

Road Transport (General) (Segway Exemption) Determination 2012 (No 1)

Disallowable instrument DI 2012–136

made under the

Road Transport (General) Act 1999, section 13 (Power to exclude vehicles, persons or animals from road transport legislation)

EXPLANATORY STATEMENT

This instrument is made under section 13 of the *Road Transport (General) Act 1999* (the Act) which allows the Minister to exclude vehicles, persons or animals from the operation of the road transport legislation, or a provision of that legislation, by disallowable instrument. Under section 13 (1) of the Act, an exclusion operates in the circumstances and/or places declared in the instrument.

This instrument gives effect to recommendations contained in the Segway Review Report, which was prepared by the Justice and Community Safety Directorate in May 2012, following the release of a discussion paper on the use of segways in the ACT in March 2012. The full text of the Review Report is available at <http://www.justice.act.gov.au/publication/view/1883/title/segway-review-report>.

Clause 1 provides for the name of this instrument.

Clause 2 explains that the instrument commences on 1 July 2012. This is the day immediately after the expiry of the *Road Transport (General) (Segway Exemption) Determination 2011(No 2)* DI 2011- 263.

Clause 3 is the principal operative clause of the instrument. It explains when the *disapplied legislation* will not apply in relation to people who ride or operate segways in the ACT. In this context, *disapplied legislation* means the road transport legislation, apart from those provisions or legislation that are specifically excluded from the definition of *disapplied legislation* in clause 5.

Clause 3 (1) makes it clear that the *disapplied legislation* does not apply to a segway or an operator in the circumstances set out in Schedule 1. In effect, the Schedule sets conditions with which the operator must comply in order to come within the terms of

the exemption.¹ These conditions will be explained in greater detail later in this Explanatory Statement.

Clause 3 (2) makes it clear that the *disapplied legislation* does not apply to a segway rider in the circumstances set out in Schedule 2. This Schedule has the effect of listing the special conditions with which the operator must comply.² These conditions will be explained in greater detail later in this Explanatory Statement.

Clause 4 is a transitional provision, which applies to operators who operated segways commercially under the exemption that expired on 30 June 2012 (DI 2011-263). It has the effect of continuing the application of that exemption in relation to those operators for a 3 month period. The purpose of the 3 month transition period is to provide existing operators with time to comply with the additional requirements that implement recommendations from the Segway Review Report (e.g. preparation of training manuals for staff; staff to hold first aid qualifications; requirement to prepare intersection management plan and incident management plan; data collection and reporting requirements).

Clause 5 contains definitions of many key terms used in the instrument. The most significant definition is the concept of *disapplied legislation*, which is used in clause 3. In summary, the disapplied legislation is the road transport legislation, apart from the legislation or provisions listed in each of the paragraphs of the definition. The listed legislation will apply to segways, operators and riders.

In relation to paragraph (b) (i) of the definition of *disapplied legislation*, the provision mentioned is not applied because a person who rides a segway does not need to hold a driver licence to do so, therefore it would not be appropriate to apply a provision relating to the production of driver licences to such a person. In relation to paragraph (b) (ii) of the definition of *disapplied legislation*, the provision mentioned relates to a person who drives a motor vehicle in breach of an immediate suspension notice. Paragraph (b) (ii) ensures that a person who has been issued an immediate suspension notice for a drink driving offence will not breach that notice if he or she rides a segway as part of a supervised tour.

Clause 6 provides for the expiry of the instrument on 30 June 2015.

Schedule 1 contains the circumstances applying to segways and operators. These circumstances are designed to mitigate safety risks to segway riders and other users of areas where segways are operated. Along with the provisions of the road transport legislation that are not part of the *disapplied legislation*, the circumstances listed in this Schedule establish the regulatory framework for operating a segway in the Territory. It should be noted that an *operator* is a person who makes segways available for hire or rent on a commercial basis, for use in *supervised tours*.

¹ It should be noted that an operator who does not comply may be liable for offences against the road transport legislation in relation to the use of the operator's segways.

² A rider who does not comply with these conditions may be liable for offences against the road transport legislation.

In summary, the circumstances listed in schedule 1 require that:

- the operator is a commercial operator;
- the operator is authorised by the National Capital Authority to operate commercially;
- the operator undertakes a risk assessment and completes a risk assessment plan for identified risks;
- the operator indemnifies the Territory, the nominal defendant and a rider in relation to claims for loss etc caused by the operator or its staff members in relation to the commercial operation of a segway;
- the operator holds \$20 million public liability insurance;
- the operator gives the ACT Insurance Authority (ACTIA) a copy of the insurance policy within 7 days after it is effected, renewed or replaced;
- the operator notifies ACTIA within 7 days if the policy is cancelled or not renewed;
- the segway is limited to a maximum speed of 12 km/h;
- the segway is fitted with reflectors and warning devices;
- the operator trains the rider in specific riding skills and assesses the rider's competency before allowing the rider to participate in a supervised ride, and only allows a rider to ride a segway for training or as part of a supervised ride;
- the operator operates tours only in daylight hours;
- the operator maintains a staff-rider ratio of 1:10 on rides;
- the operator prepares a training manual, trains staff, and gives a copy of the training manual to the road transport authority;
- at least 1 staff member on-site during business hours must hold recognised first aid qualifications, and a staff member on a supervised tour must carry a first aid kit;
- the operator prepares an intersection management plan that is approved by the road transport authority;
- the operator prepares an incident response plan;
- the operator advises riders of their responsibilities under Schedule 2, and the consequences of a failure to comply;
- the operator monitors riders' compliance with Schedule 2; and
- the operator keeps records relating to safety incidents (including incidents resulting in harm or damage to people or property arising from the use of a segway) and compliance failures and provides quarterly reports to the road transport authority.

Schedule 2 contains the circumstances applying to *riders*³. Like Schedule 1, these circumstances are designed to mitigate safety risks to segway riders and other users of areas where segways are operated. Similarly, together with the provisions that are not part of the *disapplied legislation*, the circumstances listed in **Schedule 2** establish the regulatory framework for riders of segways in the Territory.

In summary, the circumstances applying to riders are:

³ The note to clause 5 (Definitions) explains that *rider* has the same meaning as it does in the *Road Transport (General) Act 1999*.

- the rider uses the segway only in the context of a commercial segway operation, as part of a *supervised tour* or during training by the operator;
- the rider wears an *approved bicycle helmet*;
- the rider is 12 or more years old;
- the rider is tall enough to hold the handlebars so the rider's elbows are as high or higher than the handlebars;
- the rider is not towed by another vehicle, or does not tow another vehicle;
- the rider does not carry passengers or animals;
- the segway rider does not ride on a dividing strip or median strip;
- the rider keeps to the left except when overtaking, and gives way to all pedestrians;
- the rider complies with part 14 of the Australian Road Rules as if the rider were a pedestrian;
- the rider complies with the operator's intersection management plan; and
- the rider only uses the segway within the declared area.

Schedule 3 is a map showing the declared area. This is the same area covered by the Schedule to the previous instrument DI 2011-263.