

Australian Capital Territory

# Road Transport (Road Rules) Regulation 2017

Subordinate law SL2017–43

made under the

Road Transport (Safety and Traffic Management) Act 1999, s 33 (General regulation-making power)

## REVISED EXPLANATORY STATEMENT

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### Introduction

This explanatory statement relates to the *Road Transport (Road Rules) Regulation 2017* (the road rules regulation). It has been prepared in order to assist the reader of the road rules regulation. This explanatory statement must be read in conjunction with the road rules regulation. It is not, and is not meant to be, a comprehensive description of the road rules regulation. What is said about a provision is not taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

### Overview

The road rules regulation provides a single regulation of road rules applying to vehicles and road users on roads and road related areas in the ACT. This is consistent with other Australian jurisdictions, who have consolidated the Australian Road Rules (ARRs) into a single regulation that is applicable to that State or Territory.

The road rules regulation consolidates the February 2012 version of the ARRs (includes up to the 9<sup>th</sup> ARR amendment package) and ACT specific road rules from the *Road Transport (Safety and Traffic Management) Regulation 2000*. It also incorporates the 10<sup>th</sup> and 11<sup>th</sup> ARR amendment packages approved by Transport Ministers in November 2013 and November 2015 respectively.

Prior to the new road rules regulation, the ARRs were applied by reference under the *Road Transport (Safety and Traffic Management) Regulation 2000* within notifiable instrument NI2013-329. The ARRs were not completely self-contained and needed to be read with, and as if they formed part of, the *Road Transport (Safety and Traffic Management) Regulation 2000*.

The ARRs are published and maintained by the National Transport Commission. Amendments to the ARRs are maintained by the National Transport Commission in consultation with states and territories and submitted as “amendment packages” to the

Ministerial Council of Transport Ministers (currently the Transport and Infrastructure Council) for approval.

As a consequence of the road rules regulation, the *Road Transport (Safety and Traffic Management) Regulation 2000* has been remade as the *Road Transport (Safety and Traffic Management) Regulation 2017*, and the *Road Transport (Road Rules) (Consequential Amendments) Regulation 2017* provides consequential amendments to the *Dangerous Goods (Road Transport) Regulation 2010*, the *Road Transport (Driver Licensing) Regulation 2000*, the *Road Transport (General) Regulation 2000*, the *Road Transport (Offences) Regulation 2005*, the *Road Transport (Public Passenger Services) Regulation 2002*, the *Road Transport (Vehicle Registration) Regulation 2000* and the *Victims of Crime Regulation 2000*.

There are no climate change implications associated with this regulation.

### **Human rights implications**

It is not considered that any provision of the road rules regulation unreasonably limits an individual's human rights. If an individual's human rights are limited, any limitation is reasonable and justified.

Section 28 of the *Human Rights Act 2004* (HRA) provides that human rights may be subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society. Section 28 (2) of the HRA provides that in deciding whether a limit on a human right is reasonable, all relevant factors must be considered, including:

- a) the nature of the right affected;
- b) the importance of the purpose of the limitation;
- c) the nature and extent of the limitation;
- d) the relationship between the limitation and its purpose; and
- e) any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.

An assessment against section 28 of the HRA is provided below.

#### *Right of the child*

Section 11 (2) of the HRA provides that 'every child has the right to the protection needed by the child because of being a child, without distinction or discrimination or any kind'. Minors are entitled to special protection in recognition of their vulnerability because of their status as a child. This is not limited to the treatment within the family but extends to treatment by others and public authorities<sup>1</sup>. It is possible that the requirement for passengers under 16 years to wear certain seatbelts could be seen to engage this right. Any limitation on this right is considered reasonable and proportionate on the basis that child restraints reduce the risk of injury and death in the event of a crash. The road rules regulation sets out nationally consistent requirements in relation to appropriately restraining a child in a motor vehicle. It is not considered that there are any less restrictive means available to protect children travelling in motor vehicles.

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<sup>1</sup> Department of Justice and Community Safety, *Guidelines for ACT Departments: Developing Legislation and Policy*, February 2010, p 27.

### *Freedom of movement*

Section 13 of the HRA provides that everyone has the right to move freely within the ACT and to enter and leave it, and the freedom to choose his or her residence in the ACT. This is relevant in the ACT today, in respect to circumstances involving people's access to public places.

Insofar as the road rules regulation regulates the manner in which a person may move on ACT roads and road related areas, it can be seen to be limiting a person's right to move freely within the ACT. The purpose of the limitation is to improve road safety and protect all road users. The achievement of road safety is an important objective for the ACT community and therefore any limitation of the right under section 13 of the HRA is reasonable and proportionate. There are significant public interest benefits that arise from ensuring that roads and road related areas are safe for all road users. It is not considered that there are any less restrictive means available to achieve the purpose of regulating road use. The road rules exist in all Australian jurisdictions.

### **Strict liability offences**

Careful consideration has been given as to whether applying strict liability to all offences in the road rules regulation significantly enhances the effectiveness of the road rules.

