



Australian Capital Territory

# Road Transport (Road Rules) Amendment Regulation 2023 (No 1)

Subordinate Law SL2023-40

---

The Australian Capital Territory Executive makes the following regulation under the *Road Transport (General) Act 1999* and the *Road Transport (Safety and Traffic Management) Act 1999*.

Dated 15 December 2023.

ANDREW BARR  
Chief Minister

CHRIS STEEL  
Minister





Australian Capital Territory

# Road Transport (Road Rules) Amendment Regulation 2023 (No 1)

Subordinate Law SL2023-40

made under the

[Road Transport \(General\) Act 1999](#) and the [Road Transport \(Safety and Traffic Management\) Act 1999](#)

## Contents

---

		Page
1	Name of regulation	1
2	Commencement	1
3	Legislation amended	1
4	Section 244GA (4)	1
5	Section 299 (2) (bb)	2

---

J2023-1250

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Contents

---

		Page
6	New section 299 (4)	3
7	Sections 300 and 300AA	3
8	New section 307A	8
9	Dictionary, definition of <i>affixed to</i>	9
<b>Schedule 1</b>	<b>Consequential amendments</b>	<b>10</b>
<b>Part 1.1</b>	<b>Road Transport (Offences) Regulation 2005</b>	<b>10</b>
<b>Part 1.2</b>	<b>Road Transport (Road Rules) Regulation 2017</b>	<b>10</b>

## 1 Name of regulation

This regulation is the *Road Transport (Road Rules) Amendment Regulation 2023 (No 1)*.

## 2 Commencement

- (1) This regulation (other than schedule 1, part 1.2) commences 3 days after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Schedule 1, part 1.2 commences on the commencement of the *Road Safety Legislation Amendment Act 2024*, part 7.

## 3 Legislation amended

This regulation amends the *Road Transport (Road Rules) Regulation 2017*.

*Note* This regulation also amends the *Road Transport (Offences) Regulation 2005* (see sch 1, pt 1.1).

## 4 Section 244GA (4)

*substitute*

- (4) In this section:

**body**, in relation to a mobile device—see section 300 (8).

**held**, by a person—

- (a) includes rested on, or kept in place by—

- (i) a part of the person's body; or
- (ii) clothing worn by the person; or
- (iii) something else on the person's lap; but

- (b) does not include—
  - (i) kept in a pocket of the person’s clothing or in a pouch worn by the person; or
  - (ii) for a mobile device that is a wearable device—worn by the person in the manner intended by the manufacturer.

*mobile device*—see section 300 (8).

*use*, in relation to a mobile device, includes any of the following actions by a person:

- (a) holding the body of the device (whether or not engaged in a phone call);
- (b) entering or placing, other than by the use of voice, anything into the device, or sending or looking at anything that is in the device;
- (c) turning the device on or off;
- (d) operating any other function of the device.

## **5 Section 299 (2) (bb)**

*omit*

section 300 (1) (ab)

*substitute*

section 300 (2) (b) or (c)

**6 New section 299 (4)**

*insert*

(4) In this section:

*mobile device*—see section 300 (8).

**7 Sections 300 and 300AA**

*substitute*

**300 Use of mobile device**

(1) The driver of a vehicle must not use a mobile device while the vehicle is moving, or is stationary but not parked.

Maximum penalty: 20 penalty units.

(2) Subsection (1) does not apply to the driver of a vehicle who is not the holder of a learner licence or provisional licence if—

(a) the mobile device is being used to make or receive an audio call and—

(i) the device is secured in a mounting affixed to the vehicle while being used; or

(ii) the device—

(A) is not being held by the driver; and

(B) does not require the driver, at any time while using it, to press anything on the body of the device or to otherwise manipulate any part of the body of the device; or

- (b) the mobile device—
  - (i) is being used as a driver’s aid; and
  - (ii) is secured in a mounting affixed to the vehicle while being used; and
  - (iii) does not require the driver, at any time while using it, to press anything on the body of the device or otherwise manipulate any part of the body of the device; or
- (c) the driver is driving a taxi, rideshare vehicle or hire car and the mobile device—
  - (i) is being used as a driver’s aid in relation to the transport of passengers; and
  - (ii) is secured in a mounting affixed to the vehicle while the device is being used; or
- (d) the mobile device is being used to stream, play or listen to music or audio files and the device—
  - (i) is not being held by the driver; and
  - (ii) does not require the driver, at any time while using it, to press anything on the body of the device or otherwise manipulate any part of the body of the device; or



(e) the vehicle is an emergency vehicle or a police vehicle.

