



Australian Capital Territory

Road Transport Legislation Amendment Regulation 2010 (No 3)

Subordinate Law SL2010-28

The Australian Capital Territory Executive makes the following regulation under the *Road Transport (Driver Licensing) Act 1999*, the *Road Transport (General) Act 1999* and the *Road Transport (Mass, Dimensions and Loading) Act 2009*.

Dated 29 June 2010.

JON STANHOPE
Minister

ANDREW BARR
Minister



Australian Capital Territory

Road Transport Legislation Amendment Regulation 2010 (No 3)

Subordinate Law SL2010-28

made under the

Road Transport (Driver Licensing) Act 1999, the Road Transport (General) Act 1999 and the Road Transport (Mass, Dimensions and Loading) Act 2009

Contents

		Page
Part 1	Preliminary	
1	Name of regulation	1
2	Commencement	1
Part 2	Road Transport (Driver Licensing) Regulation 2000	
3	Legislation amended—pt 2	2
4	Section 4, note 1	2

J2008-798

Contents

	Page	
5	Section 15, notes 1, 2 and 3	3
6	Section 23 (4)	3
7	Section 23 (4), notes 2 to 4	3
8	Section 28 (2) (h)	3
9	Section 28 (4)	4
10	Part 7 and division 7.1 headings	4
11	New section 103A	4
12	Section 104 heading	5
13	Section 104 (1) (b), (c) and (d)	5
14	Section 104 (1) (g)	6
15	Section 104A heading and subsection (1)	6
16	Section 106 (1) (d)	7
17	New section 107 (2) (f)	7
18	Section 108	7
19	Section 111 (e) and (f)	9
20	Section 112 (7)	10
21	Division 7.3 heading	10
22	Section 115	10
23	Section 118 heading and subsection (1)	11
24	Section 119 heading and subsection (1)	12
25	New section 119A	13
26	Section 120 (1) (a)	13
27	Section 120 (1) (b)	13
28	Sections 121 and 122	14
29	Section 122A (2) (a) (i)	14
30	Dictionary, definition of <i>accreditation</i>	15
31	Dictionary, definitions of <i>approved driving instructors training course</i> and <i>approved learner driver standards</i>	15
32	Dictionary, definition of <i>driver assessment</i>	15
33	Dictionary, new definition of <i>heavy vehicle driver assessor</i>	15
34	Further amendments, mentions of <i>allied medical professional</i>	16

	Page
Part 3	Road Transport (General) Regulation 2000
35	Legislation amended—pt 3 17
36	Section 14 (1) (f) and (g) 17
37	Section 14 (2), note 17
38	Section 16 (1) (b) 18
39	Schedule 1 part 1.4, new items 46A and 46B 18
40	Schedule 1, part 1.4, items 51 and 52 18
41	Dictionary, new definition of <i>heavy vehicle driver assessor</i> 19
42	Further amendments, mentions of <i>instructor</i> 19
Part 4	Road Transport (Mass, Dimensions and Loading) Regulation 2010
43	Legislation amended—pt 4 20
44	Parts 2 and 3 heading 20
45	New section 54 (1A) 20
46	Part 4 heading 20
47	Section 63, note 20
48	Section 66 (1) (c) 21
49	Section 66 (1) (c) note 21
50	Part 5 heading 21
51	Dictionary, definition of <i>measuring instrument</i> 21
Part 5	Road Transport (Offences) Regulation 2005
52	Legislation amended—pt 5 22
53	Schedule 1, part 1.6, items 37 and 38 22
54	Schedule 1, part 1.6, items 44 and 45 23
55	Schedule 1, part 1.8A, item 1, column 2 24
56	Schedule 1, part 1.8A, item 2, column 2 24
57	Schedule 1, part 1.8A, item 3, column 2 24

Part 1 Preliminary

1 Name of regulation

This regulation is the *Road Transport Legislation Amendment Regulation 2010 (No 3)*.

2 Commencement

- (1) Sections 52, 55, 56 and 57 commence on the day after this regulation's notification day.
- (2) Part 4 commences on 1 July 2010.
- (3) The remaining provisions commence 2 months after this regulation's notification day.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

Part 2 Road Transport (Driver Licensing) Regulation 2000

3 Legislation amended—pt 2

This part amends the *Road Transport (Driver Licensing) Regulation 2000*.