A strict liability offence means that there are no fault elements for the physical elements of the offence to which strict liability applies which essentially means that the conduct alone is sufficient to make the defendant culpable. There is a specific defence of mistake of fact for strict liability offences (section 23 *Criminal Code 2002*).

Strict liability offences more typically arise in a regulatory context where for reasons such as consumer protection and public safety, the public interest in ensuring that regulatory schemes are complied with, requires the sanction of criminal penalties. In particular, where a defendant can reasonably be expected, because of his or her involvement with the regulated activity, to know what the requirements of the law are, the mental, or fault, element can justifiably be excluded.

### *Nature of the right affected*

The road rules regulation includes over 400 existing strict liability offences. The Australian Road Rules commenced in the ACT on 1 March 2000 with the commencement of the *Road Transport (Safety and Traffic Management) Regulation 2000*. Prior to this, road use was regulated by the *Motor Traffic Act 1936*. The offences are regulatory in nature, and target a regulated activity that applies to all road users, including drivers, cyclists and pedestrians. These rules are essential to providing a safe road environment for the community, with shared responsibility by all road users.

### *Importance of the purpose of the limitation*

It is considered paramount that these offences be ones of strict liability to encourage road users to obey the road rules when sharing the road with others and develop a community that shares responsibility for road safety.

Road safety affects the whole of the ACT community. Australia adopts a safe system approach to road safety which requires responsible road user behaviour. It makes allowance

for human error. The safe system approach relies on safe speeds, safe roads and roadsides, safe vehicles, as well as safe people and safe behaviours. The Australian Road Rules play an important role in establishing safe people and safe behaviours on our roads.

It must be recognised that people are generally on notice concerning what behaviour is permitted on our roads and road related areas. For a person to commit an offence under the road rule regulation they would be required to be actively involved in the behaviour resulting in the offence.

#### *Nature and extent of the limitation*

The requirements to which the offences apply are not burdensome in nature and relate to the safe operation of our roads and road related areas. All road users are provided with adequate education about their obligations and the requirements when using roads or road related areas.

#### *Relationship between the limitation and its purpose*

A robust regulatory framework is essential to establishing safe people and safe behaviours on our roads, with benefits for both the community and individuals.

The inclusion of strict liability offences supports the application of the road transport infringement notice scheme to offences against this regulation. Infringement notice schemes minimise the cost of litigation for the Territory while offering people a choice concerning whether to accept a lesser penalty without admitting the offence or remaining liable to prosecution.

The Reader's Guide of the Australian Road Rules states that penalties for offences under the road rules are set by the laws of each jurisdiction and can include a fine. The penalty units and penalty amounts for offences under the road rule regulation are contained in the *Road Transport (Offences) Regulation 2005*. The penalties are within the normal range for strict liability offences and are in accordance with the *Guide to Framing Offences*.

#### *Less restrictive means reasonably available to achieve this purpose*

It is not considered that there are any less restrictive means to achieve the purpose of the road rules regulation.

Under the Criminal Code, all strict liability offences have a specific defence of mistake of fact. Section 23 (3) of the Criminal Code makes it clear that other defences may still be available for use in strict liability offence cases. Section 23 (3) of the Code provides that other defences may also be available for strict liability offences, including the defence of duress (section 40), sudden or extraordinary emergency (section 41) or lawful authority (section 43).

The road rule regulation also includes defences to an offence under this regulation where the defendant can prove that the offence was the result of accident or the reasonable efforts of the defendant could not have resulted in avoidance of the commission of the offence.

## **Outline**

The road rules regulation consolidates the February 2012 version of the ARRs, the 10<sup>th</sup> and 11<sup>th</sup> ARR amendment packages, the ACT specific road rules from the *Road Transport (Safety and Traffic Management) Regulation 2000*, and provisions and

exemptions in regulations and instruments relating to heavy motorised wheelchairs, cycling safety (including the minimum overtaking distance rules and cycling across crossings) and motorcycle lane filtering.

The road rules regulation does not amend rules currently applicable under the February 2012 version of the ARR.

This explanatory statement provides notes on clauses on ACT specific road rules that have been consolidated into the road rules regulation from the *Road Transport (Safety and Traffic Management) Regulation 2000*, the 10th and 11th ARR amendment packages, and regulations and instruments relating to heavy motorised wheelchairs, cycling safety and motorcycle lane filtering.

This explanatory statement does not provide notes on clauses relating to the February 2012 version of the ARR as the road rules regulation does not amend rules currently applicable.

Section numbering of the road rules regulation remain generally in line with the ARR.

Section headings have been amended to bring them into line with current drafting practices. For example, where a section heading in the ARR is expressed in plural form, the heading has been amended to singular form.

The location of definitions has been brought into line with ACT drafting practices. For example, the definition of a term that is used in one section only is located in that section. However, where the term is used in more than one section of the regulation it has been moved to the dictionary of the regulation.

