

Explanatory Statement

Issued by the Authority of the Minister for Regional Development, Local Government and Territories

National Land (Road Transport) Ordinance 2014

National Land (Road Transport) (Parking) Rules 2024

Authority

The *National Land (Road Transport) (Parking) Rules 2024* are made under section 11 of the *National Land (Road Transport) Ordinance 2014*.

Purpose

The purpose of the instrument is to remake rules made under the *National Land (Road Transport) Ordinance 2014* (the Ordinance) relating to paid parking on National Land. These rules will sunset on 1 October 2024.

Background

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

The Ordinance modifies the application of the Australian Capital Territory (ACT) road transport and parking laws to permit the National Capital Authority (NCA) chief executive to be exclusively responsible for the administration of paid parking on National Land.

Under Part 3 Miscellaneous, subsection 11 (Rule-making power), the Minister may make rules prescribing matters that are required, permitted, necessary or convenient for giving effect to the Ordinance.

The Ordinance is currently in the process of being redrafted ahead of its sunset date of 1 April 2025. This instrument is made under section 11 to replace the existing rules made under that section which will sunset on 1 October 2024 (before the Ordinance is expected to be remade). If this instrument is not made, there would be a gap in the legislative framework for the management of paid parking on National Land between the sunset of the old rules and the making of the new Ordinance. When the new Ordinance is made, a new set of rules will be made under the rule-making power in the new Ordinance and this instrument will be repealed.

Summary of the National Land (Road Transport) (Parking) Rules 2024

The instrument sets out arrangements for the management of paid parking on National Land and supports the legislative framework established by the Ordinance. This includes providing for modifications of the ACT paid parking legislation, or the ACT paid parking support legislation, as it applies to National Land.

Division 1 of the instrument provides for the NCA chief executive to delegate their functions or powers under the Ordinance to appropriate persons or to enter into arrangements for the services of other persons to be made available for the purposes of the Ordinance.

Division 2 of the instrument provides that the NCA chief executive (as the administering authority or road transport authority) is not required to serve suspension notices or to suspend vehicle registration and driver licences when a parking infringement notice is not paid.

Division 3 of the instrument specifies the way applications for extensions of time in relation to parking infringement notices can be made, including by means other than in writing (if approved by the NCA chief executive as the administering authority).

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003* and is subject to sunseting under Part 4 of Chapter 3 of that Act. The instrument is also subject to disallowance under Part V of the *Seat of Government (Administration) Act 1910* (the Act).

The instrument commences on 1 October 2024.

Details of the instrument are set out in [Attachment A](#).

Consultation

The Department and the National Capital Authority consulted each other on the making of this instrument. Public consultation was not deemed necessary due to the amendments simply continuing the current state of the law for a short period while the Ordinance is redrafted. Public consultation will be conducted in relation to the new Ordinance and accompanying Rules to be made under that Ordinance, which together will further remake much of the content of this instrument (in an updated or fit for purpose form).

Impact analysis

The Office of Impact Analysis (OIA) advised that the instrument is unlikely to have more than a minor regulatory impact and therefore the preparation of an Impact Analysis is not required (OIA24-07863).

Statement of Compatibility with Human Rights

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at [Attachment B](#).

Details of the *National Land (Road Transport) (Parking) Rules 2024*

Part 1 – Preliminary

Section 1 – Name

This section provides that the name of the instrument is the *National Land (Road Transport) (Parking) Rules 2024*.

Section 2 – Commencement

This section provides for the instrument to commence on 1 October 2024.

Section 3 – Authority

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

Section 4 – Definitions

This section provides definitions of ‘Ordinance’ (as meaning the *National Land (Road Transport) Ordinance 2014* (the Ordinance)) and ‘old instruments’, as well as notes definitions in the Ordinance which have the same meaning in this instrument, such as ‘ACT road transport legislation’.

Section 5 – Schedules

This section provides that each instrument specified in the Schedule is amended or repealed as set out in the applicable item in the Schedule concerned, and that any other item in a Schedule to the instrument has effect according to its terms.

Part 2 – Modifications relating to parking on National Land

Division 1 – Staffing and delegations

Section 6 – Staff

This section provides that the Chief Executive of the National Capital Authority (the NCA) (the NCA chief executive) may make arrangements with a person for the services of the person’s officers or employees to be made available for the purposes of the Ordinance. The NCA chief executive may delegate all or any of the NCA chief executive’s functions or powers under the Ordinance to an officer or employee whose services have been made available under this section (see paragraph 7(b) of this instrument).

Subsection 2C(1) of the *Acts Interpretation Act 1901* provides that the reference to ‘person’ includes a body politic or corporate and an individual. This means that the NCA chief executive may make such arrangements with another Commonwealth entity, an ACT authority or instrumentality, or a third party.

Section 7 - Delegation of NCA chief executive's functions and powers

This section enables the NCA chief executive to delegate all or any of their functions or powers under the Ordinance to officers or employees of the NCA and other persons whose services have been made available for the purposes of the Ordinance under section 6 of this instrument.