**Examples—driver’s aids**

- closed-circuit television security cameras
- dispatch systems
- navigational or intelligent highway and vehicle system equipment
- rear-view screens
- ticket-issuing machines
- vehicle monitoring devices

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

(3) Subsection (1) does not apply to the driver of a vehicle who holds a learner licence or provisional licence if—

(a) the mobile device is being used as a driver’s aid and the device—

(i) is secured in a mounting affixed to the vehicle while being used; and

(ii) does not require the driver, at any time while using it, to—

(A) press anything on the body of the device or otherwise manipulate any part of the body of the device; or

(B) use the driver’s voice; or

(b) the mobile device is being used to stream, play or listen to music or audio files and the device—

(i) is not being held by the driver; and

(ii) does not require the driver, at any time while using it, to—

(A) press anything on the body of the device or otherwise manipulate any part of the body of the device; or

(B) use the driver’s voice; or

(c) the vehicle is an emergency vehicle or a police vehicle.

**Examples—use of driver’s voice**

- 1 wireless technology to make or receive a phone call
- 2 virtual assistant

(4) For this section, a mobile device is secured in a mounting affixed to the vehicle only if—

- (a) the mounting is commercially designed and manufactured for that purpose; and
- (b) the body of the mobile device is secured in the mounting, and the mounting is affixed to the vehicle, in the manner intended by the manufacturer.

(5) For this section, a driver does not use a mobile device to receive a text message, video message, email or similar communication if—

- (a) the communication is received automatically by a mobile device; and
- (b) on and after receipt, the communication itself (rather than any indication that the communication has been received) does not become automatically visible on the screen of the device.

(6) For this section, a vehicle may be parked even though—

- (a) the key for the vehicle is located in the vehicle’s ignition lock; or
- (b) the engine of the vehicle is running.

(7) In this regulation:

***affixed to***, in relation to a vehicle, includes forming part of the vehicle.

(8) In this section:

**audio call** does not include an email, text message, video call, video message or other similar communication.

**body**, in relation to a mobile device, means the part of the device that contains the majority of the device's mechanisms.

**held**, by a driver—

(a) includes rested on, or kept in place by—

- (i) a part of the driver's body; or
- (ii) clothing worn by the driver; or
- (iii) something else on the driver's lap; but

(b) does not include—

- (i) kept in a pocket of the driver's clothing or in a pouch worn by the driver; or
- (ii) for a mobile device that is a wearable device—worn by the driver in the manner intended by the manufacturer.

**mobile device**—

(a) includes a mobile phone and any other wireless hand-held or wearable device designed or capable of being used for telecommunication; but

(b) does not include a CB radio or any other two-way radio.

**Examples—other wireless hand-held or wearable devices**

tablet computer, smart watch

**use**, in relation to a mobile device, includes any of the following actions by a driver:

(a) holding the body of the device (whether or not engaged in a phone call);

- (b) for a driver who holds a learner licence or provisional licence—
  - (i) operating any function of the device by use of voice; or
  - (ii) looking at anything that is in the device;
- (c) for a driver who holds a driver licence other than a learner licence or provisional licence—entering or placing, other than by the use of voice, anything into the device, or sending or looking at anything that is in the device;
- (d) turning the device on or off;
- (e) operating any other function of the device.

## **8 New section 307A**

*insert*

### **307A Stopping and parking exemption—mobile device detection system**

- (1) A provision mentioned in subsection (2) does not apply to the driver of a motor vehicle if—
  - (a) in the circumstances—
    - (i) the driver is taking reasonable care; and
    - (ii) it is reasonable that the provision should not apply; and
  - (b) the motor vehicle, or a trailer towed by the motor vehicle, is being used as part of, or in relation to, a mobile device detection system.

#### **Example—par (b)**

The driver of a motor vehicle tows a trailer carrying mobile device detection equipment across a dividing strip or nature strip to move the trailer on or off the strip, or park or unhitch the trailer on the strip, as part of mobile device detection operations.

- (2) For subsection (1), the provisions are as follows:
- (a) section 137 (Keeping off dividing strip);
  - (b) in relation to stopping on a dividing strip or nature strip—section 197 (1) (Stopping on path, dividing strip, nature strip, painted island or traffic island);
  - (c) section 205 (Parking for longer than indicated);
  - (d) section 207 (Parking where fee payable);
  - (e) section 213K (Ticket parking—display of ticket);
  - (f) section 289 (1) (Driving on nature strip).

- (3) In this section:

*mobile device detection system* means a mobile device detection system approved under the [Road Transport \(Safety and Traffic Management\) Regulation 2017](#), section 13 (1).

## **9 Dictionary, definition of *affixed to***

*substitute*

*affixed to*, in relation to a vehicle—see section 300 (7).

## Schedule 1 Consequential amendments

(see s 3)

### Part 1.1 Road Transport (Offences) Regulation 2005

**[1.1] Section 21 (2) (a) (viii)**

*omit*

**[1.2] Schedule 1, part 1.12A, item 537**

*omit*

### Part 1.2 Road Transport (Road Rules) Regulation 2017

**[1.3] Section 244GA (4), definition of *mobile device***

*omit*

**[1.4] Section 299 (4)**

*omit*

**[1.5] Section 300 (8), definition of *mobile device***

*omit*

---

## Endnotes

**1 Notification**

Notified under the [Legislation Act](#) on 18 December 2023.

**2 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

---

© Australian Capital Territory 2023