4 Section 4, note 1

substitute

Note 1 Criminal Code

The Criminal Code, ch 2 applies to the following offences against this regulation (see Code, pt 2.1):

- s 64B (Return of public vehicle driver authority)
- s 88A (Public vehicle licence—licence taken to be cancelled if holder no longer eligible)
- s 88B (Public vehicle licence—holder to give information about visa status)
- s 108 (Display of certificate of accreditation—driving instructor)
- s 108A (Display of certificate of accreditation—heavy vehicle driver assessor)
- s 108B (Production of certificate of accreditation)
- s 114A (Restrictions on dual accelerator vehicles)
- s 115 (Liability insurance compulsory)
- s 115A (Police officer or authorised person may require evidence of liability insurance).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

5 Section 15, notes 1, 2 and 3

substitute

- (2) The Legislation Act, section 47 (6) does not apply to the required medical standards.

Note The commercial standards mentioned in the required medical standards apply in relation to the accreditation of a driving instructor and of a heavy vehicle driver assessor (see s 104 (2)).

6 Section 23 (4)

omit

authorised person

substitute

authorised person or heavy vehicle driver assessor

7 Section 23 (4), notes 2 to 4

omit

pars (a) to (d)

substitute

s (3) (a) to (d)

8 Section 28 (2) (h)

omit everything before subparagraph (i), substitute

- (h) for a licence mentioned in paragraph (c), (d), (e), (f) or (g)—the person has successfully completed an approved heavy vehicle driver training course or test or assessment, set by the road transport authority for the licence class, and carried out by an authorised person or heavy vehicle driver assessor, to assess—

9 Section 28 (4)

omit

section 28

substitute

subsection

10 Part 7 and division 7.1 headings

substitute

**Part 7 Accreditation of driving
instructors and heavy vehicle
driver assessors**

Division 7.1 Accreditation

11 New section 103A

in division 7.1, insert

103A Meaning of *accreditation*—pt 7

In this part:

accreditation means accreditation under section 107 as a driving instructor or heavy vehicle driver assessor.

12 Section 104 heading

substitute

104 Eligibility to apply for accreditation**13 Section 104 (1) (b), (c) and (d)**

substitute

- (b) the person holds—
- (i) for a heavy vehicle driver assessor—a licence of the same class as, or a higher class than, the licence class for which the person is applying for accreditation as an assessor; or
 - (ii) for a driving instructor—a full car licence or a full licence of a higher class; and
- (c) the person has sufficient driving ability, and knowledge of safe driving practices and road law, to provide—
- (i) if the person applies for accreditation as a heavy vehicle driver assessor—heavy vehicle driver assessment; and
 - (ii) if the person applies for accreditation as a driving instructor—driver instruction and assessment; and
- (d) the person has the other skills needed to provide—
- (i) if the person applies for accreditation as a heavy vehicle driver assessor—driver assessment for the licence class for which application is made; and
 - (ii) if the person applies for accreditation as a driving instructor—driver instruction and assessment; and

14 Section 104 (1) (g)

substitute

- (g) the person has complied with the required training for accreditation under section 104A; and

15 Section 104A heading and subsection (1)

substitute

104A Required training for accreditation

- (1) For section 104 (1) (g), a person has complied with the required training for accreditation if—
- (a) the person has, within the 1-year period before the day the application for accreditation is made, successfully completed—
- (i) if the person is applying for accreditation as a driving instructor—a training course that is approved under section 122 (Approval of training courses) for, or for people who wish to become, driving instructors; or
- (ii) if the person is applying for accreditation as a heavy vehicle driver assessor—a training course that is approved under section 122 for, or for people who wish to become, heavy vehicle driver assessors for the licence class, or a higher class, for which accreditation is sought; or
- (b) the person has, within the 5-year period before the day the application for accreditation is made, been accredited for the licence class, or a higher class, for which accreditation is sought.

16 Section 106 (1) (d)

substitute

- (d) the person has breached an applicable code of practice approved under section 118 (Code of practice for instructors and assessors).

