

2015

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

**ROAD TRANSPORT LEGISLATION AMENDMENT
REGULATION 2015 (No 1)
SL2015-33**

EXPLANATORY STATEMENT

**Circulated by authority of
Shane Rattenbury MLA
Minister for Justice**

ROAD TRANSPORT LEGISLATION AMENDMENT REGULATION 2015 (No 1)

Introduction

This explanatory statement relates to the *Road Transport Legislation Amendment Regulation 2015 (No 1)* (the regulation) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the regulation and to help inform debate on it. It does not form part of the regulation and has not been endorsed by the Assembly.

This statement must be read in conjunction with the regulation. It is not, and is not meant to be, a comprehensive description of the 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.

Outline

The regulation amends the *Road Transport (Safety and Traffic Management) Regulation 2000* and the *Road Transport (Offences) Regulation 2005*.

The regulation modifies the operation of the incorporated Australian Road Rules (ARR) to provide for minimum overtaking distances when the driver of a motor vehicle passes the rider of a bicycle and to allow riders to remain on their bicycles while crossing road crossings.

Rule 144 of the ARRs requires a driver, when overtaking, to keep ‘sufficient distance’ to avoid having a collision with the vehicle or obstructing the path of a vehicle. This regulation provides a specified distance for what constitutes a ‘sufficient distance’ for a driver and the rider of a motor bike, when overtaking the rider of a bicycle.

The introduction of minimum overtaking distances for passing the rider of a bicycle will support overall measures aimed at reducing the number of rear end and side swipe crashes involving bicycle riders. These crash types commonly lead to serious injuries and occasionally death. In 2014, the ACT recorded 33 crashes involving cyclists hit either from behind or in the same direction side-swiped.

The regulation also provides that ARR 248 (No riding across a road on a crossing) does not apply and that a rider of a bicycle may ride slowly across a children’s crossing, marked foot crossings or pedestrian crossing. This will improve amenity for bicycle riders and provide a safe alternative to ARR 248.

The amendments to the *Road Transport (Offences) Regulation 2005* reflect the above amendments to the incorporation of the Australian Road Rules with new items being added to the schedule of offences in that regulation.

This regulation does not engage or limit human rights.

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. This regulation will commence on 1 November 2015.

Clause 3 Legislation amended

This clause lists the legislation amended by the regulation. The regulation amends the *Road Transport (Safety and Traffic Management) Regulation 2000* and the *Road Transport (Offences) Regulation 2005*.

Part 2 – Road Transport (Offences) Regulation 2005

Clause 4 Schedule 1, Part 1.13, new items 3A to 3G

This clause inserts new items 3A to 3G to Schedule 1 of the *Road Transport (Offences) Regulation 2005*. These items provide for new offences to reflect the amendments made to the incorporation of the Australian Road Rules.

Part 3 – Road Transport (Safety and Traffic Management) Regulation 2000

Clauses 5 to 8 amend the *Road Transport (Safety and Traffic Management) Regulation 2000*.

Clauses 5 and 6 Division 2.2.1 heading, note 3, new items 4A to 4C and new items 5A and 5B

These clauses modify the table in note 3 to Division 2.2.1 of the *Road Transport (Safety and Traffic Management) Regulation 2000*. That table sets out provisions of the ARR for which provision is made by territory laws (including provisions in other parts of the Road Transport (Safety and Traffic Management) Regulation).

Clause 5 inserts three new items in the table, relating to the operation in the ACT of ARRs 65 (Giving way at a marked foot crossing (except at an intersection)), 80 (Stopping at a children's crossing) and 81 (Giving way at a pedestrian crossing) for which provision is made under new section 38D.

Clause 6 inserts two new items in the table, relating to the operation in the ACT of ARRs 248 (no riding across a road on a crossing) and 262 (Proceeding when bicycle crossing lights change yellow to red) for which provision is made under new section 38D.

Clause 7 New division 2.3.1A Bicycle riders

This clause inserts new sections 38A to 38D which set out the requirements for the driver of a motor vehicle passing the rider of a bicycle that is travelling in the same direction as the driver and riding across a road on a crossing.

Section 38A provides that the driver must pass the rider of a bicycle, travelling in the same direction as the driver, at a sufficient distance from the bicycle or if the rider is riding alongside another rider – the bicycle furthest to the right.

Section 38A(2)(a) defines sufficient distance as being a 1 metre lateral distance when overtaking a cyclist in speed zones at or below 60km/h and a 1.5 metre lateral distance in speed zones above 60km/h.

The lateral distance is defined in section 38A(2)(b) as being measured from the most distance point to the left of the driver's vehicle, or anything projecting from the vehicle to the most distance point to the right of the bicycle, the rider, or the bicycle's trailer or any passenger in or on any bicycle trailer.

Section 38B provides for permitted manoeuvres to enable drivers to provide the required lateral distance when passing the rider of a bicycle on narrow roads or roads with narrow lanes. These manoeuvres include driving to the right of the dividing line, driving on a dividing strip that is at the same level as the road and driving on or over two parallel lines.

Section 38C allows for the rider of a bicycle to ride across a road, or part of a road, on a children's crossing, marked foot crossing or pedestrian crossing. Section 38C(2) sets out the requirements for undertaking the crossing, including that the rider of a bicycle may only ride across if the rider approaches the crossing no faster than 10km/h, the rider looks for approaching traffic and is prepared to stop, the rider rides no faster than 10km/h on the crossing and gives way to pedestrians on the crossing and keeps to the left of the crossing.

The requirements of section 38C of the regulation (riding across pedestrian crossings) will educate bicycle riders about how to make a crossing safely while remaining on their bicycle. This will improve amenity for bicycle riders and provide a safe alternative to ARR 248 (no riding across a road on a crossing).

In relation to riding across a marked foot crossing, sections 38C(2)(f) and (g) provide that the rider of a bicycle may only ride across the crossing if bicycle crossing lights or the pedestrian crossing lights are showing a green light.

Section 38D(1) to 38D(3) extends the application of ARRs 65 (Giving way at a marked foot crossing (except at an intersection)), 80 (Stopping at a children's crossing) and 81 (Giving way at a pedestrian crossing) so that, in addition to stopping for, or giving way to pedestrians, drivers must stop or give way to the rider of a bicycle. Section 38D(4) modifies the application of ARR 262 (Proceeding when bicycle crossing lights change yellow to red) so that it also applies at pedestrian crossing lights.

Section 38D(5) provides that ARR 248 (No riding across a road on a crossing) does not apply.

Clause 8 New section 117

As these amendments are for the purposes of a two year trial, clause 8 inserts new section 117, which requires the Minister to review the operation of division 2.3.1A after the end of its 2nd year of operation. The Minister must present a report of the review to the Legislative Assembly within 3 months after the review is commenced.

Section 117(3) provides that section 117 expires 2 years after the day it commences.