Diagrams of traffic signs, parking signs, traffic related items and symbols with section references to the relevant provisions are located in schedules 2, 3 and 4 of the road rules regulation rather than being duplicated throughout the regulation as in the ARR.

Where a provision of the ARR refers to ‘under another law of this jurisdiction’ and there is no relevant territory law that applies, the wording of the provision has been amended in the road rules regulation to remove the reference ‘under another law of this jurisdiction’.

Clause numbers out of sequence which appear to be missing are placeholders, where a clause is not present. For example clause 13 is missing in the sequence of 11, 12, 14.

### **ARR rules not carried across to the road rules regulation**

ARR 225 (Using radar detectors and similar devices) has not been carried over to the road rules regulation as section 22 of the *Road Transport (Safety and Traffic Management) Regulation 2000* exempts every driver from ARR 225. ARR 225 is superfluous in the ACT as section 9 (2) of the *Road Transport (Safety and Traffic Management) Act 1999* makes it an offence for a person to drive or park a motor

vehicle on a road or road related area if a traffic offence evasion device is fitted to, applied to, or carried in the vehicle.

ARR 13 (What is a road-related area) explains the meaning of a road related area and was not carried over to the road rules regulation as Note 3 to the dictionary of this regulation points to *road related area* as a term defined in the *Road Transport (Safety and Traffic Management) Act 1999*.

ARR 244B (Wearing of helmets by users of motorised scooters) has not been carried over to the road rules regulation as section 244C of the road rules regulation prohibits the use of a motorised scooter on a road or road related area.

ARR 248 (No riding across a road on a crossing) has not been carried over to the road rules regulation as section 38D (5) of the *Road Transport (Safety and Traffic Management) Regulation 2000* disapplies ARR 248. Riding a bicycle across a road on a crossing is dealt with in section 248A of the road rules regulation.

ARR 313 (Exemption for postal vehicles) has not been carried over to the road rules regulation as it is covered by section 186 (Stopping in mail zone) and section 288 (Driving on path) of the road rules regulation.

ARR 313A (Exemption for garbage truck drivers etc) has not been carried over to the road rules regulation as there is no relevant territory law that provides for this kind of exemption for a garbage or waste disposal truck driver.

ARR 313B (Exemption for breakdown vehicles) has not been carried over to the road rules regulation as there is no relevant territory law that provides for this kind of exemption for breakdown vehicles.

*Road Transport (Safety and Traffic Management) Regulation 2000*, section 40 (Passengers in sidecars to be seated) has not been carried over to the road rules regulation as it duplicates section 271 (5B) and (5C) of the road rules regulation.

## **Notes on clauses**

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

This clause specifies the name of the regulation as the *Road Transport (Road Rules) Regulation 2017*.

### **Clause 2                      Commencement**

This clause provides that the regulation will commence on 30 April 2018.

### **Clause 3                      Dictionary**

This clause provides that the dictionary at the end of the regulation is part of the regulation.

**Clause 4**                      **Diagrams**

This clause provides that diagrams provided in the regulation form part of the regulation.

**Clause 5**                      **Examples**

This clause provides that examples provided in the regulation form part of the regulation.

**Clause 6**                      **Notes**

This clause provides that notes provided in the regulation are explanatory and do not form part of the regulation.

**Clause 7**                      **Offences against regulation – application of Criminal Code etc**

This clause provides that other legislation applies in relation to offences against the road rules regulation.

**Clause 8**                      **Offences against regulation–strict liability**

This clause provides that an offence against the regulation is an offence of strict liability.

**Clause 9**                      **Offence against regulation–defence**

This clause provides that a defendant has a defence to an offence if they can prove that the offence was the result of an accident or that the offence could not have been avoided by any reasonable efforts of the defendant.

**Clause 10**                      **Objects of regulation**

This clause sets out the objects of the regulation including that it is intended to provide rules for all road users in the ACT that are substantially uniform with rules for road users elsewhere in Australia and to support safe and efficient use of roads.

**Clause 18**                      **Meaning of *pedestrian***

This clause has been amended to include a person in or on a personal mobility device in the meaning of *pedestrian* due to the *Road Transport Legislation Amendment Regulation 2017* (SL2017-14) which regulates the use of personal mobility devices on roads and road related areas.

**Clause 25**                      **Speed limit elsewhere**

This clause has been amended to clarify subsection (3) that the default speed limit applying to a driver for any other length of road, not mentioned in subsections (1) or (2), is 100km/h.

**Clause 65**                    **Giving way at marked foot crossing (except at intersection with a flashing yellow traffic light)**

This clause has been amended to incorporate section 38D (1) of the *Road Transport (Safety and Traffic Management) Regulation 2000* to include a reference to a bicycle rider on the crossing.

**Clause 70**                    **Giving way at give way sign at bridge or length of narrow road**

This clause has been amended to incorporate clause 5 of the 10<sup>th</sup> ARR amendment package to clarify that a driver at a give way sign must give way to any oncoming vehicle already on or approaching a bridge or length of narrow road.

