

Road Transport (Driver Licensing) Amendment Regulation 2019 (No 1)

Subordinate law SL2019–29

REGULATORY IMPACT STATEMENT

Prepared in accordance with the *Legislation Act 2001*, section 34 (Preparation of regulatory impact statements) and section 35 (Content of regulatory impact statements)

OVERVIEW

This regulatory impact statement relates to the *Road Transport (Driver Licensing) Amendment Regulation 2019 (No 1)* (the proposed law).

The changes made by the proposed law to the *Road Transport (Driver Licensing) Regulation 2000*, the *Road Transport (General) Regulation 2000* and the *Road Transport (Offences) Regulation 2005* relate to reforms to the ACT's driving licensing scheme for learner and provisional car drivers announced by the Government in June 2019. These reforms follow a review of the current scheme, an action item in the ACT's Road Safety Action Plan 2016-2020.

The changes made by the proposed laws follow significant community consultation and bring the ACT in line with the Australian Graduated Licensing Scheme (GLS) Policy Framework endorsed by the Transport and Infrastructure Council in 2014. The national framework identifies components of a GLS which are best practice and ranks those against a tiered system of 'standard', 'enhanced' and 'exemplar' models'.

The goal of the changes is to reduce the number of young and novice drivers involved in fatal and serious injury crashes and will contribute to building a safer Canberra community by putting in place the systems, processes and protections necessary to reduce the harm disproportionately experienced by our most vulnerable drivers.

Targeted and evidence-based restrictions on young drivers support the ACT's commitment to Vision Zero, by reducing the exposure of young drivers to high risk driving scenarios. Vision Zero means that no fatality or serious injury is acceptable, given the enormous emotional costs to families and the community when a person is involved in a serious accident.

Information required by section 35 of the *Legislation Act 2001*

This regulatory impact statement complies with the requirements for a subordinate law as set out in Part 5.2 of the *Legislation Act 2001*. In particular this regulatory impact statement meets the content requirements set out in section 35 of the *Legislation Act 2001*.

(a) The authorising law

The authority to make the proposed law is contained in sections 26 and 28 of the *Road Transport (Driver Licensing) Act 1999* (the authorising law) and sections 23 and 233 of the *Road Transport (General) Act 1999*.

The majority of the changes in the proposed law are authorised by section 28 of the *Road Transport (Driver Licensing) Act 1999*. This provides for a regulation to establish the driver licensing system. The regulation (the *Road Transport (Driver Licensing) Regulation 2000*) is to provide for a system of licensing drivers of motor vehicles used on roads or road related areas that provides a way of authorising the driving of motor vehicles on roads and road related areas and identifying people as licenced drivers of motor vehicles. A regulation may also:

- a) make provision in relation to the:
 - a. issue or refusal to issue driver licences
 - b. the renewal and the refusal to renew driver licences
 - c. the imposition of conditions on driver licences
- b) make provision in relation to the cancellation, variation and suspension of driver licences
- c) fix periods for which a driver licence or renewal remains in force
- d) require the production of information by applicants for driver licences or for renewals or variation of driver licences
- e) make provision in relation to the recognition by the road transport authority of things done under a corresponding law
- f) prescribe different classes and kinds of driver licences, grade each class or kind by reference to the driving skills required for the class or kind, and prescribe the eligibility criteria for the issue of each class or kind of licence
- g) make provision in relation to competency-based assessment schemes relating to driver licensing
- h) require people who are applicants for driver licences and holders of driver licences to submit to tests or medical or other examinations to assess fitness to obtain, hold or continue to hold a driver licence, a varied driver licence or an exemption from holding a driver licence
- i) make provision in relation to driver training schemes
- j) make provision in relation to the accreditation of driving instructors, including the conduct and content of driving instruction and examinations.

Section 26 of the *Road Transport (Driver Licensing) Act 1999* gives the Executive the power to make regulations under that Act.

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.

Section 233 of the *Road Transport (General) Act 1999* gives the Executive the power to make regulations under that Act.

