

EXPOSURE DRAFT



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Australian Capital Territory National Land (Road Transport) Ordinance 2025

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia,
acting with the advice of the Federal Executive Council, make the following Ordinance.

Dated 2025

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Kristy McBain [**DRAFT ONLY—NOT FOR SIGNATURE**]
Minister for Regional Development, Local Government and Territories

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

Part 1—Preliminary	2
1 Name.....	2
2 Commencement	2
3 Authority.....	2
4 Simplified outline of this Ordinance	2
5 Definitions	3
6 Interpretation of applied ACT road transport laws.....	3
7 Application of the ACT Criminal Code	3
Part 2—Application of ACT road transport laws to National Land	5
8 Applied ACT road transport laws	5
9 Declarations in relation to roads and road related areas	5
10 Concurrent operation of Commonwealth and ACT laws	6
11 Powers under applied ACT road transport laws.....	6
12 Administrative arrangements with ACT or another person.....	7
13 Authorised persons.....	7
Part 3—Miscellaneous	9
14 Rule-making power.....	9

EXPOSURE DRAFT

Part 1 Preliminary

Section 1

Part 1—Preliminary

1 Name

This Ordinance is the *Australian Capital Territory National Land (Road Transport) Ordinance 2025*.

2 Commencement

- (1) Each provision of this Ordinance specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Ordinance	1 April 2025.	1 April 2025

Note: This table relates only to the provisions of this Ordinance as originally made. It will not be amended to deal with any later amendments of this Ordinance.

- (2) Any information in column 3 of the table is not part of this Ordinance. Information may be inserted in this column, or information in it may be edited, in any published version of this Ordinance.

3 Authority

This Ordinance is made under the *Seat of Government (Administration) Act 1910*.

4 Simplified outline of this Ordinance

This Ordinance provides for rules to be made to apply any law of the Australian Capital Territory relating to road transport or parking to National Land. The rules may also modify such a law in its application to the National Land.

A law that is applied by the rules applies, as a law of the Commonwealth, to National Land. However, neither this Ordinance nor any ACT law applied by the rules is intended to exclude or limit the operation of a law of the ACT to the extent that that law is capable of operating concurrently with this Ordinance or rules.

An applied law is to be interpreted in the same way as it would be interpreted as a law of the ACT.

Certain powers relating to the administration of the applied laws are vested in the Minister or an authorised person appointed under this Ordinance.

5 Definitions

In this Ordinance:

ACT means the Australian Capital Territory.

ACT road transport law means any of the following laws, provisions or instruments (including such laws, provisions or instruments as in force at a specified time before the rules commence):

- (a) a law of the ACT relating to road transport or parking;
- (b) a provision of such a law;
- (c) an instrument, or a provision of an instrument, that is:
 - (i) in force under, or incorporated into, such a law; or
 - (ii) incorporated into an instrument to which subparagraph (i) applies;
- (d) a law of the ACT so far as it gives meaning to, or limits or extends the meaning of, a term used in a law, provision or instrument mentioned in paragraph (a), (b) or (c).

applied ACT road transport law means an ACT road transport law as applied, with or without modifications, to National Land by rules made for the purposes of subsection 8(1).

authority includes a body corporate, or an unincorporated body, established for a public purpose.

National Land has the same meaning as in the *Australian Capital Territory (Planning and Land Management) Act 1988*.

power includes a function or duty, and, in that context, **exercise** means perform.

rules means the rules made under section 11.

6 Interpretation of applied ACT road transport laws

- (1) Subject to subsection (2), an applied ACT road transport law (with or without modifications) is to be interpreted in the same way as it would be interpreted as a law of the ACT.
- (2) The rules may, in applying an ACT road transport law, provide that an expression that is used in the ACT road transport law as an applied ACT road transport law has the meaning given by the rules.

7 Application of the ACT Criminal Code

- (1) Chapter 2 of the *Criminal Code 2002* (ACT) applies to all offences against an applied ACT road transport law.

Note: Chapter 2 of the ACT Criminal Code sets out the general principles of criminal responsibility.

EXPOSURE DRAFT

Part 1 Preliminary

Section 7

- (2) For the purposes of subsection (1), the rules may, in relation to offences against an applied ACT road transport law, apply Chapter 2 of the *Criminal Code 2002* (ACT) as in force at:
- (a) the time when the rule commences; or
 - (b) a specified time before the rule commences.

EXPOSURE DRAFT

Part 2—Application of ACT road transport laws to National Land

8 Applied ACT road transport laws

- (1) The rules may apply to National Land (or to a specified area of National Land) specified ACT road transport laws, with or without modifications, including:
 - (a) any offences created by those laws; and
 - (b) any provisions of those laws, a contravention of which is punishable by a pecuniary penalty (however described).
- (2) For the purposes of subsection (1), a rule may apply an ACT road transport law as in force at:
 - (a) the time when the rule commences; or
 - (b) a specified time before the rule commences.

9 Declarations in relation to roads and road related areas

Minister may make declarations regarding roads and road related areas

- (1) The Minister may, by legislative instrument, declare that an applied ACT road transport law, or a provision of an applied ACT transport law:
 - (a) applies to an area of National Land that is open to or used by the public; or
 - (b) does not apply to a road or road related area.

Note: Under section 12C of the *Seat of Government (Administration) Act 1910* the Minister may delegate all or any of the Minister's powers or functions under any Ordinance made under that Act.

- (2) The declaration has effect until it is revoked or, if a period is stated in the declaration, for that period.

