

# Road Transport (General) Application of Road Transport Legislation Declaration 2023 (No 5)

## Disallowable instrument DI2023—63

made under the

**Road Transport (General) Act 1999, section 13 (Power to exclude vehicles, persons or animals from road transport legislation)**

## EXPLANATORY STATEMENT

---

Section 13 (1) of the *Road Transport (General) Act 1999* (the Act) provides that the Minister may declare that the road transport legislation, or a provision of the road transport legislation, does not apply to a vehicle, person or animal in a place or circumstance stated in the declaration. Subsection 13 (3) of the Act makes such a declaration a disallowable instrument.

The purpose of this instrument is to allow an accredited operator to provide hire car and bus services using vehicles that are not registered as hire cars under ACT road transport legislation, and drivers who are not licensed to drive hire cars under the ACT road transport legislation, to provide ground transportation for the USA Special Visitors Program from 10 May 2023 to 26 May 2023. All drivers will hold an Australian Driver Licence required to drive the class of vehicle or be permitted to drive that class of vehicle in accordance with a valid exemption. Further, all vehicles will be registered under ACT road transport legislation or an equivalent law in another jurisdictions.

This instrument provides that certain parts of the road transport legislation do not apply to a designated vehicle or the driver of a designated vehicle, while transporting members of the USA Special Visitors Program from 10 May 2023 to 26 May 2023.

The declaration is a disallowable instrument and must be presented to the Legislative Assembly within 6 sitting days after its notification pursuant to Section 64 of the *Legislation Act 2001*.

### Human rights implications

During the development of this Instrument, due regard was given to its effect in relation to the compatibility with human rights as set out in the *Human Rights Act 2004* (HRA).

Section 28 of the HRA provides that human rights may be subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

Section 28 (2) of the HRA provides that in deciding whether a limit on a human right is reasonable, all relevant factors must be considered, including:

- a) the nature of the right affected
- b) the importance of the limitation
- c) the nature and extent of the limitation
- d) the relationship between the limitation and its purpose
- e) any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.

The declarations in this instrument do not engage and limit any human rights.

## **Climate change implications**

There are not considered to be any climate change implications arising from the instrument or the event it supports.

## **Clause notes**

**Clauses 1 and 2** of the instrument are formal provisions dealing with the name and commencement of the instrument.

**Clause 3** of the instrument declares that the *Road Transport (Public Passenger Services) Act 2001* (PPS Act) does not apply to an accredited operator in relation to the operation by the operator of a designated vehicle. Part 8A of the PPS Act is not disappplied, ensuring that accredited operators comply with the requirement to hold additional public passenger vehicle insurance. This clause also declares that the PPS Act does not apply to the driver of, or passenger, in a designated vehicle operated by an accredited operator.

**Clause 4** of the *Road Transport (Driver Licensing) Act 1999* does not apply to the driver of a designated vehicle operated by an accredited operator to the extent that the driver is required to hold a public vehicle licence issued by the ACT road transport authority. Drivers will hold an Australian Driver Licence of the class required to drive that vehicle.

**Clause 5** contains definitions for the instrument.

**Clause 6** provides that the instrument expires on 26 May 2023.