(b) Policy objectives of the proposed law

The changes in the proposed law are not intended to make it more difficult to get a licence – the changes are designed to reduce risks for our new and young drivers who are over-represented in road accidents and help them gain experience and confidence on the road in a staged way. The proposed law introduces requirements designed to assist learner and provisional car drivers to gain education and experience that better prepares them for safer independent driving.

The proposed law also provides provisions to facilitate smooth transition to the new licensing scheme.

(c) Achieving the policy objectives

The proposed law achieves the policy objectives by:

- a) Increasing the minimum learner licence tenure for persons who are under 25 when they are issued with a learner licence
- b) Mandating required driving hours for learner drivers before they are eligible for a provisional licence, to ensure that adequate experience is gained prior to independent driving;
- c) Introducing a Hazard Perception Test as an eligibility requirement for a provisional licence, to ensure that new drivers have the cognitive capacity to identify and react to hazards on and around the road;
- d) Providing a two staged provisional licence (P1 and P2) that focuses on increased restrictions on provisional drivers who are under the age of 25;
- e) Introducing a late-night peer-passenger restriction for P1 drivers to reduce the risk of provisional drivers crashing as the dangers of distraction, challenging driving conditions, risk-taking behaviour and fatigue are enhanced at night;
- f) Reducing the demerit point threshold for learner drivers to ensure that sanctions are a swift and certain deterrent and in recognition that they are our safest drivers;
- g) Removing options for provisional drivers to increase their demerit point threshold to ensure that sanctions are a swift and certain deterrent and in recognition that they are over-represented in road accidents;
- h) Providing learner driver training courses to assist learners to achieve the required driving hours and to provide additional road safety education.

The proposed law includes transitional provisions that:

- a) Preserve the current licensing scheme for persons who hold a learner or provisional licence prior to 1 January 2020 for that licence. A current learner will proceed to the new provisional licence conditions if issued with a provisional licence after 1 January 2020.
- b) Preserve the validity of pre-learner training courses completed before 1 January 2020

(d) Consistency of the proposed law with the policy objectives of the authorising law

Relevant sections of the authorising law are identified at part (a) of this Regulatory Impact Statement.

The objectives of the authorising law include providing a way of authorising the driving of motor vehicles on roads and road related areas and of identifying people as licensed drivers of motor vehicles; facilitating the regulation of drivers of motor vehicles in the interests of road safety and transport efficiency and law enforcement generally; and to improve road safety.

The proposed law is consistent with the policy objectives of the authorising law; it ensures that the policy objectives of the authorising law can be met, allowing for a smooth transition from the old law to the new law.

(e) The proposed law is not inconsistent with the policy objectives of another Territory law

The proposed law is not inconsistent with the policy objectives of another Territory law. The proposed law is in line with the Australian Graduated Licensing Scheme Policy Framework endorsed by the Transport and Infrastructure Council in 2014.

(f) Reasonable alternative ways to achieve the policy objectives

The driver licensing system is a regulatory framework, and as such the policy objectives cannot be achieved without regulatory reform. Therefore, there are no reasonable alternatives to the proposed law for achieving the policy objectives identified in part (b).

(g) Brief assessment of benefits and costs of implementing the proposed law

The proposed law contains measures that enhance the skill and experience of young and novice drivers in the ACT. The measures are designed to reduce the incidence of road trauma in young and novice drivers in the ACT. They create an environment of facilitated learning, development and experience that will subsequently reduce the financial and emotional costs of road trauma to the community and to individuals.

The new eligibility requirements to obtain a provisional licence may have an increase in costs for those moving through the new licensing scheme.

The cost of a learner licence will not increase on 1 January 2020, however, the period a learner licence issued for will increase from 2 years to 5 years. This provides a longer timeframe to undertake the required hours and spread any associated costs over a longer period.