Definitions

- (3) In this section:

road:

- (a) means an area of National Land that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles; but
- (b) does not include an area of National Land that would otherwise be a road if, and to the extent that, a declaration under subsection (1) declares that an applied ACT road transport law, or a provision of an applied ACT transport law, does not apply to the area.

road related area:

- (a) means:
 - (i) an area of National Land that divides a road; or
 - (ii) a footpath or nature strip adjacent to a road; or

EXPOSURE DRAFT

Part 2 Application of ACT road transport laws to National Land

Section 10

- (iii) an area of National Land that is open to the public and is designated for use by cyclists or animals; or
 - (iv) an area of National Land that is not a road and that is open to or used by the public for driving, riding or parking vehicles; or
 - (v) a shoulder of a road; or
 - (vi) any other area of National Land that is open to or used by the public if, and to the extent that, a declaration under subsection (1) declares that an applied ACT road transport law, or a provision of an applied ACT transport law, applies to the area; but
- (b) does not include an area of National Land that would otherwise be a road related area if, and to the extent that, a declaration under subsection (1) declares that an applied ACT road transport law, or a provision of an applied ACT transport law, does not apply to the area.

10 Concurrent operation of Commonwealth and ACT laws

- (1) If rules made for the purposes of subsection 8(1) apply a specified ACT road transport law to National Land (or to a specified area of National Land), the applied ACT road transport law applies to the National Land (or the specified area of National Land), as a law of the Commonwealth.
- (2) This Ordinance and any rules are not intended to exclude or limit the operation of a law of the ACT to the extent that that law is capable of operating concurrently with this Ordinance or rules.

Note: This section does not affect the operation of any other ACT road transport law as a law of the ACT, in relation to the National Land, according to section 28 of the *Australian Capital Territory (Self-Government) Act 1988*.

11 Powers under applied ACT road transport laws

Powers of authorised persons

- (1) If, by an applied ACT road transport law, a power is vested in a person referred to in the law as an authorised person, the power is, in relation to the National Land to which the law is applied, vested in the following persons instead of the authorised person referred to in that law:
 - (a) a person appointed under section 13 of this instrument as an authorised person;
 - (b) a person prescribed by the rules.

Powers of ACT Ministers etc.

- (2) If, by an applied ACT road transport law, a power is vested in:
 - (a) a Minister of the ACT; or
 - (b) a person or authority referred to in the law as the road transport authority;the power is, in relation to the National Land to which the law is applied, vested in the Minister (the ***Commonwealth Minister***) instead of the Minister of the ACT or the person or authority.

EXPOSURE DRAFT

Delegation by Commonwealth Minister

- (3) If a power is vested in the Commonwealth Minister under subsection (2), the Commonwealth Minister may, in writing, delegate the power to:
- (a) a person; or
 - (b) a person holding, occupying, or performing the duties of, a specified office or position.

Limitation on Commonwealth Minister's delegation power

- (4) The Commonwealth Minister must not delegate a power under subsection (3) unless the Commonwealth Minister is satisfied that:
- (a) if the power is to be delegated to a person—the person has appropriate qualifications or expertise to exercise the power or perform the function; or
 - (b) if the power is to be delegated to a person holding, occupying, or performing the duties of, a specified office or position—the office or position is sufficiently senior for the person to exercise the power or perform the function.

Delegations may be subject to conditions

- (5) A delegation is subject to such conditions as may be specified in the delegation.

12 Administrative arrangements with ACT or another person

- (1) The Minister may enter into arrangements with the ACT or another person for the effective application and administration of the applied ACT road transport laws.
- (2) Without limiting subsection (1), an arrangement may provide for the exercise of powers by the ACT or by the person (as the case may be) on behalf of the Minister.

13 Authorised persons

Minister may appoint authorised persons

- (1) The Minister may, in writing, appoint:
- (a) a person; or
 - (b) a person holding, occupying, or performing the duties of, a specified office or position;
- as an authorised person for the purposes of paragraph 11(1)(a).

Note: Under section 12C of the *Seat of Government (Administration) Act 1910* the Minister may delegate all or any of the Minister's powers or functions under any Ordinance made under that Act.

Limitations on appointments

- (2) The Minister must not appoint a person under paragraph (1)(a) unless:
- (a) the person is an Australian citizen or a permanent resident of Australia; and

EXPOSURE DRAFT

Part 2 Application of ACT road transport laws to National Land

Section 13

- (b) the Minister is satisfied that the person is a suitable person to be appointed, having regard in particular to:
 - (i) whether the person has any criminal convictions; and
 - (ii) the person's employment record; and
 - (iii) whether the person has satisfactorily completed adequate training to exercise the powers of an authorised person that are proposed to be given to the person.
- (3) The Minister must not appoint a person under paragraph (1)(b) unless the Minister is satisfied that the office or position is sufficiently senior for the person to exercise the powers of an authorised person.

Spent convictions

- (4) To avoid doubt, nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914*.

Note: Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

Part 3—Miscellaneous

14 Rule-making power

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Ordinance to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) directly amend the text of this Ordinance.
- (3) Paragraph (2)(a) does not preclude a rule being made, for the purposes of subsection 8(1), that applies or modifies an ACT road transport law, including any offences and civil penalties created by that law.
- (4) The rules may, in applying or modifying any offences or civil penalties in an ACT road transport law, specify an amount of a penalty unit in such a law that is different from the amount specified in section 4AA of the *Crimes Act 1914*.
- (5) An amount of a penalty specified in a rule under subsection (4) applies in relation to an offence committed on or after the commencement of the rule.