**Clause 80**                    **Stopping at children’s crossing**

This clause has been amended to incorporate section 38D (2) of the *Road Transport (Safety and Traffic Management) Regulation 2000* to include a reference to a bicycle rider on or entering the crossing.

**Clause 81**                    **Giving way at pedestrian crossing**

This clause has been amended to incorporate section 38D (3) of the *Road Transport (Safety and Traffic Management) Regulation 2000* to include a reference to a bicycle rider on a crossing.

**Clause 82**                    **Overtaking or passing vehicle at children’s crossing or pedestrian crossing**

This clause has been amended to include a reference to a bicycle rider crossing the road on a children’s crossing or pedestrian crossing. This amendment is consistent with clauses 65, 80 and 81 where a driver must give way to any pedestrian or bicycle rider on the kind of crossing. The amendment does not change the effect of the provision as it still prohibits a driver from passing or overtaking a vehicle that is stopping or has stopped at a children’s crossing or pedestrian crossing.

**Clause 95**                    **Emergency stopping lane only sign**

This clause has been amended to incorporate section 9 (ARR r 95 – emergency stopping lane only signs) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 98**                    **One-way sign**

This clause has been amended to incorporate clause 4 of the 11<sup>th</sup> ARR amendment package. Clause 98 requires drivers and riders to only proceed in the direction indicated by a one-way sign. The clause excludes the rider of a postal motorbike, bicycle or animal, if the rider is riding on a footpath, nature strip or shared path adjacent to the road to which a one-way sign applies. The amendment extends the exemption to include a rider (as listed) who is riding on a bicycle path or separated footpath from the requirement to ride in the same direction as indicated by a one-way sign.

**Clause 99**                      **Keep left and keep right sign**

This clause has been amended to incorporate clause 5 of the 11<sup>th</sup> ARR amendment package. Clause 99 requires drivers and riders to only proceed to the left or right of keep left or keep right signs respectively. The clause excludes the rider of a postal motorbike, bicycle or animal, if the rider is riding on a footpath, nature strip or shared path adjacent to the road to which either a keep left or keep right sign applies. The amendment extends the exemption to include a rider (as listed) who is riding on a bicycle path or separated footpath from the requirement to ride as indicated by a keep left or keep right sign.

**Clause 104**                      **No trucks sign**

This clause has been amended to incorporate section 10 (ARR r 104 – no truck signs) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 120**                      **Meaning of level crossing**

This clause has been amended to incorporate clause 6 of the 10<sup>th</sup> ARR amendment package to expand the definition of *level crossing* to include any area adjacent to the crossing that is denoted by painted cross-hatched road markings.

**Clause 128A**                      **Entering blocked crossing**

This clause has been amended to incorporate clause 7 of the 10<sup>th</sup> ARR amendment package to clarify that drivers who enter a crossing in accordance with this section may stop on the crossing if that becomes necessary because the crossing or the road beyond the crossing is blocked.

**Clause 134**                      **Exceptions to keeping to left of dividing line**

This clause has been amended to incorporate clauses 8 and 9 of the 10<sup>th</sup> ARR amendment package to clarify that a driver may cross a dividing line to park in angle parking on the opposite side of the road; and allows road users to cross two parallel broken dividing lines.

**Clause 138**                      **Keeping off painted island**

This clause has been amended to incorporate clause 10 of the 10<sup>th</sup> ARR amendment package to make it possible for a driver to turn across a painted island to enter a part of the road of one kind from a part of the road of another kind; or to access angle parking on the opposite side of the road.

**Clause 147**                      **Moving from 1 marked lane to another marked lane  
across continuous line separating lanes**

This clause has been amended to incorporate clause 11 of the 10<sup>th</sup> ARR amendment package to allow a driver to cross a continuous line to drive in a special purpose lane (e.g. part-time tram lane) if the special purpose lane is not operative at the time.

**Clause 151                    Riding motorbike or bicycle alongside more than 1 other rider**

This clause has been amended to incorporate section 11 (ARR r 151 (3) (b) – riding a motorbike or bicycle alongside more than 1 other rider) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 151A                 Motorbike lane filtering New section 151A**

This clause is a new section to replace the *Road Transport (General) (Motorcycle Lane Filtering Trail) Exemption 2015 (No 1)* (DI2015-2) which is repealed by the *Road Transport (Road Rules) (Consequential Amendments) Regulation 2017*.

**Clause 153                 Bicycle lane**

This clause has been amended to incorporate the *Road Transport (Taxi Industry Innovation) Legislation Amendment Regulation 2016 (No 1)* by including rideshare vehicles and hire cars.

The amendment also incorporates section 11A (ARR r 158 (2) (c) – other vehicles permitted to travel in bicycle lanes) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

Clause 12 of the 10<sup>th</sup> ARR amendment package is also incorporated, to clarify that road markings, and not only signs, can be used to commence or end a bicycle lane.

