

EXPLANATORY STATEMENT

Australian Capital Territory National Land (Road Transport) Parking Authority Guidelines 2021

Made by the Chief Executive of the National Capital Authority under subsection 34(1) of the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT), as applied and modified by the *National Land (Road Transport) Ordinance 2014* (Cth) and the *Australian Capital Territory National Land (Road Transport) (Parking Authority Guidelines) Rules 2021* (Cth).

Legislative authority and context

The *National Land (Road Transport) Ordinance 2014* (Cth) ('the Ordinance') provides the legislative framework for the management and enforcement of paid parking on National Land.

Subsection 11(1) of the Ordinance provides that the Minister may make rules prescribing matters required or permitted by the Ordinance to be prescribed by rule, or necessary or convenient to be prescribed for carrying out or giving effect to the Ordinance.

Subsection 8(1) of the Ordinance provides that the National Capital Authority (NCA) Chief Executive is responsible for administering the ACT paid parking legislation in its application to National Land. Subparagraph 8(2)(a)(i) relevantly modifies the ACT paid parking legislation so that a reference to the 'road transport authority' is a reference to the 'NCA Chief Executive'.

Section 5 of the Ordinance defines 'National Land' to mean land that is National Land under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

Section 5 of the Ordinance relevantly defines 'ACT paid parking legislation' to mean any ACT law that is declared by rule to be part of the ACT paid parking legislation.

Section 5 of the *Australian Capital Territory National Land (Road Transport) (Parking Authority Guidelines) Rules 2021* ('the Rules') declares section 34 of the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT) ('STM Regulation') to be part of the ACT paid parking legislation.

Subsection 34(1) of the STM Regulation provides that the road transport authority must establish guidelines for section 37 of the STM Regulation, which relates to the establishment and operation of ticket parking schemes by parking authorities (parking authorities must be declared by the road transport authority for a stated area, pursuant to section 33 of the STM Regulation).

The *Australian Capital Territory National Land (Road Transport) Parking Authority Guidelines 2021* ('the Guidelines') are the guidelines for the purposes of subsection 34(1) of the STM Regulation, as applied and modified by the Ordinance and the Rules.

Purpose and operation

Because of the declaration under section 5 of the Rules that section 34 of the STM Regulation is part of the ACT paid parking legislation, the NCA Chief Executive must establish the Guidelines. The Guidelines are based on the *Road Transport (Safety and Traffic Management) Guidelines 2020* (ACT), which were made by the ACT Road Transport Authority, pursuant to section 34 of the STM Regulation.

The Guidelines will be made specifically for section 37 of the STM Regulation. Section 37 of the STM Regulation relevantly provides that a parking authority may, in accordance with the Guidelines:

- establish and operate a ticket parking scheme for any length of road or area within its area of operations;
- set aside a length of road or area within its area of operations as a ticket parking area;

- fix fees for the parking of vehicles in the area;
- adopt the ways of, and schemes for, payment of the fees the authority considers appropriate; and
- install parking meters and parking ticket machines.

Consequently, the parking authority must comply with the Guidelines when operating a ticket parking scheme.

Additionally, the Australian Government's objective is to align, as far as practicable, with the ACT Government in respect of road transport and parking. The Guidelines will support that objective by ensuring that a ticket parking scheme operated by a parking authority are consistent with ticket parking schemes operated by the ACT Government. Further, ticket parking schemes increase public accessibility to national cultural institutions by ensuring availability of parking services within close proximity to the institutions.

The Guidelines will provide that:

1. all signs and road markings used by the parking authority must be consistent with Australian Standards and the *Road Transport (Road Rules) Regulation 2017* (ACT);
2. the parking authority must advise the NCA chief executive in writing of the parking fees to be charged by the parking authority, and any changes to the fees;
3. the parking authority must clearly identify the parking area as a pay parking area, if the area is a pay parking area;
4. the fees must be clearly displayed at each parking ticket machine within the ticket parking area;
5. if enforcement of the ticket parking area is required, the parking authority must write to the NCA chief executive requesting enforcement by authorised persons;
6. enforcement of parking permits and mobility parking scheme authorities is to be consistent with practices in ACT Government car parks;
7. the parking authority must submit a plan showing the traffic control devices in the ticket parking area to the NCA chief executive, and must advise the NCA chief executive of any changes to the ticket parking area;
8. the parking authority must notify the NCA chief executive of any parking ticket machine malfunctions immediately so appropriate enforcement arrangements can be made;
9. an example of a parking ticket is to be submitted to the NCA chief executive; and
10. the parking authority must notify the NCA chief executive in writing if it wishes to cease operating a ticket parking scheme.

