**EXPLANATORY STATEMENT**

***Australian Capital Territory National Land (Road Transport) (Parking Legislation, Fees and Permits) 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 provides that the Minister may make rules that declare that a provision of the ACT road transport legislation applies to National Land with stated modifications.

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.

**Purpose and operation**

The*Australian Capital Territory National Land (Road Transport) (Parking Legislation, Fees and Permits) Rules 2021*(the Rule) declares sections of *the Road Transport (Safety and Traffic Management) Regulation 2017* (ACT) (‘STM Regulation’)and the *Road Transport (Road Rules) Regulation 2017* (ACT) (‘Road Rules Regulation’) to apply to National Land as paid parking legislation and paid parking support legislation.

By virtue of the operation of the Commonwealth paid parking scheme relying on the adoption of portions (sometimes modified) of the ACT road transport legislation, the NCA Chief Executive has the power to issue parking permits with or without charge for a permit zone or a metered parking area or ticket parking area including construction zone permits and national institution volunteer permits. This Rule is made to retain alignment of the Commonwealth paid parking scheme with the adopted ACT road transport legislation.

All of the powers assigned to the NCA Chief Executive by virtue of the Rule was previously assigned to the NCA Chief Executive by virtue of the Parking Fees Rule 2020, Parking Permit Rule 2020 and Parking Permit Rule 2014. The Rule repeals those three rules. The Rule does not alter the powers assigned to the NCA Chief Executive to issue permits, but aligns the references to the NCA’s Chief Executive powers to amended ACT road transport legislation underpinning those powers.

To achieve this, the Rule modifies:

* section 96 of the *Road Transport (General) Act 1999* (ACT) (‘General Act’) to make any determination made under this section by the Minister a legislative instruments within the meaning of the *Legislation Act 2003* (Cth); and
* section 64 of the STM Regulation to allow the NCA Chief Executive to issue parking permits with or without charge for a permit zone or a metered parking area or ticket parking area including construction zone permits and national institution volunteer permits.

The Rule is a Legislative Instrument for the purposes of the *Legislative Instruments Act 2003*.

The Rule commences on the day after it is registered on the Federal Register of Legislative Instruments.

**Impact and effect**

The Rule repeals the *Parking Fees Rule* 2020, *Parking Permit Fees Rule* 2020 and *Parking Permit Rule* 2014.

The Rule ensures any determination of fees made by the Minister are a legislative instruments within the meaning of the *Legislation Act 2003* (Cth) by modifying section 96 of the General Act.

**Basis for the Rule**

The Australian Government’s objective is to align, as far as practicable, with the ACT Government in respect to road transport and parking as well as to ensure accessibility to the National Cultural Institutions. The Ordinance allows for the Minister to make rules that declare that a provision of the ACT road transport legislation applies to National Land with stated modifications.

The Rule aims to ensure continued accessibility to the National Cultural Institutions by declaring sections of the STM Regulation and Road Rules Regulation and allows for the NCA Chief Executive to provide permits for use on National Land.

**Regulation Impact Statement**

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 central agencies, National Cultural Institutions, ACT Government and affected members of the community as part of the broader consultation process for the Ordinance in 2014. Public consultation is 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) (Parking Legislation, Fees and Permits) Rules 2021*.

**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 Ordinance.

**Section 4- Schedules**

This section provides that each instrument that is specified in Schedule 1 is amended or repealed as set out in the Schedule.

**Section 5- Definitions**

Defines expressions and terms used in the Rule.

**Section 6- ACT paid parking legislation**

This section declares the provisions listed from the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT) (‘STM Regulation’) and *Road Transport (Road Rules) Regulation 2017* (ACT) (‘Road Rules Regulation’) in the table to be ACT paid parking legislation within the meaning of paragraph (b) of the definition found in section 5 of the Ordinance.

**Section 7- ACT paid parking support legislation**

This section declares the provisions listed from the STM Regulation and Road Rules Regulation in the table to be ACT paid parking support legislation within the meaning of paragraph (b) of the definition found in section 5 of the Ordinance.

**Section 8- Modification in relation to fee determinations**

This section provides that subsection 96(3) of the *Road Transport (General) Act 1999* (ACT) is replaced to allow the determination to be a Legislative Instrument within the meaning of the *Legislation Act 2003* (Cth).

**Section 9- Modification in relation to parking permits**

This section provides that subsection 64(1) of the STM Regulation is replaced to allow the NCA Chief Executive to issue permits of the kind mentioned in subsection (2). These permits may be issued authorising a vehicle to park with or without charge in designated permit area or park on a length of road or in a metered parking area or ticket parking area determined by the road transport authority.

This section also modifies subsection 62(2) to insert subsections 62(2)(fa) and (fb) which allow the NCA Chief Executive to issue a construction zone permit and a national institution volunteer permit.

**Schedule 1- Repeals**

Schedule 1 repeals the *Parking Permit Rule 2014, Parking Permit Fees Rule 2020* and the *Pay Parking Fee Rule 2020.*

**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 Legislation, Fees and Permits) Rules 2021***

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 purpose of the Rule is to declare sections of the STM Regulation and Road Rules Regulation as ACT paid parking legislation and paid parking support legislation under section 5 of the Ordinance.

By virtue of the operation of the Commonwealth paid parking scheme relying on the adoption of portions (sometimes modified) of the ACT road transport legislation, the NCA Chief Executive has the power to provide parking permits with or without charge.

The Rule does not alter the powers assigned to the NCA Chief Executive to issue permits, but aligns the references to the NCA’s Chief Executive powers to amended ACT road transport legislation underpinning those powers.

The modifications also include two additional permits that only the NCA Chief Executive may provide, a construction zone permit and a national institution volunteer permit.

Both of these permits align with the purpose of the *National Land (Road Transport) Ordinance 2014* (Cth) and were previously available under the *Parking Permit Rule 2014*.

The Rule also modifies section 96 of the General Act to ensure that any determination of fees by the Minister are legislative instruments within the meaning of the *Legislation Act 2003* (Cth).

**Human rights implications**

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

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.