**Clause 156                 Transit lane**

This clause has been amended to incorporate section 33 (1) – about dictionary definitions for the ARR of the *Road Transport (Safety and Traffic Management) Regulation 2000* for the definition of taxi to include a hire car other than for the rule about stopping in a taxi zone.

**Clause 158                 Exceptions to driving in special purpose lane etc**

This clause has been amended to incorporate section 12 (ARR r 158 (2) (c) – other vehicles permitted to travel in bus lanes) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 163                 Driving past rear of stopped tram at tram stop**

This clause has been amended to incorporate clause 6 of the 11<sup>th</sup> ARR amendment package. Clause 163 refers to powers of authorised people to give directions. The amendment clarifies that police officers are able to give directions to drivers to proceed past a stopped tram.

**Clause 164                 Stopping beside stopped tram at tram stop**

This clause has been amended to incorporate clause 7 of the 11<sup>th</sup> ARR amendment package. Clause 164 refers to powers of authorised people to give directions. The amendment clarifies that police officers are able to give directions to drivers to proceed past a stopped tram.

**Clause 164A                    Staying stopped if tram comes from behind stopped driver and stops**

This clause has been amended to incorporate clause 8 of the 11<sup>th</sup> ARR amendment package. Clause 164A refers to powers of authorised people to give directions. The amendment clarifies that police officers are able to give directions to drivers to proceed past a stopped tram.

**Clause 164B                    Keeping safe lateral distance when passing bicycle rider**

This clause is inserted to incorporate section 38A of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 164C                    Exceptions—passing bicycle rider**

This clause is inserted to incorporate section 38B of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 176                    Stopping on clearway**

This clause has been amended to incorporate section 12A (ARR r 176 – stopping on a clearway) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 179                    Stopping in loading zone**

This clause has been amended to incorporate section 13 (ARR r 179 (1) (c) – stopping in a loading zone – goods and permit vehicles) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

The amendment also incorporates section 13A of the *Road Transport (Safety and Traffic Management) Regulation 2000* to allow a taxi, rideshare vehicle and hire car to stop in a loading zone if abiding by the requirements of section 179.

**Clause 183                    Stopping in bus zone**

This clause has been amended to incorporate section 13B (ARR r 183 – stopping in a bus zone) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 183A                   Stopping public bus in bus zone**

This clause is inserted to incorporate section 57A (1) and (2) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 186                    Stopping in mail zone**

This clause has been amended to incorporate section 32 (a) of the *Road Transport (Safety and Traffic Management) Regulation 2000* to allow postal vehicles to stop in a mail zone.

**Clause 187                    Stopping in bicycle lane, bus lane, tram lane, tramway, transit lane, truck lane or on tram tracks**

This clause has been amended to incorporate section 33 (1) – about dictionary definitions for the ARR of the *Road Transport (Safety and Traffic Management)*

*Regulation 2000* for the definition of taxi to include a hire car other than for the rule about stopping in a taxi zone.

**Clause 189                    Double parking**

This clause has been amended to incorporate section 13BA (ARR r 189 – double parking – motorbikes) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 195                    Stopping at or near bus stop**

This clause has been amended to incorporate section 13C (ARR r 195 – stopping at or near a bus stop) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 195A                  Stopping public bus at bus stop**

This clause is inserted to incorporate section 57A (3) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 197                    Stopping on path, dividing strip, nature strip, painted island or traffic island**

This clause has been amended to incorporate clause 13 of the 10<sup>th</sup> ARR amendment package to make it clear that drivers are prohibited from stopping on a traffic island.

**Clause 199                    Stopping near postbox**

This clause has been amended to incorporate section 14 (ARR r 199 (2) – stopping near postbox) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 206                    Time extension for people with disabilities**

This clause has been amended to incorporate section 15 (ARR r 206 (2) (b), (c) – time extension for people with disabilities permit) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 207                    Parking where fee payable**

This clause has been amended to incorporate section 16 (ARR r 207 (2) (a) – fees for parking in pay parking spaces) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 213                    Making motor vehicle secure**

This clause has been amended to incorporate section 16A (ARR r 213 (5) – making a motor vehicle secure – exception) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Division 12.11                Metered parking**

This division is inserted to incorporate division 2.3.5 (Metered parking) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Division 12.12      Ticket parking**

This division is inserted to incorporate division 2.3.6 (Ticket parking) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Division 12.13      Other road rules about stopping and parking**

This division is inserted to incorporate division 2.3.7 (Other ACT road rules about stopping and parking) of the *Road Transport (Safety and Traffic Management) Regulation 2000* which provides rules about unauthorised use of parking permit and mobility parking scheme authority, interfering with parking permit and mobility parking scheme authority, and stopping in emergencies.

