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

**ROAD TRANSPORT LEGISLATION AMENDMENT REGULATION 2013  
(No 2)**

**SL2013-14**

**EXPLANATORY STATEMENT**

**Presented by  
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## ROAD TRANSPORT LEGISLATION AMENDMENT REGULATION 2013 (No 2)

### Outline

The regulation makes miscellaneous amendments to the *Road Transport (Offences) Regulation 2005*, the *Road Transport (Public Passenger Services) Regulation 2002* and the *Road Transport (Vehicle Registration) Regulation 2000*.

This regulation gives effect to three Government policy reforms:

1. Removing the requirement for a vehicle, other than a heavy vehicle, to display a registration label from 1 July 2013;
2. Requiring a vehicle examiner who undertakes a brake test of a vehicle, while inspecting and testing a vehicle in accordance with the *Road Transport (Vehicle Registration) Regulation 2000*, to keep a copy of the brake test results for at least 12 months and make them available to the road transport authority on request; and
3. Reducing the regulatory burden on accredited hire car operators.

#### *Removal of requirement for light vehicles to display a registration label*

These amendments are made under sections 13 and 14 of the *Road Transport (Vehicle Registration) Act 1999* and sections 23 and 233 of the *Road Transport (General) Act 1999*.

This regulation gives effect to the Government's decision to remove the requirement for light motor vehicles and trailers (being vehicles or trailers that have a gross vehicle mass of 4.5 tonnes or less) to display a registration label from 1 July 2013. Heavy vehicles will still be required to have registration labels affixed in accordance with the *Road Transport (Vehicle Registration) Regulation 2000*.

The abolition of registration labels for light vehicles is in line with practice in other states. New South Wales, Western Australia, South Australia and Tasmania have recently ceased issuing registration labels and the Northern Territory Government has announced that it will also be abolishing registration labels for light vehicles on 1 July 2013.

The general requirement that all vehicles driven on public roads must be registered will remain. While registration labels provide an indication that a vehicle is registered, a registration label cannot be relied on as proof of registration. In some instances labels have been found to be fraudulent and there are cases where a person pays for their registration, receives a label and subsequently the payment is dishonoured meaning the vehicle is unregistered but displaying a "current" label.

Light vehicle owners will continue to receive registration renewal reminder notices and registration certificates. They will no longer be issued with a registration label for display on their vehicle.

This regulation also makes a consequential amendment so that an employee or owner of a motor vehicle business does not commit an offence against part 3 of the *Road Transport (Vehicle Registration) Act 1999* by using an unregistered vehicle on a road or road related area in the course of the motor industry business. This exemption will not apply if the person using the vehicle knew the vehicle was not registered, or ought reasonably to have known that the vehicle was not registered.

This exemption will ensure that a worker in a motor industry business, who unknowingly drives an unregistered vehicle in the course of the business, does not commit the offence of driving an unregistered vehicle. This exemption is similar to an exemption provided to motor industry business owners and employees in New South Wales by section 50A of the *Road Transport (Vehicle Registration) Regulation 2007 (NSW)*.

This policy change is being implemented through amendments to the *Road Transport (Vehicle Registration) Regulation 2000*, with consequential amendments to the *Road Transport (Offences) Regulation 2005*.

#### *Retention of brake test results*

This amendment is made under section 15 of the *Road Transport (Vehicle Registration) Act 1999*.

Under part 6.3 of the *Road Transport (Vehicle Registration) Regulation 2000*, the road transport authority may require a vehicle to be inspected. For example, a vehicle registered in another jurisdiction is required to be inspected and tested prior to being registered in the ACT. An authorised examiner who inspects or tests a vehicle must issue a certificate of inspection detailing whether the vehicle complies with the applicable vehicle standards.

That inspection process may involve the vehicle's brakes being tested, with schedule 2, chapter 2.1 of the *Road Transport (Vehicle Registration) Regulation 2000* specifying the technical requirements for the brake testing equipment that must be used in any such brake test. There is currently no requirement for authorised examiners to retain a copy of this brake test, or to attach a copy of the test results to the certificate of inspection. This new requirement will amend section 146 of the *Road Transport (Vehicle Registration) Regulation 2000* to require an authorised examiner to keep a copy of the brake tests results for at least 12 months, and for the test results be made available to the road transport authority on request. The amendment will ensure that the inspection process is properly documented, and assist in the conduct of audits by road transport authority officers to verify that brake tests were conducted properly as required by schedule 2.

### *Hire car service amendments*

These amendments are made under section 126 of the *Road Transport (Public Passenger Services) Act 2001* and section 13 of the *Road Transport (Vehicle Registration) Act 1999*.