The NCA chief executive's functions and powers are set out in sections 8 and 9 of the Ordinance. The NCA chief executive is responsible for administering 'ACT paid parking legislation' (as defined in section 5) in its application to National Land (see subsection 8(1)), and is essentially vested with the functions and powers of the road transport authority as referred to in the 'ACT paid parking legislation' (as defined in section 5) and of the road transport authority or administering authority as referred to in the 'ACT paid parking support legislation' (as defined in section 5) (see subparagraphs 8(2)(a)(i) and (b)(i)).

This means that the NCA chief executive may delegate all or any of their functions or powers, which have been vested in them, under the applied ACT paid parking legislation, the applied ACT paid parking support legislation or this instrument. (See, for example, section 8 of this instrument, in which the NCA chief executive may, but is not required to, take suspension action in certain circumstances.)

The delegation of the NCA chief executive's functions or powers to persons other than the NCA chief executive is necessary in the operational context of managing paid parking on National Land, in which the NCA chief executive may not have the capacity to carry out each and every one of their duties provided for under the Ordinance.

Division 2 – Suspension for non-payment of infringement notices

Section 8 – Suspension action not mandatory

This section provides that the administering authority or the road transport authority may, but are not required to, take any action in relation to Division 3.4 of the *Road Transport (General) Act 1999* (ACT), or other relevant provisions of the ACT road transport legislation as it applies to National Land, that require the administering authority or road transport authority to serve suspension notices or take other action relation to the suspension of vehicle registration and driver licences in respect of infringement notices or reminder notices issued for infringement notice offences under the Ordinance. This means that suspension action could be taken in relation to an unpaid infringement notice, but that it is not mandatory to do so. This modifies the applied law where it would, but for this section, be mandatory to do so.

Division 3 – Extension of time

Section 9 – Modified application of section 14C of the *Road Transport (Offences) Regulation 2005* (ACT) to National Land

This section provides for the modification of subsection 14C(2) of the *Road Transport (Offences) Regulation 2005* (ACT), as it applies to National Land, to permit an application for an extension of time to do things relating to an infringement notice offence issued under the Ordinance to be made in a manner approved by the NCA chief executive (as the administering authority). This is broader than the ACT law, which only allows for applications to be made in writing. It also confirms the existing requirements under the

applied ACT law: that an application must be made before the end of the allowed time and include any information required by the NCA chief executive (as the administering authority).

Section 10 – Modified application of section 14D of the *Road Transport (Offences) Regulation 2005* (ACT) to National Land

This section provides for the modification of subsection 14D(2) of the *Road Transport (Offences) Regulation 2005* (ACT), as it applies to National Land, to permit an application for an extension of time to do things relating to an infringement notice offence issued under the Ordinance to be made in a manner approved by the NCA chief executive (as the administering authority). This is broader than the ACT law, which only allows for applications to be made in writing. It also confirms the existing requirements under the applied ACT law: that an application must state the special circumstances relied on and include any information required by the NCA chief executive (as the administering authority).

Section 11 – Approved manner of application

This section provides, for the purposes of Division 3 of Part 2 of the instrument, when an application is made in the approved manner, including by telephone, in writing or other manner of application acceptable to the NCA chief executive (as the administering authority) from time to time. This has the effect of permitting applications for extensions of time to be made by means other than in writing (which was all that was allowed under the ACT law), provided that the applications are made in a manner approved by the NCA chief executive (as the administering authority).

Part 3 – Transitional provisions

Section 12 – Things done under the old instruments

This section provides for a transition between the old instruments and this instrument. It ensures that things done under the old instruments, as in force immediately before their repeal, are taken to be things done under the new instrument, if those things could be done for the same purpose under both instruments. This includes, for example, a delegation under the *Staffing and Delegations Rule 2014* being considered a delegation under section 7 of this instrument. This allows the current law relating to paid parking on National Land to continue in force in the same form until the Ordinance is remade.

Schedule 1 – Repeals

Schedule 1 sets out the repeals of the sunseting legislative instruments to provide transparency through explicit repeal.

Item 1 in Schedule 1 repeals the *Extension of Time Rule 2014*.

Item 2 in Schedule 1 repeals the *Open Areas Parking Rule 2014*.

Item 3 in Schedule 1 repeals the *Parking Authority Declaration – 2014 High Court of Australia*.

Item 4 in Schedule 1 repeals the *Staffing and Delegations Rule 2014*.

Item 5 in Schedule 1 repeals the *Suspension for Non-payment of Infringement Notices Rule 2014*.

Statement of Compatibility with Human Rights

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

National Land (Road Transport) (Parking) Rules 2024

This Disallowable 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 Disallowable Legislative Instrument

This Disallowable Legislative Instrument sets out arrangements for the management of paid parking on National Land. It includes arrangements ensuring the NCA chief executive can delegate powers to appropriate persons, permits the administering authority to not be required (where it otherwise would be required) to serve suspension notices or to suspend vehicle registration and driver licences when a parking infringement notice is not paid, and specifies the way applications for extensions of time in relation to parking infringement notices can be made.

Human rights implications

This rule does not engage any of the applicable rights or freedoms.

Conclusion

The instrument is compatible with human rights as it does not raise any human rights issues.