17 New section 107 (2) (f)

insert

- (f) for a heavy vehicle driver assessor—the licence class for which the person is accredited.

18 Section 108

substitute

108 Display of certificate of accreditation—driving instructor

- (1) If a driving instructor is using a motor vehicle for driver instruction or assessment, the instructor must display the instructor's certificate of accreditation—
- (a) so that the information on the photo-side of the certificate can reasonably be read by a person in the driver's seat of the vehicle; or
- (b) in accordance with any guidelines made under this section; or
- (c) in accordance with an approval given under this section.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) The road transport authority may make guidelines about the display of certificates of accreditation.

- (4) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (5) On application by a driving instructor, the road transport authority may, in writing, approve a way in which the driving instructor may display the instructor's certificate of accreditation.

108A Display of certificate of accreditation—heavy vehicle driver assessor

- (1) A heavy vehicle driver assessor commits an offence if the assessor—
- (a) uses a motor vehicle that is owned by the assessor or the assessor's employer for driver assessment; and
 - (b) does not display the assessor's certificate of accreditation—
 - (i) so that the information on the photo-side of the certificate can reasonably be read by a person in the driver's seat of the vehicle; or
 - (ii) in accordance with an approval under this section.

Maximum penalty: 5 penalty units.

- (2) On application by a heavy vehicle driver assessor, the road transport authority may, in writing, approve a way in which the heavy vehicle driver assessor may display the assessor's certificate of accreditation.
- (3) A heavy vehicle driver assessor commits an offence if the assessor—
- (a) uses a motor vehicle that is not owned by the assessor or the assessor's employer for driver assessment; and

(b) fails to show, before beginning assessment, the assessor's certificate of accreditation to the person being assessed.

Maximum penalty: 5 penalty units.

- (4) For subsection (3), the assessor must show the assessor's certificate of accreditation so that the information on the photo-side of the certificate can reasonably be read by the person to whom it is shown.
- (5) An offence against this section is a strict liability offence.

108B Production of certificate of accreditation

- (1) If an examiner is using a motor vehicle for driver instruction or assessment, the examiner commits an offence if the examiner fails to produce the examiner's certificate of accreditation for inspection when required to do so by a police officer or authorised person.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

examiner means a driving instructor or a heavy vehicle driver assessor.

19 Section 111 (e) and (f)

substitute

- (e) the person did not, without reasonable excuse, successfully complete any training that the authority has, under section 121 (Authority may require instructor or assessor to undertake training), required the person to undertake; or
- (f) the person has breached a code of practice approved under section 118 (Code of practice for instructors and assessors).

20 Section 112 (7)

substitute

- (7) If the road transport authority suspends a person's accreditation, the person is, during the period of the suspension, disqualified from applying for accreditation.

21 Division 7.3 heading

substitute

Division 7.3 Driver instruction and assessment

22 Section 115

substitute

115 Liability insurance compulsory

- (1) A driving instructor or heavy vehicle driver assessor commits an offence if—
- (a) the instructor or assessor instructs or assesses a person in a motor vehicle; and
 - (b) there is not in force an insurance policy that insures the instructor or assessor against liability for at least \$5 000 000, in relation to the death of, or bodily injury to, a person caused by, or arising out of the use of, the motor vehicle (whether or not on a road or road related area) for providing driver instruction or assessment.

Maximum penalty: 20 penalty units.

- (2) To remove any doubt, it is irrelevant that an insurance policy mentioned in subsection (1) also insures the instructor or assessor against other risks.
- (3) An offence against this section is a strict liability offence.

115A Police officer or authorised person may require evidence of liability insurance

- (1) A police officer or authorised person may require a driving instructor or heavy vehicle driver assessor to produce evidence that a liability insurance policy is in force for the vehicle in which the instructor or assessor conducts driver instruction or assessment.
- (2) The driving instructor or heavy vehicle driver assessor must not fail to produce the evidence when required to do so.

Maximum penalty: 5 penalty units.

- (3) It is a defence to an offence against subsection (2) if the driving instructor or heavy vehicle driver assessor—
 - (a) has a reasonable excuse for failing to produce the evidence when required to do so; and
 - (b) within 3 days after being required to produce the evidence, produces the evidence as directed by the police officer or authorised person.

