 2017, s 13 (1) (Approval of traffic offence detection devices)

EXPLANATORY STATEMENT

This explanatory statement relates to the Road Transport (Safety and Traffic Management) Traffic Offence Detection Device Approval 2026 (the *instrument*) as presented to the Legislative Assembly (the *Assembly*). It has been prepared to assist the reader of the instrument. It does not form part of the instrument and has not been endorsed by the Assembly.

Overview

This instrument provides for the approval of traffic offence detection devices as required under section 13 of the *Road Transport (Safety and Traffic Management) Regulation 2017*.

Section 13 (1) provides that the road transport authority may approve a traffic offence detection device. The approved devices detect contraventions of the road transport legislation and take images of the contravening vehicle, the driver or a passenger. The approval must state the kind of device that is approved and the purpose for which it is approved.

Section 13 (3) requires that the road transport authority must not approve a device or system as a traffic offence detection device unless satisfied on reasonable grounds that the device or system is capable of complying with section 15 (Requirements for images taken by traffic offence detection devices—Act, s 24 (2) (a)).

A declaration by the road transport authority under subsection 13 (1) is a disallowable instrument and will have effect until revoked.

Human Rights

The Standing Committee on Legal Affairs (Legislative Scrutiny Role) (the *Scrutiny Committee*) terms of reference require consideration of human rights impacts of subordinate

legislation, among other matters, to be assessed for its compatibility with the *Human Rights Act 2004* (the *HRA*).

1. Nature of the right and the limitation (s28 (a) and (c))

This instrument engages and limits the right to privacy (section 12 of the HRA). Section 12 (a) provides that an individual has the right ‘not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily’. This means that no interference can take place except in cases authorised by law. This instrument approves traffic offence detection devices and sets the requirements for the operation of these devices.

The devices detect road transport offences and collect personal information for the purposes of facilitating the enforcement of road transport legislation and protecting the community.

This data is personal information because the information collected contains the vehicle’s details such as numberplate or model and may contain details of a person’s travel such as direction, location and time. Mobile device detection systems, approved to detect illegal mobile phone use while driving, and seatbelt detection systems, approved to detect seatbelts not being worn or not being worn correctly, may include images of the driver of the vehicle.

The *Road Transport (Safety and Traffic Management) Regulation 2017* provides the legal authority for the approval of traffic offence detection devices for the purpose of enforcing the Territory’s road transport legislation which benefits the community by encouraging changes in unsafe behaviours on the ACT’s road network.

2. Legitimate purpose (s28 (b))

The ACT Government is committed to Vision Zero, which is no fatalities or serious injuries on our roads by 2050. Vision Zero supports the Government’s obligations under the Human Rights Act 2004, to make decisions that consider human rights, including the right to life set out in section 9 of the HRA. The legitimate purpose of detection devices is to support the enforcement of requirements under road transport legislation that are in place to support Vision Zero.

The use of devices approved in this instrument to detect speeding, mobile phone and seatbelt use offences is consistent with the *ACT Road Safety Framework 2026-2031*. These devices have a critical role in the Territory’s strategies to reduce road trauma and protect the right to life.

3. Rational connection between the limitation and the purpose (s28 (d))

The use of traffic offence detection devices in the community encourages changes in behaviour to protect and support the safety of all road users and ensure compliance with road transport legislation. The use of traffic offence detection devices significantly improves the efficacy of legislative requirements.

The collection of personal information by the traffic offence detection devices, including vehicle details, location, date and time of the infringement and images of a driver, directly facilitates the enforcement of, and thereby encourages compliance with, road transport

legislation. The collection of this information is directly connected with the purpose of the protection of the right to life.

4. Proportionality (s28 (e))

It is considered that there are not any less restrictive means reasonably available to significantly improve road safety. The benefits of road safety cameras, in combination with police enforcement, is well established.

A number of safeguards have been incorporated into the regulatory framework for the operation of traffic offence detection devices. These will protect a person's right to privacy imposed by the collection, use, storage and disclosure of personal information arising from the use of these devices in the Territory. These privacy safeguards protect individuals against arbitrary interferences with the right to privacy.

Climate Change

This instrument has no material impact on climate change adaptation, greenhouse gas emissions production or abatement in the ACT.

Regulatory Impact Statement (RIS)

Section 34 of the *Legislation Act 2001* (the ***Legislation Act***) provides that if a proposed subordinate law or disallowable instrument (the ***proposed law***) is likely to impose appreciable costs on the community, or a part of the community, then, before the proposed law is made, the Minister administering the authorising law must arrange for a RIS to be prepared for the proposed law. However, section 36 sets out circumstances in which a RIS is not required.

A RIS is unnecessary, in accordance with section 36 (1) (b) of the Legislation Act, as the instrument does not operate to the disadvantage of anyone by adversely affecting a person's rights, or imposing liabilities on a person. The instrument relates to the tools used to encourage compliance with road transport legislation, it does not change any offences, nor does it change the consequences of non-compliance with the law.

Scrutiny Committee Principles

This instrument has been developed in accordance with the Scrutiny Committee terms of reference, principles and technical and stylistic standards expected by the Assembly.