This group of related amendments to the road transport legislation relate to hire car services and implement a review of the provisions by the Office of Regulatory Services (the ORS Review). These amendments will reduce the regulatory burden on accredited hire car operators without compromising the safety, efficiency and reliability of the public passenger services scheme.

These changes are being implemented through amendments to the *Road Transport (Public Passenger Services) Regulation 2002* and the *Road Transport (Vehicle Registration) Regulation 2000*.

### *Human rights*

The amendments in the regulation are considered to be consistent with human rights. They are aimed at protecting the interests of road users by; removing the requirement for registration labels to be displayed, thus stopping light vehicle owners from being burdened with removing and replacing registration labels; ensuring that brake tests on vehicles are undertaken when required and properly documented, improving road safety for all road users; and reducing the regulatory burden faced by owners, operators and customers of hire car services.

## Notes on clauses

### Part 1 Preliminary

#### 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 2013.

#### Clause 3 Legislation amended

This clause lists the legislation to be amended by the regulation. This regulation will amend the following legislation:

- *Road Transport (Offences) Regulation 2005*
- *Road Transport (Public Passenger Services) Regulation 2002*
- *Road Transport (Vehicle Registration) Regulation 2000.*

### Part 2 Road Transport (Offences) Regulation 2005

All amendments in this part are consequential to amendments in parts 3 and 4 of this regulation. The amendments either omit or amend references to sections in the *Road Transport (Public Passenger Services) Regulation 2002* or the *Road Transport (Vehicle Registration) Regulation 2000*.

#### Clause 4 Schedule 1, part 1.11, item 265

This removes a redundant reference to an offence in section 184 of the *Road Transport (Public Passenger Services) Regulation 2002* of a hire car operator failing to give the road transport authority an annual return of hiring statistics. The ORS Review found these offences are no longer appropriate or necessary. Accordingly, section 184 is omitted by clause 12 of this regulation.

#### Clause 5 Schedule 1, part 1.11, item 273 and 274

This removes a redundant reference to offences in sections 190 and 191 of the *Road Transport (Public Passenger Services) Regulation 2002* of failing to ensure that the hire car's airconditioning is operational, and displaying advertisements within the vehicle for anything other than the hire car service. The ORS Review found these offences are no longer appropriate or necessary. Accordingly, sections 190 and 191 are omitted by clause 13 of this regulation.

#### Clause 6 Schedule 1, part 1.11, item 277

This removes a redundant reference to an offence in section 193 of the *Road Transport (Public Passenger Services) Regulation 2002* of the hire car operator allowing a driver to drive the vehicle while not complying with any applicable dress code of practice. The ORS Review found this offence was no longer appropriate or necessary. Accordingly, section 193 is omitted by clause 14 of this regulation.

**Clause 7      Schedule 1, part 1.11, item 296**

This removes a redundant reference to an offence in section 203 (2) of the *Road Transport (Public Passenger Services) Regulation 2002* of a hire car driver failing to comply with an applicable dress code of practice. The ORS Review found this offence was no longer appropriate or necessary. Accordingly, section 203 (2), is omitted by clause 15 of this regulation.

**Clause 8      Schedule 1, part 1.11, item 307**

This removes a redundant reference to an offence in section 211 of the *Road Transport (Public Passenger Services) Regulation 2002* of a passenger eating or drinking in a hire car. The ORS Review found this offence was no longer appropriate or necessary. Accordingly, section 211 is omitted by clause 16 of this regulation.

**Clause 9      Schedule 1, part 1.15, items 8 to 11**

This amendment is consequential to light vehicles no longer being required to display a registration label. Items 8 to 11 relate to section 45 (1) of the *Road Transport (Vehicle Registration) Regulation 2000*, which is being amended by clause 27. An offence will now only be committed when a person uses a heavy vehicle with without a registration label, or with a label not attached as required, or with an illegible label. This clause amends the short description of these offences, reflecting the change made to section 45 (1).

**Clause 10     Schedule 1, part 1.15, items 40 and 41**

This amendment is consequential to light vehicles no longer being required to display a registration label. Items 40 and 41 relates to sections 85 (6) and (7) of the *Road Transport (Vehicle Registration) Regulation 2000*, which are being amended by clause 33, so that the offence of not destroying a registration label as soon as practicable after a vehicle's registration is cancelled only applies to the registered operator of a heavy vehicle. The amendments made by this clause are consequential to that change.

**Part 3            Road Transport (Public Passenger Services) Regulation 2005**

All amendments in this part relate to amendments to provisions about hire cars. Clause 22 of the regulation is also relevant to this set of reforms.

**Clause 11     Section 177C (1) (b)**

This amendment omits section 177C (1) (b) (i), which currently provides that a stand-by hire car permit cannot be issued unless the stand-by vehicle was last registered as a hire car in the ACT under the *Road Transport (Vehicle Registration) Regulation 2000*.

