

EXPLANATORY STATEMENT

Australian Capital Territory National Land (Road Transport) (Infringement Notice Management Plans) Rules 2021

Made under the *National Land (Road Transport) Ordinance 2014* by the Assistant Minister for Regional Development and Territories, and Parliamentary Secretary to the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development

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.

Section 11 of the Ordinance relevantly provides that the Minister may make rules that declare that a provision of the Australian Capital Territory (ACT) road transport legislation applies to National Land or does not apply to National Land with stated modifications.

Section 5 of the Ordinance relevantly provides that that ACT road transport legislation means the ACT laws that form part of the road transport legislation within the meaning of section 6 of the *Road Transport (General) Act 1999* (ACT) (the General Act). Section 6 of the General Act relevantly provides that the road transport legislation means the General Act.

Therefore, the General Act is part of the ACT road transport legislation for the purposes of the Ordinance and the *Australian Capital Territory National Land (Road Transport) (Infringement Notice Management Plans) Rules 2021* (the Rule).

Operation and purpose

The Rule will modify section 21A of the General Act to include the definition of the NCA Chief Executive.

The Rule will modify sections 26 and 28 of the General Act in its application to National Land to allow a person to apply to the NCA Chief Executive to:

- enter into an infringement notice management plan;
- add an infringement notice penalty to an existing infringement notice management plan; or
- waive an infringement notice penalty.

The Rule will modify section 31A of the General Act in its application to National Land to allow a person or a corporation to apply to the NCA Chief Executive to:

- enter into an infringement notice management plan to discharge an infringement notice penalty by paying by instalment; or
- add an infringement notice penalty to an existing infringement notice management plan.

The Rule will modify the General Act to exclude sections 31C, 31D and 31G(3)(d) from applying to National Land.

The National Capital Authority does not have the framework to manage community service programs for discharge of the penalty for the payment of infringement notices. The community service programs for discharge of the penalty for the payment of infringement notices is managed by the ACT Government's relevant Attorney-General.

The Rule will repeal the *Removal of Infringement Notice Management Plans Rule 2014* (the Old Rule). The Old Rule prevents persons from entering into or modifying infringement notice management plans. Therefore, the repeal of the Old Rule is necessary to allow the Rule to effectively operate.

The Rule will provide flexibility to those who have been issued with an infringement notice penalty in relation to National Land by providing:

- an additional method of discharging an infringement notice penalty through an infringement notice management plan or a waiver of an infringement notice penalty; and
- that an application for:
 - an infringement notice management plan or addition to a plan under section 31A of the General Act ; or
 - a waiver of an infringement notice penalty under section 31F of the General Act

may be made regardless of whether the infringement notice was served before or after the commencement of the Rule.

The Rule will commence on the day after it is registered on the Federal Register of Legislation. The Rule is a legislative instrument for the purposes of the *Legislation Act 2003*.

Basis for the Rule

The Australian Government's objective is to align, as far as practicable, with the ACT Government in respect of road transport and paid parking. The Rule will adopt the infringement notice management plan as a method of discharging an infringement notice penalty in relation to National Land. The Rule will not affect existing payment methods.

Regulation Impact Statement

The Rule does not create any additional regulatory impacts for paid parking users.

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

The Ordinance does not specify any conditions that need to be satisfied before the power to make the Rule may be exercised.

Consultation

Consultation was undertaken with the Australian Department of Infrastructure, Transport, Regional Development and Communications and the ACT Government to ensure the effectiveness of the Rule. 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 Rule is the *Australian Capital Territory National Land (Road Transport) (Infringement Notice Management Plans) Rules 2021* (the Rule).

Section 2- Commencement

This section provides that the Rule commences on the day after the instrument is registered.

Section 3- Authority

This section provides that the Rule is made under the *National Land (Road Transport) Ordinance 2014* (Cth).

Section 4- Schedules

This section outlines that any Schedule in the Rule has effect according to its terms.

Section 5- Definitions

Defines expressions and terms used in the Rule.

Section 6- General modifications

This section provides modifications to the *Road Transport (General) Act 1999* (ACT) (the General Act) to include the definition of NCA Chief Executive in section 21A and to exclude sections 31C, 31D and 31G(3)(D) from applying to National Land.

Section 7- Applications may be made for payment by instalments only

This section applies sections 26 and 28 of the General Act to National Land to allow a person to apply to the NCA Chief Executive to:

- enter into an infringement notice management plan;
- add an infringement notice penalty to an existing infringement notice management plan; or
- waive an infringement notice penalty.

This section also applies section 31A of the General Act to allow a person or a corporation to apply to the NCA Chief Executive to:

- enter into an infringement notice management plan to discharge the infringement notice penalty by payment by instalment; or
- add an infringement notice penalty to an existing infringement notice management plan.

Section 8- Application of this instrument

The effect of this section is that a person can apply for an infringement notice management plan, in addition to a plan, or a waiver of an infringement notice penalty, irrespective of whether the infringement notice was served before or after the commencement of the Rule.

Schedule 1- Repeals

This Schedule repeals the *Removal of Infringement Notice Management Plans Rule 2014* (the Old Rule). The Old Rule prevents persons from entering into or modifying infringement notice management plans. Therefore, the repeal of the Old Rule is necessary to allow the Rule to effectively operate.

ATTACHMENT B

Statement of compatibility with Human Rights

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

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Rule

The primary purpose of the *Australian Capital Territory National Land (Road Transport) (Infringement Notice Management Plans) Rules 2021* (the Rule) is to modify:

- sections 26 and 28 of the *Road Transport (General) Act 1999* (ACT) (General Act) in its application to National Land to allow a person to apply to the NCA Chief Executive to:
 - enter into an infringement notice management plan;
 - add an infringement notice penalty to an existing infringement notice management plan; or
 - waive an infringement notice penalty; and
- section 31A of the General Act in its application to National Land to allow a person or a corporation to apply to the NCA Chief Executive to:
 - enter into an infringement notice management plan to discharge an infringement notice penalty by paying by instalment; or
 - add an infringement notice penalty to an existing infringement notice management plan.

The Rule will also repeal the *Removal of Infringement Notice Management Plans Rule 2014* (the Old Rule). The Old Rule prevents persons from entering into or modifying infringement notice management plans. Therefore, the repeal of the Old Rule is necessary to allow the Rule to effectively operate.

The Australian Government aims to maintain consistency with the ACT Government's paid parking scheme. The Rule will adopt the infringement notice management plan as a method of discharging an infringement notice penalty in relation to National Land. The Rule will not affect existing payment methods.

Human rights compatibility assessment

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, pursuant to section 9(2) of the *Human Rights (Parliamentary Scrutiny) Act 2011*.