It is acknowledged that in mandating required driving hours this has both financial and non-financial costs on the learner and their families and friends. To assist people to achieve the required hours:

- a) One hour with an ACT accredited driving instructor will count as 3 hours, up to a maximum of 30 hours: that is, 10 hours with an ACT accredited driving instructor will count as 30 required driving hours. Any additional hours with an ACT accredited driving instructor will count only for the actual time of driving undertaken.
- b) Training courses will be available that will count as required driving hours, such as a Safer Driver Course and a Vulnerable Road User course.

The ACT Government will fully subsidise 60 places per annum on the Safer Driver Courses for disadvantaged learner drivers in our community.

The Hazard Perception Test (HPT) will be available online, along with practice tests. The first attempt will be free with any subsequent attempt attracting a nominal fee of \$25 to prevent repeated attempts from a learner driver that is not ready. Evidence shows that drivers who fail an HPT are at least twice more likely to be involved in a crash compared to those who pass on their first attempt.

The late-night passenger restrictions are not considered to have appreciable costs on the community or restrict the ability of young and novice drivers to undertake work. The late-night peer passenger restrictions only apply during the hours of 11pm and 5am, when risk and severity of road trauma is higher. A peer-aged passenger is a passenger between 16 and 22 years of age and does not include family members. Exemptions also apply for education and employment purposes. This mitigates any adverse impacts on young people's family responsibilities, employment and social opportunities.

A driver licence concession is being introduced for young provisional drivers who have a good driving record (that is no road transport infringement notices or road transport offences) during their P1 period, the first year of provisional driving. A provisional licence is issued for 3 years and there will be one licence fee that covers that entire period. The concession will be a 50% reduction in the P2 component of the licence fee, which is calculated by dividing the licence fee by 3 and multiplying that by 2 and then applying a 50% reduction. This amount will be taken off the full licence fee when the person applies for their full licence. This concession is in addition to any other discounts or concessions the licence holder is entitled to.

Some measures may directly impact small businesses with established driver training programs for learner and provisional drivers; however, the introduction of new learner driver training courses will provide opportunities to expand their business. In addition, some organisations may experience a positive impact due to the increase in required driving hours, and the incentive provided for learners who complete driving hours with an ACT accredited driving instructor.

(h) Brief assessment of the consistency of the proposed law with Scrutiny Committee principles

The Terms of Reference for the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) require the Committee to consider whether (among other things) a regulation:

- a) is in accord with the general objects of the Act under which it is made;
- b) unduly trespasses on rights previously established by law;
- c) makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions; or
- d) contains matters which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.

An analysis of the proposed law against each of these items follows. In addition, an Explanatory Statement for the proposed law has been prepared for tabling, with the proposed law, in the Legislative Assembly.

(b) Rights previously established by law

An Explanatory Statement for the proposed law has been prepared for tabling, with the proposed law, in the Legislative Assembly that addresses the human rights implications of the proposed law.

It is not considered that the proposed law trespasses on any rights previously established by law outside the human rights implications.

(c) Non-reviewable decisions

The proposed law does not create any non-reviewable decisions. Reviewable decisions under the road transport legislation are set out in Schedule 1 of the *Road Transport (General) Regulation 2000*. The proposed law contains consequential amendments to ensure that current reviewable decisions remain reviewable decisions.

Any new offences being created by the proposed law are infringement notice offences. The road transport infringement notice management scheme provides those issued with a road transport infringement notice with a number of options:

- Pay the infringement notice.
- Seek to enter into an infringement notice management plan or seek to add the infringement notice to an existing infringement notice management plan. A plan can be payment by instalments or completion of an approved community work or social development program.
- Seek withdrawal. Withdrawal results in the offence in its entirety being withdrawn – financial penalty and any demerit points.
- Seek waiver. Waiver applications only relate to the financial penalty not any other penalties, for example demerit points.
- Dispute liability. The matter is then heard in the Magistrates Court if a decision is made to proceed with court proceedings.

(d) Matters properly dealt with in an Act of the Legislative Assembly

The proposed law is made in accordance with the authorising law outlined above, which expressly allow the Executive to make regulations about the matters covered in the proposed law. This means the proposed law is within express powers granted by the Legislative Assembly.