

Australian Capital Territory

# Road Transport (Offences) Amendment Regulation 2018 (No 3)

Subordinate law SL2018–23

made under the

*Road Transport (General) Act 1999*, section 233 (General regulation-making power)

## EXPLANATORY STATEMENT

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### Introduction

This explanatory statement relates to the *Road Transport (Offences) Amendment Regulation 2018 (No 3)* (the regulation) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the regulation. It does not form part of the legislation and has not been endorsed by the Assembly.

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.

### Overview

This regulation amends the *Road Transport (Offences) Regulation 2005*. The authority to make this regulation is contained in section 233 of the *Road Transport (General) Act 1999*. Section 233 of the *Road Transport (General) Act 1999* gives the Executive the power to make regulations under that Act.

This regulation contains an amendment to section 15 of the *Road Transport (Offences) Regulation 2005* to provide the administering authority with explicit power to delegate its functions to police officers.

The administering authority is defined in section 8 of the *Road Transport (Offences) Regulation 2005* and is:

- the road transport authority for the infringement notice offences specified in section 8 (1); and
- the chief police officer for all other infringement notice offences (section 8(2)).

The road transport authority is defined in section 16 of the *Road Transport (General) Act* as the director-general of the administrative unit responsible for the provision. Section 163 of the *Legislation Act 2001* provides that where a provision does not identify the director-general's title it is a reference to the:

- (a) director-general of the administrative unit responsible for the provision; or
- (b) if more than one administrative unit is responsible for the provision, the director-general of any of the administrative units

For the purposes of section 8 (1) of the *Road Transport (Offences) Regulation 2005*, the road transport authority is the Director-General of the Justice and Community Safety Directorate and the Director-General of the Environment, Planning and Sustainable Development Directorate.

### **Human rights implications**

There are no human rights implications associated with this regulation.

### **Climate change implications**

There are no climate change implications associated with this regulation.

## CLAUSE NOTES

### **Clause 1**                      **Name of regulation**

This clause specifies the name of the regulation. This clause provides that the regulation may be cited as the *Road Transport (Offences) Amendment Regulation 2018 (No 3)*.

### **Clause 2**                      **Commencement**

This clause provides for the commencement of the regulation. This regulation will commence the day after this regulation is notified.

### **Clause 3**                      **Legislation amended**

This clause names the regulation that is being amended by this Regulation. This regulation amends the *Road Transport (Offences) Regulation 2005*.

### **Clause 4**                      **Section 15**

The clause contains an amendment to section 15 of the *Road Transport (Offences) Regulation 2005* to provide the administering authority with explicit power to delegate its functions to police officers.

Section 54 of the *Road Transport (General) Act 1999* provides that the administering authority for an infringement notice offence may delegate its functions under part 3 of the *Road Transport (General) Act 1999* to:

- (a) the road transport authority; or
- (b) a person prescribed by regulation; or
- (c) a person who is an authorised person under section 19; or
- (d) an authorised officer under the *Heavy Vehicle National Law (ACT)*.

Section 15 of the *Road Transport (Offences) Regulation 2005* prescribes under section 54 (1) (b) of the *Road Transport (General) Act 1999* a public employee as a person the administering authority can delegate its functions to.

The administering authority therefore does not currently have explicit power to delegate its functions to police officers under section 54 of the *Road Transport (General) Act 1999*. In the Territory, a number of traffic infringement notices are managed by police officers. Allowing the administering authority to directly delegate its functions to a police officer will reduce the administrative steps required to ensure that individual police officers have the appropriate authority to carry out their roles.