

2012

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

**ROAD TRANSPORT (DRIVER LICENSING) AMENDMENT REGULATION 2012
(No 1)**

SL2012-16

EXPLANATORY STATEMENT

Presented by
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Overview

This Regulation is made under section 26 and section 28 (2) (i), (n) and (q) of the *Road Transport (Driver Licensing) Act 1999* (the Act).

This Regulation makes a series of amendments to provisions of the *Road Transport (Driver Licensing) Regulation 2000* (the Driver Licensing Regulation) that relate to the licensing training and testing requirements for novice motorcycle riders.

Motorcyclists are significantly overrepresented in road vehicle crashes. Data from all Australian jurisdictions indicate that serious crashes involving motorcycles have increased in recent years. Motorcyclists face a fatal crash risk approximately thirty times higher than car occupants, and the severity of injuries faced by motorcyclists is higher than for other road user groups. In the ACT, fifty per cent of the fatalities (three out of six fatalities) on ACT roads and road related areas in 2011 were motorcycle riders. An analysis of available data shows that a significant proportion of crashes (fatal and non-fatal) involve riders under the age of 30 years. This analysis suggests a need to improve novice rider road safety behaviours and improve rider skills through more rigorous licensing processes.

The ACT Auditor General recommended in 2009 that motorcycle licensing should be reviewed to introduce a component of on-road testing. This recommendation has been reflected in the 2009-2010 and 2011-2013 ACT Road Safety Action Plan.

A review of ACT licensing training and testing requirements for novice motorcycle riders was completed in January 2011 (the Motorcycle Review). The Motorcycle Review considered the current ACT motorcycle rider training arrangements and those in place elsewhere and made several recommendations to improve the safety of motorcyclists through changes to novice rider training.

Currently, all novice motorcycle riders are required to complete a pre-learner course before being able to apply for a learner rider licence. However, only those who fail the provisional rider licence test are required to complete a pre-provisional rider course, before being re-tested for their provisional licence.

The amendments made by this Regulation:

- make the pre-provisional rider training course compulsory for all applicants for a provisional rider licence;
- reduce the validity of the pre-provisional certificate of course completion from three months to one month;
- reduce the validity of the pre-learner certificate of course completion from three months to one month; and
- reduce the motorcycle learner licence period from two years to one year.

These amendments aim to enhance rider behaviour, attitude and skills through more rigorous licensing and training processes. The amendments also make the ACT arrangements for novice motorcycle riders more consistent with those in New South Wales.

This Regulation also makes minor stylistic changes to the wording of provisions dealing with car licences, to mirror the drafting style and wording used in relation to motorcycle licence

provisions. These changes do not substantively affect the requirements in relation to car licences.

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 explains when the regulation commences. The regulation will commence on a day fixed by the Minister by written notice.

Clause 3 Legislation amended

This provision explains that the legislation amended by these amendments is the *Road Transport (Driver Licensing) Regulation 2000*.

Clause 4 Section 16 (3) (b) (ii)

This clause amends section 16 (3), which sets out the eligibility requirements for a learner motorcycle licence. The amendment of section 16 (3) (b) (ii), which deals with the time a person has to apply for a learner motorcycle licence, has the effect of reducing the validity of the certificate of course completion for the pre-learner rider training course from three months to one month. This change means that a person who has successfully completed the pre-learner rider training course has one month in which to apply for a learner motorcycle licence.

This amendment aims to reduce skill deterioration by shortening the time between the completion of training and when the person applies for a learner licence. It will encourage novice riders to begin practicing their riding skills soon after completing the pre-learner course. The Motorcycle Review considered that the current three month validity period may be too long, because where a rider waits three months after completing the course before obtaining a learner motorcycle licence, the rider's newly acquired riding skills are no longer fresh. Unlike car learners, motorcycle learners ride unaccompanied. It is therefore essential that they have the necessary road-craft skills for safe riding when they apply for their learner licence.

Clause 5 Section 18 (1)

This clause amends section 18, which prescribes the duration of a learner licence. The amendment reduces the duration of a motorcycle learner licence from two years to one year (while retaining the present rule against non-renewal). Motorcycle learner licences are distinguished from other learner licences by the insertion of section 18 (1A), which provides that any other learner licence must be issued for 2 years.

This amendment implements a recommendation of the Motorcycle Review, which considered that the two year validity period for a learner motorcycle licence may be too long and could permit poor riding habits to develop and become entrenched. As noted above, learner motorcycle riders are unaccompanied on their vehicles and do not have an experienced rider as a passenger to assist them if they encounter difficulties or to correct them if they adopt poor riding habits.

Clause 6 Section 18 (2)

This clause is a technical amendment that has the effect of omitting ‘however’ from section 18 (2), to conform to current drafting practice.

Clause 7 Section 26 (1) and heading

This amendment of section 26 substitutes a new heading and a replacement section 26 (1). The new heading deals generally with the approval of training courses.