The effect of this amendment is to allow a hire car operator to use any registered vehicle as a stand-by hire car.

Under section 177F of the *Road Transport (Public Passenger Services) Regulation 2005*, a stand-by hire car is still required to comply with conditions of the hire car licence that apply to the usual hire car and other requirements of the Act, such as those relating to maintenance, cleanliness and condition.

**Clause 12 Section 184**

This amendment omits section 184, which currently provides that an accredited hire car operator must give the road transport authority a written statement of the number of times each of their hire cars was hired for each financial year.

**Clause 13 Section 190 and 191**

This amendment omits section 190, which provides that it is an offence for an accredited operator to fail to ensure that any air conditioning fitted in a hire car is in good condition and fully operational. The requirement is omitted on the basis that operator will be able to determine whether to have operating air conditioning units in vehicles used in their business.

The amendment also omits section 191, which provides that it is a strict liability offence to display any advertisements, other than those for the hire car service operated by the person, in a hire car.

This will allow hire car operators to determine which advertising material, if any, they wish to display in their vehicles.

**Clause 14 Section 193**

This amendment omits section 193, which provides it is offence for a person to drive a hire car and not comply with a code of practice approved under section 218.

This amendment is consequential to clause 17 of this regulation, which omits section 218.

**Clause 15 Section 203 (2)**

This amendment omits section 203 (2), which currently provides that it is an offence for a driver of a vehicle operating as a hire car not to comply with a code of practice approved under section 218.

This amendment is consequential to clause 17 of this regulation, which omits section 218.

**Clause 16 Section 211**

This amendment omits section 211, which currently provides that it is a strict liability offence for a person (other than a hire car driver) to eat or drink in a hire car.

The effect of the amendment is to allow the hire car operator or driver a discretion to allow eating and drinking by passengers in the car.

**Clause 17 Section 218**

This amendment omits section 218, which currently provides that the road transport authority may approve a code of conduct for the dress of hire car drivers.

This will allow hire car operators to determine a dress code for their own drivers as it suits their business requirements.

**Part 4 Road Transport (Vehicle Registration) Regulation 2000**

**Clause 18 New section 4A**

This consequential amendment inserts a new section 4A into the *Road Transport (Vehicle Registration) Regulation 2000*. New section 4A explains that other legislation applies to offences against that Regulation. As the offences in section 85 (6) and (7) of that Regulation are being remade by clause 33, the Criminal Code will apply to those remade offences. This provision alerts readers to the effect and operation of the Criminal Code.

**Clause 19 New section 18A**

This amendment is related to the amendments to abolish the requirement to display a registration label. It provides that an employee or owner of a motor vehicle business does not commit an offence against part 3 (Offences) of the *Road Transport (Vehicle Registration) Act 1999* if they use an unregistered vehicle on a road or road related area in the course of their motor industry business. This exemption will not apply if the person using the vehicle knew the vehicle was not registered, or ought reasonably to have known that the vehicle was not registered.

This exemption will ensure that a worker in a motor industry business, who unknowingly drives an unregistered vehicle in the course of their business, does not commit the offence of driving an unregistered vehicle. The intent of the amendments is to prevent a motor industry business worker from committing an offence if they unknowingly drive an unregistered vehicle, for example, while taking a vehicle for a test drive following repair work. This exemption is similar to an exemption provided to motor industry business owners and employees in New South Wales by section 50A of the *Road Transport (Vehicle Registration) Regulation 2007 (NSW)*.

**Clause 20 Section 32 (2) (a) (iii)**

This is a consequential amendment omitting a reference to section 32C of the *Road Transport (Vehicle Registration) Regulation 2000*, as that section is omitted by clause 22 of this regulation. This amendment is related to the hire car amendment package.



**Clause 21 Section 32AA (2), note**

This is a consequential amendment omitting a reference to section 32C of *the Road Transport (Vehicle Registration) Regulation 2000*, as that section is omitted by clause 22 of this regulation. This amendment is related to the hire car amendment package.

**Clause 22 Section 32C**

This amendment omits section 32C, which provides that the road transport authority must refuse to approve an application for the registration of a registrable vehicle as a hire car (other than a restricted hire car) if the wheelbase of the vehicle is less than 2800mm.

Removing this requirement will enable hire car operators to register a wider range of vehicles as hire cars.

**Clause 23 Section 44 (1) and heading**

This amendment is consequential to light vehicles no longer being required to display a registration label. From 1 July 2013, the road transport authority will only issue a registration label when registering a heavy vehicle. The amendment to the heading is consequential to that change, with a reference to heavy vehicles inserted to clarify that the section only applies to heavy vehicles.

