

Australian Capital Territory

Road Transport (Offences) Amendment Regulation 2020 (No 1)

Subordinate law SL2020–8

made under the

***Road Transport (General) Act 1999*, section 23 (regulations about infringement notice offences) and section 233 (General regulation-making power)**

EXPLANATORY STATEMENT

This Regulation amends the *Road Transport (Offences) Regulation 2005*.

The amendments in this Regulation:

- insert infringement notice penalty amounts for four (4) offences relating to work and rest hours for solo and two-up drivers where the breach is reducing a major rest break or increasing a driving period by 30 minutes or less;
- relocate the infringement notice penalty for operating a vehicle in contravention of a self-clearing defect notice as a consequence of commencement of parts of the *Heavy Vehicle National Law and Other Legislation Amendment Act 2019* (QLD); and
- insert infringement notice penalty amounts for offences relating to not keeping a copy of a Performance Based Standards (PBS) approval in a vehicle while driving and for not producing a document the driver is required to carry with them while driving.

Section 23 of the *Road Transport (General) Act 1999* gives the Executive the power to make regulations about infringement notice offences. A regulation may prescribe an offence as an infringement notice offence and the amount of the penalty payable, including different amounts payable for different offences and different amounts payable for the same offence committed by different people.

The National Heavy Vehicle Regulator (NHVR) issues a schedule each year identifying the level of the maximum penalty and the infringement notice penalty where the Transport and Infrastructure Council (TIC) have agreed that the offence can be dealt with by infringement notice. As a consequence of the impending commencement of relevant parts of the *Heavy Vehicle National Law and Other Legislation Amendment Act 2019* (QLD), the NHVR released an updated schedule.

The amendments align offences included in the updated Schedule released by the NHVR as being infringement notice offences.

Human rights considerations

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

Part 1 Preliminary

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 2020 (No 1)*.

Clause 2 Commencement

This clause provides for the commencement of the regulation. This clause provides for the regulation to commence on 28 February 2020.

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*.

Part 2 Road Transport (Offences) Regulation 2005

This Part amends Schedule 1, part 1.2A of the *Road Transport (Offences) Regulation 2005* to incorporate the new infringement notice penalties and relocate the offence of operating a vehicle in contravention of a self-clearing defect notice.

Section 4 Schedule 1, part 1.2A, items 1 and 2

This section substitutes item numbers 1 and 2.

It inserts an infringement notice penalty of \$336 for an offence against section 25A (1) and (2) of the driver not keeping a copy of a PBS approval in the driver's possession while driving a PBS vehicle and each relevant party for a driver of a PBS vehicle not ensuring that the driver keeps a copy of a PBS approval in the driver's possession while driving a PBS vehicle unless the relevant party has a reasonable excuse.

The penalty is set at \$336 which is 10% of the maximum court-imposed penalty of \$3,000 indexed in accordance with sections 737 and 737A of the *Heavy Vehicle National Law (ACT)* (HVNL). 10% of the indexed maximum court-imposed penalty is the level that the Transport and Infrastructure Council decided would be the amount of infringement notice penalties under the Heavy Vehicle National Law.

Section 5 Schedule 1, part 1.2A, item 77.3

This section substitutes item number 77.3.

It inserts an infringement notice penalty of \$1121 for a solo driver committing a severe risk breach of working more than the maximum standard hours work time or resting for less than the minimum standard hours rest time.

The penalty is set at \$1121 which is 10% of the maximum court-imposed penalty of \$10,000 indexed in accordance with sections 737 and 737A of the HVNL.

Section 6 **Schedule 1, part 1.2A, item 78.3**

This section substitutes item number 78.3.

It inserts an infringement notice penalty of \$1121 for a two-up driver committing a severe risk breach of working more than the maximum standard hours work time or resting for less than the minimum standard hours rest time.

The penalty is set at \$1121 which is 10% of the maximum court-imposed penalty of \$10,000 indexed in accordance with sections 737 and 737A of the HVNL.

Section 7 **Schedule 1, part 1.2A, item 79.3**

This section substitutes item number 79.3.

It inserts an infringement notice penalty of \$1121 for a solo driver committing a severe risk breach of working more than the maximum Basic Fatigue Management work time or resting for less than the minimum Basic Fatigue Management rest time.

The penalty is set at \$1121 which is 10% of the maximum court-imposed penalty of \$10,000 indexed in accordance with sections 737 and 737A of the HVNL.

Section 8 **Schedule 1, part 1.2A, item 80.3**

This section substitutes item number 80.3.

It inserts an infringement notice penalty of \$1121 for a two-up driver committing a severe risk breach of working more than the maximum Basic Fatigue Management work time or resting for less than the minimum Basic Fatigue Management rest time.

The penalty is set at \$1121 which is 10% of the maximum court-imposed penalty of \$10,000 indexed in accordance with sections 737 and 737A of the HVNL.

Section 9 **Schedule 1, part 1.2A, item 261.3**

This section inserts a new item number 261.3.

This is a technical amendment consequential on amendments to the HVNL by the *Heavy Vehicle National Law and Other Legislation Amendment Act 2019 (QLD)* that move the offence of using a vehicle contrary to a self-clearing defect notice from section 531A of the HVNL to section 529 of the HVNL.

Section 10 **Schedule 1, part 1.2A, items 263 and 264**

This section omits item numbers 263 and 264.

This is a technical amendment consequential on amendments to the HVNL by the *Heavy Vehicle National Law and Other Legislation Amendment Act 2019 (QLD)* that move the offence of using a vehicle contrary to a self-clearing defect notice from section 531A of the HVNL to section 529 of the HVNL.

Section 11 **Schedule 1, part 1.2A, item 278**

This section substitutes item number 278

It inserts an infringement notice penalty of \$674 for a driver not to produce a driver licence required to be in their possession while driving unless the driver has a reasonable excuse.

The penalty is set at \$674 which is 10% of the maximum court-imposed penalty of \$6,000 indexed in accordance with sections 737 and 737A of the HVNL.