- (4) In this section:

liability insurance policy means an insurance policy mentioned in section 115 (1) (b).

23 Section 118 heading and subsection (1)

substitute

118 Code of practice for instructors and assessors

- (1) The road transport authority may, in writing, approve a code of practice about any of the following:
 - (a) the skills required by a person to provide—
 - (i) driver instruction and assessment; or

- (ii) heavy vehicle driver assessment;
- (b) motor vehicles to be used for—
 - (i) driver instruction and assessment; or
 - (ii) heavy vehicle driver assessment;
- (c) the assessment, achievement and review by a driving instructor of a person's suitability to be issued with a provisional car licence;
- (d) the review by an authorised person of—
 - (i) driver instruction or assessment provided by a driving instructor; or
 - (ii) driver assessment provided by a heavy vehicle driver assessor;
- (e) anything else in relation to—
 - (i) the accreditation of a person; or
 - (ii) driver instruction or driver assessment.

24 Section 119 heading and subsection (1)

substitute

119 Approval of assessment standards

- (1) The road transport authority must approve standards for the assessment of a person's suitability to be issued with—
 - (a) a provisional car licence; or
 - (b) a licence to drive a heavy vehicle.

25 New section 119A

in division 7.3, insert

119A Heavy vehicle driver assessor authorised for lower licence classes

A heavy vehicle driver assessor who is accredited for a particular licence class is authorised to assess a heavy vehicle driver for that licence class and for lower licence classes, but not to instruct or assess a driver for a provisional car licence.

26 Section 120 (1) (a)

substitute

- (a) if the person is an applicant for accreditation—
- (i) undergo tests or assessments, or provide other evidence, of the person's driving ability or knowledge of safe driving practices or road law to provide driver instruction or assessment; or
 - (ii) provide other evidence of the person's suitability to be accredited;

27 Section 120 (1) (b)

omit everything before subparagraph (i), substitute

- (b) if the person is accredited—

28 Sections 121 and 122

substitute

121 Authority may require instructor or assessor to undertake training

- (1) The road transport authority may, by written notice given to a driving instructor or heavy vehicle driver assessor, require the instructor or assessor, within a stated period—
 - (a) to undertake a training course approved under section 122 or a part of such a course, or another form of training; and
 - (b) to provide evidence to the authority, in a form acceptable to the authority, that the training has been successfully completed.
- (2) A course or training required to be undertaken under subsection (1) must be relevant to the instructor's or assessor's accreditation.

122 Approval of training courses

- (1) The road transport authority may, in writing, approve courses for—
 - (a) training people who wish to become driving instructors or heavy vehicle driver assessors; and
 - (b) training driving instructors and heavy vehicle driver assessors.
- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

29 Section 122A (2) (a) (i)

omit

as a driving instructor

30 Dictionary, definition of *accreditation*

substitute

accreditation, for part 7 (Accreditation of driving instructors and heavy vehicle driver assessors)—see section 103A.

31 Dictionary, definitions of *approved driving instructors training course* and *approved learner driver standards*

omit

32 Dictionary, definition of *driver assessment*

substitute

driver assessment means—

- (a) in relation to a driving instructor—the assessment of a person’s suitability to hold a car licence in accordance with the applicable standards approved under section 119; and
- (b) in relation to a heavy vehicle driver assessor—the assessment of a person’s suitability to hold a class of licence for a heavy vehicle licence in accordance with the applicable standards approved under section 119.

33 Dictionary, new definition of *heavy vehicle driver assessor*

insert

heavy vehicle driver assessor means a person accredited under section 107 (Accreditation and certificates of accreditation) to conduct assessments of drivers for heavy vehicles.

34 Further amendments, mentions of *allied medical professional*

omit

allied medical professional

substitute

allied professional practitioner

in

- section 56 (5) (c) (ii)
- section 69 (6) (d)
- section 78 (2) (c)
- section 88 (5) (c) (ii)
- section 103 (5) (c) (ii)
- section 120 (1) (b) (iii)

Part 3 Road Transport (General) Regulation 2000

35 Legislation amended—pt 3

This part amends the *Road Transport (General) Regulation 2000*.