**Clause 24 Section 44 (3)**

This amendment is consequential to light vehicles no longer being required to display a registration label. Section 44 (3) specifies what must be included on a registration label issued by the road transport authority. The clause amends the reference to a registration label for a vehicle, to a reference to a heavy vehicle. This makes it clear that the section applies only to registration labels for heavy vehicles.

**Clause 25 Section 44 (4) and (5)**

This amendment is consequential to light vehicles no longer being required to display a registration label. Section 44 (4) specifies where on a vehicle a registration label must be attached, while section 44 (5) allows the road transport to issue a replacement label if satisfied the original has been stolen, lost, damaged or destroyed. This clause substitutes a new section (4) that is specific to heavy vehicles, with references to locations on light vehicles where a registration label can be displayed removed as they are now obsolete. The clause amends section (5) by replacing the reference to vehicle with a reference to heavy vehicle, to clarify that it now only applies to heavy vehicles.

**Clause 26 Section 45 heading**

This amendment relates to light vehicles no longer being required to display a registration label, and amends the heading of section 45 to clarify that the section relates only to using a heavy vehicles without a registration label.

**Clause 27 Section 45 (1)**

This amendment is consequential to light vehicles no longer being required to display a registration label. Section 45 (1) previously provided that it was an offence to use a registrable vehicle that either did not have a registration label displayed, did not display the label in accordance with part 3.4, or displayed an illegible label. This clause amends that section, so that the offence only relates to use of a heavy vehicle in those circumstances, rather than all vehicles.

**Clause 28 Section 45 (2)**

This amendment is consequential to light vehicles no longer being required to display a registration label. The clause replaces references to vehicles, with references to heavy vehicles, to clarify that a responsible person for a heavy vehicle commits an offence if someone else uses their heavy vehicle in breach of section 44 (1).

**Clause 29 Section 45A (1) (a)**

This amendment is consequential to light vehicles no longer being required to display a registration label. Section 45A details the streamlined registration procedures that the road transport authority may follow. The clause amends the section so that the streamlined registration procedures may apply if the road transport authority sends the registered operator either a registration certificate or a registration label for a future period for the vehicle, instead of the current wording that requires both a registration label and registration certificate to be sent for the streamlined registration procedure to apply.

**Clause 30 Section 45A (5)**

This amendment is consequential to light vehicles no longer being required to display a registration label. Similar to clause 29, this clause amends the section so that the streamlined registration procedures may apply when the road transport authority issues either a registration label or a registration certificate, not both.

**Clause 31 Section 68 (9) (b) (iii)**

This is a consequential amendment omitting a reference to section 32C of the *Road Transport (Vehicle Registration) Regulation 2000*, as that section is omitted by clause 22 of this regulation. This amendment is related to the hire car amendment package.

**Clause 32 Section 85 (1) (f)**

This amendment is consequential to light vehicles no longer being required to display a registration label. Section 85 is concerned with procedures for suspending or cancelling registrations. Section 85 (1) (f) provides that the road transport authority must give a notice to the registered operator advising of the cancellation of the registration and advising the operator that the vehicle's registration label must be destroyed as soon as practicable. This clause amends the section so that it only applies if the road transport authority is cancelling the registration of a heavy vehicle.

**Clause 33      Section 85 (6)**

This amendment is consequential to light vehicles no longer being required to display a registration label. Section 85 (6) provides that the registered operator of a vehicle commits an offence if the registration for that vehicle is cancelled and, among other things, the registration label is not destroyed as soon as practicable. This clause has been redrafted as two offences. The offence in section 85 (6) applies to heavy vehicles, while the section 85 (7) applies to vehicles other than heavy vehicles. This change reflects that operators of heavy vehicles will be obliged to destroy the registration label for that vehicle if the registration is cancelled. This obligation will not apply to the operator of a vehicle other than a heavy vehicle.

This clause also inserts a new section 85 (8), which contains a defence to the offence of failing to comply with sections 85 (6) or (7). This defence does not alter the existing defence that was in section 85 (6), but has been redrafted to reflect modern drafting practice.

**Clause 34      Section 146 (2) (c)**

This amendment is concerned with the changes to the record keeping requirements for brake testing conducted during vehicle inspections. The clause provides that the proprietor of premises where a vehicle is inspected or tested must keep a copy of the brake test results at the premises, in addition to the existing obligation to retain a copy of the certificate of inspection.

**Clause 35      New section 146 (4) and (5)**

This amendment is concerned with the changes to the record keeping requirements for brake testing conducted during vehicle inspections, and is related to clause 34. It inserts a new section 146 (4) that requires the certificate of inspection and the brake tests results, which the proprietor is obliged to keep under 146 (2) (c), to be kept for at least 12 months, and be available for the road transport authority to inspect on request.

New section 146 (5) inserts a definition of brake test results.