**Clause 215            Using lights when driving at night or in hazardous weather conditions**

This clause has been amended to incorporate section 17 (ARR r 215 (4) – lights required to be fitted to a vehicle) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 216            Towing vehicle at night or in hazardous weather conditions**

This clause has been amended to incorporate section 18 (ARR r 216 (3) – towing a vehicle at night or in hazardous weather conditions) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 220            Using lights on vehicle that is stopped**

This clause has been amended to incorporate section 19 (ARR r 220 (3) – using lights on vehicles that are stopped) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 221            Using hazard warning lights**

This clause has been amended to incorporate section 20 (ARR r 221 (f) – using hazard warning lights on buses carrying children) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 222            Using warning lights on bus carrying children**

This clause has been amended to incorporate section 21 (ARR r 222 – using warning lights on buses carrying children) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 222A          Lights on motor vehicle generally**

This clause is inserted to incorporate section 43 (Lights on motor vehicles generally) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 222B          Use of do not overtake turning vehicle sign**

This clause is inserted to incorporate section 65 (Use of *do not overtake turning vehicle* sign) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 236                    Pedestrian not to cause traffic hazard or obstruction**

This clause has been amended to incorporate section 22A (ARR r 236 (6) – hitchhiking, roadside commerce etc permitted) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 238                    Pedestrian travelling along road (except in or on wheeled recreational device, wheeled toy or personal mobility device)**

This clause has been amended to incorporate clause 15 of the 10<sup>th</sup> ARR amendment package by clarifying that this section does not apply to a shared zone. The amendment also incorporates section 22B of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 241A                  Use of wheeled recreational device and wheeled toy on road**

This clause is inserted to incorporate section 62 (Use of wheeled recreational devices and wheeled toys on roads) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 244C                  Motorised scooter not to be used**

This clause has been amended to incorporate section 23 (ARR r 244C – motorised scooters not to be used) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Division 14.3                  Additional rules for people travelling in or on personal mobility devices**

This clause has been inserted to incorporate division 2.3.1B (People using personal mobility devices) of the *Road Transport (Safety and Traffic Management) Regulation 2000*. Sections under this division have been amended to clarify the intention and reorganised to bring it more in line with division 14.2 (Additional rules for people travelling in or on wheeled recreational devices and wheeled toys).

**Clause 245                    Riding bicycle**

This clause has been amended to incorporate clause 9 of the 11<sup>th</sup> ARR amendment package. ARR 245 requires that cyclists sit (astride) at all times while riding. However, it is normal practice for cyclists to ride standing on the pedals, for example while cycling uphill. The amendment aligns with current cycling practices.

**Clause 248A                  Riding across road on crossing**

This clause is inserted to incorporate section 38C and section 38D (5) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 260                    Stopping for red bicycle crossing light**

This clause has been amended to incorporate clause 16 of the 10<sup>th</sup> ARR amendment package to clarify the operation of the bicycle crossing light rules and ensures consistency throughout the rules.

**Clause 261                      Stopping for yellow bicycle crossing light**

This clause has been amended to incorporate clause 16 of the 10<sup>th</sup> ARR amendment package to clarify the operation of the bicycle crossing light rules and ensures consistency throughout the rules.

**Clause 262                      Proceeding when crossing lights change to yellow or red**

This clause has been amended to incorporate section 38D (4) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 262A                      Proceeding when bicycle crossing light is green  
New section 262A**

This clause is a new rule inserted to incorporate clause 11 of the 11<sup>th</sup> ARR amendment package. Where a bicycle rider enters an intersection on a green bicycle light it is possible that the traffic lights for the same direction of travel are red or yellow leading to confusion for bicycle riders and drivers. The amendment inserts a new rule to allow bicycle riders to proceed at a red or yellow traffic light, when a green bicycle light is displayed.

**Clause 265                      Wearing seatbelt–passenger 16 years old or older**

This clause has been amended to incorporate clause 17 of the 10<sup>th</sup> ARR amendment package to allow a passenger under 1 year old to sit on the lap of another passenger who is 16 years old or older when travelling in a public minibus, taxi, or tow truck where no appropriate child restraint is available. Clause 17 also removes responsibility from the driver of a corrections vehicle, youth detention vehicle or sheriff's vehicle for a passenger who does not wear a seatbelt.

The amendment also incorporates section 33 (1) – about dictionary definitions for the ARR's of the *Road Transport (Safety and Traffic Management) Regulation 2000* for the definition of taxi to include a hire car other than for the rule about stopping in a taxi zone.

**Clause 266                      Wearing seatbelt–passenger under 16 years old**

This clause has been amended to incorporate clause 18 of the 10<sup>th</sup> ARR amendment package which prohibits the use of a booster seat with a lap belt only, and clarifies that when a booster seat is used it must be used with either a lap and sash type approved seatbelt or an approved child safety harness.

The amendment also incorporates clause 12 of the 11<sup>th</sup> ARR amendment package which allows a person under the age of 7 years with a medical condition or disability to be exempt from the requirement to be restrained in an approved child restraint or be placed on a booster seat providing the vehicle's driver is carrying a medical certificate that states the child would be safer if they were restrained in a child restraint designed for and is suitable for their use. The amendment also allows for a child under 7 years to sit in the front row of a vehicle if deemed necessary by a medical practitioner.