The Guidelines are a legislative instrument for the purposes of the *Legislation Act 2003*, pursuant to subsection 7(2) of the Rules.

The Guidelines will commence on the day after the instrument is registered on the Federal Register of Legislation, pursuant to section 2 of the Guidelines.

Regulation Impact Statement

While the Guidelines regulate parking authorities, the Guidelines do not create regulatory impacts for paid parking users. The regulatory impact on parking authorities is justified on the basis that parking authorities enforce the paid parking legislation, which creates criminal offences for certain non-compliance. Consequently, the Australian Government considers that parking authorities should be appropriately regulated in performing their functions.

The Office of Best Practice Regulation considers the proposal is likely to have no more than minor regulatory impacts on business, community organisations or individuals. In addition, it understands

that the matter will not require consideration by Cabinet, and the preparation of a Regulation Impact Statement is not required.

Conditions to be satisfied

Neither the Ordinance nor the Rules specify conditions that must be satisfied before the power to make the Guidelines may be exercised.

Consultation

Consultation was undertaken with the Department of Infrastructure, Transport, Regional Development and Communications, the ACT Government, the High Court of Australia and the National Cultural Institutions, to ensure the effectiveness of the Rules. Public consultation was not necessary as the modifications are minor and machinery in nature.

ATTACHMENT A

Explanation of provisions

Section 1 - Name

This section provides that the name of the Guidelines is the *Australian Capital Territory National Land (Road Transport) Parking Authority Guidelines 2021*.

Section 2 - Commencement

This section provides that the Guidelines commence on the day after the instrument is registered.

Section 3 - Authority

This section provides that the Guidelines are made under the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT) as applied by the *National Land (Road Transport) Ordinance 2014* (Cth) and modified by the *Australian Capital Territory National Land (Road Transport) (Parking Authority Guidelines) Rules 2021*.

Section 4 - Definitions

This section defines expressions and terms used in the Guidelines.

Section 5 - Parking Authority Guidelines

This section provides guidelines that parking authorities must comply with in order to operate a ticketed parking scheme on National Land.

The Guidelines provide that:

1. all signs and road markings used by the parking authority must be consistent with Australian Standards and the *Road Transport (Road Rules) Regulation 2017* (ACT);
2. the parking authority must advise the NCA chief executive in writing of the parking fees to be charged by the parking authority, and any changes to the fees;
3. the parking authority must clearly identify the parking area as a pay parking area, if the area is a pay parking area;
4. the fees must be clearly displayed at each parking ticket machine within the ticket parking area;
5. if enforcement of the ticket parking area is required, the parking authority must write to the NCA chief executive requesting enforcement by authorised persons;
6. enforcement of parking permits and mobility parking scheme authorities is to be consistent with practices in ACT Government car parks;
7. the parking authority must submit a plan showing the traffic control devices in the ticket parking area to the NCA chief executive, and must advise the NCA chief executive of any changes to the ticket parking area;
8. the parking authority must notify the NCA chief executive of any parking ticket machine malfunctions immediately so appropriate enforcement arrangements can be made;
9. an example of a parking ticket is to be submitted to the NCA chief executive; and
10. the parking authority must notify the NCA chief executive in writing if it wishes to cease operating a ticket parking scheme.

The relevant Australian Standards are available from standards.org.au and a copy is available at the NCA offices for viewing by the public (currently located at D Block, Treasury Building, King Edward Terrace, Parkes, ACT).

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Australian Capital Territory National Land (Road Transport) Parking Authority Guidelines 2021

Overview of the Rules

The purpose of the *Australian Capital Territory National Land (Road Transport) Parking Authority Guidelines 2021* is to establish the guidelines required under section 34 of the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT) (‘STM Regulation’) as modified and applied to National Land by the *National Land (Road Transport) Ordinance 2014* (Cth) and the *Australian Capital Territory National Land (Road Transport) (Parking Authority Guidelines) Rules 2021*.

The Australian Government aims to maintain consistency with the ACT Government’s paid parking operations. The ACT Government currently allows parking authorities to operate ticketed parking schemes so far as they comply with the guidelines made under section 34 of the STM Regulation. These guidelines will ensure consistency with the ACT Government, and will increase public accessibility to Australia’s cultural institutions on National Land.

Conclusion

This legislative instrument will not engage or impact any of the human rights and freedoms recognised or declared by any of the international instruments specified in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*. Therefore, it is assessed as being compatible with human rights.