

**2017**

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

**ROAD TRANSPORT (OFFENCES)  
AMENDMENT REGULATION 2017 (No 1)  
SL2017-30**

**EXPLANATORY STATEMENT**

**Circulated by authority of  
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Minister for Justice, Consumer Affairs and Road Safety**

# ROAD TRANSPORT (OFFENCES) AMENDMENT REGULATION 2017 (No 1)

## Introduction

This explanatory statement relates to the *Road Transport (Offences) Amendment Regulation 2017 (No 1)* (the regulation). It has been prepared in order to assist the reader of the regulation. This explanatory 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

This regulation is made under the *Road Transport (General) Act 1999*, section 23 (Regulations about infringement notice offences) and the *Victims of Crime Act 1994*.

The purpose of this regulation is to increase infringement notice penalties for offences under ACT road transport law and give effect to an increase in the Victims Services Levy (VSL).

Most traffic and parking infringement penalty amounts are being increased by 6%. The penalties for speeding offences in school zones are to increase by an additional 10% and the penalty for stopping in a parking area for people with disabilities is to increase from \$241 to \$600.

An increase in the VSL from \$50 to \$60 was announced in the 2017-18 Budget. Most road transport infringement notice penalty amounts include a component, not identified separately, accounting for the VSL. The VSL is, in effect, built into the penalty amount. Offences to which the VSL is intended to apply have been increased by an additional \$10 to account for the increase in the VSL.

Road transport laws to which the VSL does not apply are prescribed under section 49A of the *Victims of Crime Regulation 2000*. They can be generally described as parking and stopping offences.

Most penalties under the HVNL are determined through a national process and have been adjusted accordingly. Two offences in the HVNL about producing a driver licence and disclosing the identity of a driver are 'local' offences and are increased by 6%.

The *Road Transport (Offences) Regulation 2005*, schedule 1, lists the offences contained in each Act and Regulation that form part of the road transport legislation. If an offence may be dealt with by infringement notice, the schedule prescribes the infringement notice penalty amount that is payable.

Government policy is that, in general, 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 (the 20% level). The 20% level is based on a penalty unit of \$150 for an offence committed by an individual.

Indexation has been undertaken by deducting the current value of the VSL from the penalty, applying indexation to the remainder (ie the base penalty) and adding the new VSL amount.

For offences other than speeding in school zones, where an existing infringement notice penalty amount already exceeds the 20% limit the only adjustment has been to add \$10 to reflect the increase in the VSL. Where an existing penalty amount would exceed the 20% limit, if indexed by 6%, the penalty amount has been increased up to the 20% limit and the new VSL amount added.

For the offences of speeding in a school zone, the indexation has been undertaken by deducting VSL from the existing infringement penalty amount, indexing that amount by 6%, indexing that new amount by 10% and then adding the new VSL amount of \$60.

For offences to which the VSL does not apply, the infringement penalty amounts are indexed by 6% only.

All infringement notice penalty amounts are rounded down to the nearest dollar.

## **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 18 September 2017.

### **Clause 3      Legislation amended**

This clause lists the legislation to be amended by the regulation. This regulation will amend the *Road Transport (Offences) Regulation 2005*.

### **Clause 4      Section 6(2)(b)**

This clause amends the formula for camera detected offences by corporations to take into account the revised level of the VSL. It ensures that the penalty for corporations is five times the penalty for individual offenders, plus the VSL, counteracting the effect of the VSL added onto the individual penalty.

## **Clause 5      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.

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.

References in items 137.3, 137.4, 137.5, 137.6, 155, 156, 157 and 158 have been amended to bring them into better alignment at the subsection and paragraph level with the legislation.