This clause has also been amended to incorporate clause 18 of the 10<sup>th</sup> ARR amendment package to allow a passenger under 1 year old to sit on the lap of another

passenger who is 16 years old or older when travelling in a bus, minibus, taxi, hire car or tow truck where no appropriate child restraint is available. However, section 266 does not apply to the driver of a corrections vehicle, youth detention vehicle or sheriff's vehicle.

Clause 266 also incorporates section 24 (ARR r 266 (7) – wearing of seatbelts by passengers under 16 years old) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

#### **Clause 267 Exemptions–wearing seatbelt**

This clause has been amended to incorporate clause 19 of the 10<sup>th</sup> ARR amendment package which removes the exemption for children under the age of 7 years old from wearing a seatbelt in a vehicle which is travelling at 25km/h or less and the passengers are undertaking frequent pick up or delivery.

Clause 267 also incorporates clause 13 of the 11<sup>th</sup> ARR amendment package which re-cast the section to improve its interpretation.

#### **Clause 270 Wearing motorbike helmet**

This clause has been amended to incorporate clause 14 of the 11<sup>th</sup> ARR amendment package which exempts a person from wearing an approved motorbike helmet if the motorbike's engine is not on, the rider is pushing the motorbike and it is safe for the rider not to wear the helmet.

The amendment also incorporates section 26 (ARR r 270 (3) – wearing motorbike helmets) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

#### **Clause 271 Riding on motorbike**

This clause has been amended to incorporate clause 20 of the 10<sup>th</sup> ARR amendment package to allow a rider to remove their feet from the footrests to manoeuvre the vehicle, such as reversing the motorbike into a parking space and to remove both hands from the handlebars when the motorbike is stationary but not parked.

The amendment also incorporates clause 15 of the 11<sup>th</sup> ARR amendment package which allows the rider of a motorbike that has footrests or footboards to stand on or remove a foot from the footrest/s or footboard/s aligning the requirements with safe riding practices.

#### **Clause 280 Application – div 17.2**

This clause has been amended to incorporate section 27A (ARR r 280 (2) (a) – other vehicles to which B light rules apply) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

#### **Clause 287 Duties of driver involved in crash**

This clause has been amended to incorporate section 28 (ARR r 287 (3), (4) – duties of participants in crashes) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

### **Clause 288                      Driving on path**

This clause has been amended to incorporate the *Road Transport (General) (Australian Road Rules – Heavy Motorised Wheelchairs) Exemption 2007 (No 1)* (DI2007-207) which allows a driver of a motorised wheelchair, with an unladen mass not exceeding 150kg, to drive on a path where the motorised wheelchair user complies with the specified conditions. DI2007-207 is repealed under the *Road Transport (Road Rules) (Consequential Amendments) Regulation 2017*.

The amendment also incorporates section 32 (b) of the *Road Transport (Safety and Traffic Management) Regulation 2000* which allows the rider of a motorbike that is a postal vehicle, to ride on a path if the motorbike has an engine capacity not exceeding 110cc and is travelling at not more than 10km/h.

The amendment also incorporates clause 21 of the 10<sup>th</sup> ARR amendment package which includes increasing the capacity limit from 110cc to 125cc. The road rules regulation also updates terminology from ml to cc. The section makes it clear that the rider of a motorbike that is a postal vehicle, is exempt from the prohibition against riding on a path where the postal worker rider complies with the specified conditions.

### **Clause 289                      Driving on nature strip**

This clause has been amended to incorporate section 29 (ARR r 289 (1) (g) – driving on nature strip) of the *Road Transport (Safety and Traffic Management) Regulation 2000* which allows the rider of a motorbike that is a postal vehicle, to ride on a path if the motorbike has an engine capacity not exceeding 110cc and is travelling at not more than 10km/h. It also provides exemptions to the prohibition of driving on a nature strip in a built up area for a vehicle (that is not a lawnmower) that is being used solely for cutting grass or for purposes incidental to cutting grass, a vehicle that is being used to clean footpaths and is displaying a flashing yellow light, a vehicle being used to transport goods or materials for use in construction or maintenance of roads and a vehicle being used by an authorised person using a traffic offence detection device (mobile speed camera).

The amendment also incorporates clause 22 of the 10<sup>th</sup> ARR amendment package which includes increasing the capacity limit from 110cc to 125cc. The road rules regulation also updates terminology from ml to cc. The section makes it clear that the rider of a motorbike that is a postal vehicle, is exempt from the prohibition against riding on a path where the postal worker rider complies with the specified conditions.

### **Clause 291A                      Making unnecessary engine noise**

This clause is inserted to incorporate section 37 (Making unnecessary engine noise) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

### **Clause 295A                      Number of vehicles that may be drawn**

This clause is inserted to incorporate section 41 (Number of vehicles that may be drawn) of the *Road Transport (Safety and Traffic Management) Regulation 2000*. A standard note has also been added to identify that the driver/operator may need to demonstrate that certain circumstances apply to be able to take advantage of the exceptions.