36 Section 14 (1) (f) and (g)

substitute

- (f) a fee, charge or other amount paid in relation to an application for a driving instructor's or heavy vehicle driver assessor's accreditation if the application is refused;
- (g) a fee, charge or other amount paid in relation to a driving instructor's or heavy vehicle driver assessor's accreditation or an accreditation under the *Road Transport (Public Passenger Services) Act 2001* if the accreditation is issued in error, is then cancelled and the holder of the accreditation surrenders the certificate of accreditation;

37 Section 14 (2), note

omit

driving instructor's accreditation

substitute

driving instructor's and heavy vehicle driver assessor's accreditation

38 Section 16 (1) (b)

substitute

- (b) a fee, charge or other amount in relation to a driving instructor's or heavy vehicle driver assessor's accreditation or an accreditation under the *Road Transport (Public Passenger Services) Act 2001*;

39 Schedule 1 part 1.4, new items 46A and 46B

insert

46A	108 (5)	road transport authority—not approve way for driving instructor to display certificate of accreditation
46B	108A (2)	road transport authority—not approve way for heavy vehicle assessor to display certificate of accreditation

40 Schedule 1, part 1.4, items 51 and 52

substitute

51	121 (1) (a)	road transport authority—require driving instructor or heavy vehicle driver assessor to undertake training
52	122	road transport authority—not approve course for training people as driving instructors or heavy vehicle driver assessors

41 Dictionary, new definition of *heavy vehicle driver assessor*

insert

heavy vehicle driver assessor—see the *Road Transport (Driver Licensing) Regulation 2000*, dictionary.

42 Further amendments, mentions of *instructor*

omit

instructor

substitute

instructor or heavy vehicle driver assessor

in

- schedule 1, part 1.4, items 42 to 46, column 3
- schedule 1, part 1.4, item 47, column 3

Part 4 Road Transport (Mass, Dimensions and Loading) Regulation 2010

43 Legislation amended—pt 4

This part amends the *Road Transport (Mass, Dimensions and Loading) Regulation 2010*.

44 Parts 2 and 3 heading

omit

—Act, s 508 and s 509

45 New section 54 (1A)

insert

(1A) A determination for subsection (1), definition of *gross road train mass rating*, paragraph (b) (ii), is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

46 Part 4 heading

omit

—Act, s 508 and s 509

47 Section 63, note

substitute

Note *Measuring instrument*—see the *National Measurement Act 1960* (Cwlth), s 3.

48 Section 66 (1) (c)

omit

Trade Measurement Act 1991

substitute

National Measurement Act 1960 (Cwlth)

49 Section 66 (1) (c) note

substitute

Note Measuring instruments are verified under the *National Measurement Act 1960 (Cwlth)*, div 4.3.

50 Part 5 heading

omit

—Act, s 508 and s 509

51 Dictionary, definition of *measuring instrument*

substitute

measuring instrument—see the *National Measurement Act 1960 (Cwlth)*, section 3.

Part 5 Road Transport (Offences) Regulation 2005

52 Legislation amended—pt 5

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

53 Schedule 1, part 1.6, items 37 and 38

substitute

37	108 (1)	driving instructor not display certificate of accreditation as required	5	99	
38	108A (1)	heavy vehicle driver assessor not display certificate of accreditation as required	5	99	
38A	108A (3)	heavy vehicle driver assessor in vehicle not owned by assessor or employer not show certificate of accreditation as required	5	99	

38B	108B (1)	examiner not produce certificate of accreditation as required	5	99	
-----	----------	---	---	----	--

54 Schedule 1, part 1.6, items 44 and 45

substitute

44	115 (1)	driving instructor/heavy vehicle assessor not maintain insurance policy	20	543	
45	115A (2)	driving instructor/heavy vehicle driver assessor not produce evidence of insurance policy as required	5	99	

55 Schedule 1, part 1.8A, item 1, column 2

omit 1st mention of

127

substitute

128

56 Schedule 1, part 1.8A, item 2, column 2

omit 1st mention of

131

substitute

132

57 Schedule 1, part 1.8A, item 3, column 2

omit 1st mention of

135

substitute

136

Endnotes

1 Notification

Notified under the Legislation Act on 30 June 2010.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

© Australian Capital Territory 2010