

2011

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**ROAD TRANSPORT (OFFENCES) AMENDMENT
REGULATION 2011 (No 1)**

SUBORDINATE LAW SL2011-15

EXPLANATORY STATEMENT

Presented by
Mr Simon Corbell
Minister for Transport

OVERVIEW

This Regulation is made under section 23 of the *Road Transport (General) Act 1999*.

The purpose of this Regulation is to increase, by no more than the 2011-12 wage price index (WPI) of 3.5 %, the prescribed infringement notice penalties for those offences against the road transport legislation that may be dealt with by infringement notice. Regular increases in infringement notice penalties in line with growth in wages and inflation is required to maintain the value in real terms of these penalties in order to preserve their deterrent effect

Government policy is that, as a general rule, the infringement notice penalty for an offence should not exceed 20% of the maximum fine that may be imposed by a court for that offence. Accordingly, where the existing infringement notice penalty for an offence is already at or above the 20% level, there is no increase in the prescribed penalty by this Regulation. Where the existing infringement notice penalty amount is near the 20% level and would exceed that level if the amount were increased by the full WPI of 3.5%, the penalty is increased by a lesser percentage so that it equals the 20% level. In all other cases, the infringement notice penalty is increased by the WPI of 3.5%.

Notes on Clauses

Clause 1 Name of Regulation

This is a formal provision that sets out the name of the Regulation.

Clause 2 Commencement

This is a formal provision that provides for the commencement of the Regulation. The Regulation commences on 1 July 2011.

Clause 3 Legislation amended

This clause explains that the amendments apply to the Road Transport (Offences) Regulation 2005.

Clause 4 Schedule 1

This clause substitutes existing Schedule 1 with a revised Schedule that incorporates all the adjusted infringement notice penalties for offences under the road transport legislation. The adjusted amounts are set out in column 5 of the table in parts 1.2 to 1.15 of the Schedule. No other changes are made to the Schedule.

As explained in the Overview, the infringement notice penalties are increased by a maximum of 3.5%, except where the penalty amount already equals or exceeds 20% of the maximum fine that a court could impose for the offence. Where the existing infringement notice penalty amount is near the 20% level and would exceed that level if the amount were increased by the full WPI of 3.5%, the penalty is increased by a lesser percentage so that it equals the 20% level.

It should be noted that some offences under the road transport legislation cannot be dealt with by infringement notice; for these offences, there is no amount prescribed in column 5 of the table.