**Clause 295B            Towing by vehicle under 4.5t**

This clause is inserted to incorporate section 42 (Towing by vehicles under 4.5t) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 298            Driving with person in trailer**

This clause has been amended to incorporate section 30 (ARR r 298 – driving with a person in or on trailer) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 299            Television receiver or visual display unit in motor vehicle**

This clause has been amended to incorporate clause 23 of the 10<sup>th</sup> ARR amendment package which clarifies that a person may use a driver's aid function on a mobile phone, such as a navigational device, provided that the existing requirements are met and the driver does not touch the phone to use the driver's aid on the mobile phone while driving.

The amendment also incorporates clause 16 of the 11<sup>th</sup> ARR amendment package which aligns clause 299 with clause 300 by removing the word 'motor' from subsection (1).

The amendment also incorporates section 30A (ARR r 299 – television receivers and visual display units in motor vehicles) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 300            Use of mobile phone**

This clause has been amended to incorporate clause 24 of the 10<sup>th</sup> ARR amendment package which clarifies that a driver may use driver aid functions such as GPS application on a mobile phone where the existing use requirements are met and the driver does not touch the phone while driving.

The amendment also incorporates clause 17 of the 11<sup>th</sup> ARR amendment package which permits the driver of a vehicle to use a mobile phone to make or receive a phone call in certain circumstances. The amendment clarifies clause 300 that only audio calls may be made and not any other types of calls such as video calls.

The amendment also incorporates section 30B (ARR r 300 (1) (c) – use of mobile phone) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 300A           Interrupting funeral procession etc**

This clause is inserted to incorporate section 60 (Interrupting funeral processions etc) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 300B           Driving on road closed to traffic**

This clause is inserted to incorporate section 61 (Driving on roads closed to traffic) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 303A            Emission of waste oil or grease**

This clause is inserted to incorporate section 38 (Emission of waste oil or grease) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 303B            Safety of person on trailer**

This clause is inserted to incorporate section 39 of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 305            Exemption–driver of police vehicle generally–Act, s 35**

This clause has been amended to incorporate section 69 (Exemption for driver of police vehicle – generally – Act, s 35) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 305A            Exemption–driver of police vehicle–training and assessment**

This clause is inserted to incorporate section 69A (Exemption for driver of police vehicle – training and assessment) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 306            Exemption–driver of emergency vehicle**

This clause has been amended to incorporate section 70 (Exemption for driver of emergency vehicles) of the *Road Transport (Safety and Traffic Management) Regulation 2000*. Clause 306 has retained the reference to ‘A provision of this regulation’ rather than referring only to a provision of chapter 2 of the *Road Transport (Safety and Traffic Management) Regulation 2000*. This is because section 6 of the *Road Transport (Safety and Traffic Management) Regulation 2000* says that the ARR’s are to be read as if they form part of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 307            Stopping and parking exemption–police or emergency vehicle or authorised person**

This clause has been amended to incorporate section 71 (Stopping and parking exemption for police and emergency vehicles and authorised people) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 309A            Exemption from requirement about riding on motorbike**

This clause is inserted to incorporate section 67 (Exemption from requirement about riding on motorbikes) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 310            Exemption–road worker etc**

This clause has been amended to incorporate section 31 (ARR r 310 (3), (4) – exemption for road workers etc) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Clause 346A            Preventing prescribed traffic control device being clearly visible**

This clause is inserted to incorporate section 64 (Preventing prescribed traffic control device being clearly visible) of the *Road Transport (Safety and Traffic Management) Regulation 2000*.

**Dictionary, definition of *medical certificate***

This definition has been amended to incorporate clause 18 of the 11<sup>th</sup> ARR amendment package. The amendment inserts a definition of medical certificate due to amendments to ARR 266 and ARR 267.

**Dictionary, definition of *postal worker***

This definition has been amended to incorporate clause 27 of the 10<sup>th</sup> ARR amendment package. The amendment provides a uniform definition to include both employees and contractors of Australia Post engaged in the delivery of parcel and/or letter mail.

**Dictionary, definition of *road train***

This definition has been inserted from the *Road Transport (Safety and Traffic Management) Regulation 2000*, dictionary and amended to refer the reader to section 5 of the *Heavy Vehicle National Law (ACT)*. Amending the definition to refer to the *Heavy Vehicle National Law (ACT)* corrects an error and refers the reader to a provision that has a nationally agreed definition of road train.

**Dictionary, definition of *slip lane***

This definition has been amended to incorporate clause 27 of the 10<sup>th</sup> ARR amendment package. The amendment inserts the words 'but not a median strip'.

**Dictionary, definition of *turning lane***

This definition has been amended to incorporate clause 27 of the 10<sup>th</sup> ARR amendment package. The definition is amended to include lanes for U-turns, allowing drivers to cross a single lane around a painted island to enter a turning lane, including a left, right or U-turning lane.