Replacement section 26 (1) redrafts existing section 26 (1) in a more modern drafting style and includes a new paragraph – new section 26 (1) (c) – that refers to pre-provisional rider training courses, to enable the road transport authority to approve courses for this purpose. The requirement for the approval to be in writing is omitted. This matter is addressed by section 42 (2) of the *Legislation Act 2001*, which requires notifiable instruments to be in writing. Section 26 (2) of the Driver Licensing Regulation provides that the approval of a course is a notifiable instrument.

Clause 8 Section 27 (1), note

This amendment substitutes three new notes to replace the existing note for section 27 (1). The first note explains the eligibility requirements for a motorcycle licence. Note 2 explains the eligibility requirements for a car licence. Note 3 explains the eligibility requirements for a higher class of licence. These eligibility criteria for applying for a licence are not the only conditions that the person must meet to obtain a motorcycle licence. There may be other tests, criteria and conditions to be satisfied under section 78 of the Driver Licensing Regulation.

Clause 9 Section 28 (2) (a) and (b)

This clause amends section 28 (2) (a), which sets out the eligibility requirements for a motorcycle licence. The amendment of section 28 (2) (a) (ii) makes the successful completion of an approved pre-provisional rider training course within the previous 1 month period a mandatory requirement when a person applies for a provisional motorcycle licence. The course must be completed before a rider attempts the provisional motorcycle licence assessment.

This amendment also has the effect of reducing the validity of the certificate of course completion for the pre-provisional rider training course from 3 months to 1 month. This change means that a person who has successfully completed the pre-provisional rider training course has one month in which to apply for a provisional motorcycle licence, in line with the changes to section 16 made by clause 4.

The pre-provisional rider training course is a course that consists of a review and practice of physical riding skills, road-craft discussion and an observed road-craft ride. It has a greater emphasis on attitudinal, behavioural and self development strategies than the pre-learner course. The pre-provisional rider training course includes on and off road demonstrations, practice opportunities and self assessment. Making completion of the course compulsory will

increase the total number of hours dedicated to practical training and change the way the training is delivered over different stages of the motorcycle licensing process (learner and provisional). The amendments will align the ACT motorcycle off-road skills test (MOST) with the New South Wales test.

These changes implement recommendations of the ACT Auditor General in 2009 and the Motorcycle Review in 2011. The Motorcycle Review noted that compulsory pre-provisional training allows novice riders to witness road-craft principles and techniques in action on the road rather than the present classroom presentations and off-road simulation exercises provided through the pre-learner course.

Note 1 to new section 28 (2) (a) is inserted to draw attention to the eligibility requirements for a motorcycle licence set out in other parts of the Regulation.

Note 2 refers readers to the definition of *approved pre-provisional rider training course* in section 26 (1) (c).

New section 28 (2) (b) redrafts, in a more modern drafting style, the provision relating to eligibility criteria for car licences. A new note follows that paragraph to refer readers to the eligibility requirements set out in other parts of the Regulation. This ensures that readers are made aware of all the requirements that apply to a car licence.

Clause 10 Section 28 (2) (h), note 1

This clause is a consequential amendment to the changes made to section 26 (1) by clause 7. The amendment to note 1 corresponds with the renumbering of provisions in section 26 (1).

Clause 11 Section 29

This clause amends section 29 (1) to clarify the application of the provision. The amended wording makes it clear that section 29 (1) relates specifically to full motorcycle licences and not motorcycle licences generally, as the current wording suggests.

Clause 12 Section 30

This clause is similar in purpose and effect to the amendment in clause 11. It amends section 30 (1), which deals with the provisional licence requirement for the issue of a car licence, to clarify the application of that provision. The amended wording makes it clear that section 30 (1) relates specifically to applications for full car licences or driver licences of a higher class, and not to car licences generally as the current wording suggests.

Clause 13 Section 39 (1), note

This clause substitutes the note in section 39 (1) to alert readers to the eligibility requirements set out in other parts of the Regulation. This ensures that readers of the legislation are made aware of all the requirements that apply to a full licence.

Clause 14 Section 67 (1) (b) to (d)

This clause is a technical amendment to the wording of section 67 (1) (b) as a consequence of the amendments in clauses 11 and 12. This amendment aligns section 67 (1) (b) to (d) to reflect the new wording of sections 29 and 30.

Clause 15 Dictionary, definitions of *approved heavy vehicle driver training course* and *approved pre-learner rider training course*

This clause is a consequential amendment that replaces the definitions in the dictionary of *approved heavy vehicle driver training course* and *approved pre-learner rider training course* to reflect the amendments made to section 26 (1) by clause 7, and inserts a new definition of *approved pre-provisional rider training course*.

Clause 16 Dictionary, definition of *approved road ready training course*

This clause makes a consequential amendment to the definition of *approved road ready training course* in the dictionary to reflect the amendments made to section 26 (1) by clause 7.