

Explanatory Statement

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

Australian Capital Territory National Land (Road Transport) Ordinance 2025

Australian Capital Territory National Land (Road Transport) Rules 2025

Australian Capital Territory National Land (Road Transport) (Parking Fees) Determination 2025

Authority

The *Australian Capital Territory National Land (Road Transport) (Parking Fees) Determination 2025* (Determination) is made under subsection 96(1) of the *Road Transport (General) Act 1999* (ACT)(Cth), as that provision is applied to National Land by the *Australian Capital Territory National Land (Road Transport) Ordinance 2025* (Ordinance) and the *Australian Capital Territory National Land (Road Transport) Rules 2025* (Rules).

The Ordinance provides, under section 8, for the Rules to apply laws of the Australian Capital Territory (ACT) relating to road transport or parking to National Land. The relevant laws of the ACT, and the areas of National Land to which they apply, are specified in Division 1 of Part 2 of the Rules. Modifications of those laws in their operation on National Land (if any) are specified in Division 2 of Part 2 of the Rules.

Purpose

The purpose of the Determination is to determine the fees payable for parking and parking permits in a ticket parking area that forms part of a ticket parking scheme established by the Minister (or their delegate) under section 35 of the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT)(Cth).

The Determination remakes the *Australian Capital Territory National Land (Road Transport) (Parking Fees) Determination 2024* and the *Australian Capital Territory National Land (Road Transport) (Parking Permit Fees) Determination 2024*, instruments that were made under the *National Land (Road Transport) Ordinance 2014* (2014 Ordinance), which provided the previous legislative framework for the management of pay parking on National Land. That Ordinance was due to sunset on 1 April 2026, in accordance with the *Legislation (Deferral of Sunsetting—National Land (Road Transport) Ordinance) Certificate 2024*, and was remade by the Ordinance and the Rules to create the current legislative framework, which this Determination forms part of.

The fee amounts set in this Determination are determined with reference to the fee amounts set in ACT road transport law. The Australian Government's objective is to align, as far as practicable, with the ACT Government in respect of road transport and parking, to ensure that parking rules are as consistent across the ACT as possible. The Determination will support that objective by ensuring that fees for parking and parking permits on National Land are consistent with fees for parking under ticket parking schemes operated by the ACT Government in the rest of the ACT.

Background

The Ordinance and Rules establish a legislative framework for the management of pay parking on National Land by enabling the application, with or without modification, of laws of the ACT relating to road transport and parking to National Land.

National Land is defined by section 27 of the *Australian Capital Territory (Planning and Land Management) Act 1988*. National Land is land within the ACT that the Commonwealth continues to manage following the establishment of ACT self-government. The National Capital Authority (NCA) is established by that Act and one of its functions is, with the approval of the Minister administering Part II of that Act, on behalf of the Commonwealth, to manage National Land designated as land required for the special purposes of Canberra as the National Capital (see section 5 and paragraph 6(1)(g) of that Act) (also referred to as the National Capital Estate).

Pay parking was introduced to the National Capital Estate in 2014 and applies to around 9,000 car parks on National Land in Parkes, Barton, Acton, and the Russell precinct. Prior to its introduction, an Intergovernmental Committee on Parking was established in 2009 and public consultation commenced in 2010. The Intergovernmental Committee on Parking explored the issues surrounding parking management in central Canberra, including parking supply and demand. The work of the Intergovernmental Committee revealed that, while planning policies used to guide development of the National Capital Estate provided enough car parking spaces to meet commuter demand, restrictions on access to the available parking resulted in an undersupply of publicly available car parks. Consequently, pay parking was introduced as a parking management practice.

The issues impacting access to available parking spaces revealed by the Intergovernmental Committee on Parking still exist today and therefore pay parking on National Land is maintained as a parking management practice.

Subsection 8(1) of the Ordinance provides that the Rules may apply to National Land, or to a specified area of National Land, specified ACT road transport laws, with or without modification, including any offences created by those laws and any provisions of those a contravention of which is punishable by a pecuniary penalty (however described). Applied ACT road transport laws apply to National Land, or to specified areas of National Land, as laws of the Commonwealth (see subsection 10(1) of the Ordinance); however, applied ACT road transport laws (with or without modifications) are to be interpreted in the same way as the laws of the ACT (see section 6 of the Ordinance).

The specified ACT road transport laws are applied to National Land at the time specified in the Rules, which, at the time the Rules were first made, was when the Rules commenced on 1 April 2025 (see subsection 6(2) of the Rules). The relevant point in time versions of the ACT road transport laws that have been applied by the Rules to National Land are available on the ACT Legislation Register (www.legislation.act.gov.au).

Summary of the Determination

The Determination sets out preliminary provisions in sections 1 to 4, including commencement and definitions. Section 5 determines the fees payable for the use of a ticket

parking space in a ticket parking area. Section 6 determines the fees payable for a parking permit for a ticket parking area issued by the Minister (or their delegate) under paragraph 64(1)(b) of the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT)(Cth). Section 7 determines the fees payable for a parking permit for an open area issued by the Minister (or their delegate) under paragraph 64(1)(c) of the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT)(Cth).

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003* (in accordance with the modification to subsection 96(3) of the *Road Transport (General) Act 1999* (ACT)(Cth) in section 17 of the Rules). The Determination is subject to sunseting and disallowance under the *Legislation Act 2003*.

The Determination commences immediately after the commencement of the Rules, which in turn commence immediately after the Ordinance. The Ordinance commences on 1 April 2025.

Details of the Guidelines are set out in Attachment A.

Consultation

Although no direct consultation occurred on the Determination, the Minister is satisfied that consultation was undertaken in relation to the broader legislative package to the extent appropriate and reasonably practicable in accordance with section 17 of the *Legislation Act 2003*. Consultation that occurred previously in relation to the pay parking legislative framework is also considered to be relevant for the making of this Determination.

The Determination is part of the legislative framework that provides for the management of pay parking on National Land, through the repeal of the 2014 Ordinance and the making of the new Ordinance and Rules. The Determination remakes other fee determinations that were previously made under the 2014 Ordinance.

Consultation on pay parking on National Land was undertaken in 2010, following the establishment of the Intergovernmental Committee on Parking in 2009. This consultation informed the making of the 2014 Ordinance and included consultation with the relevant ACT Government agencies as well as affected members of the community. Consultation on the continued appropriateness of the Commonwealth fee amounts occurred with central agencies as part of the 2018-19 budget process.

The fee amounts set by the Commonwealth, under this Determination and previous determinations, are determined with reference to the range of fee amounts charged by the ACT in their ticket parking areas on Territory Land. This is to ensure, as much as possible, fee amounts are within a similar range, regardless of whether a road user parks on National Land or Territory Land.

The NCA published a notice on its website on 5 December 2024, providing a draft copy of the Ordinance and Rules and accompanying explanatory statements, as well as setting out details of the proposed Ordinance and Rules. The Rules include the application and

modification of the provision of ACT road transport law, as a law of the Commonwealth on National Land, that allows for the Minister to determine fee amounts under the applied ACT road transport legislation. These provisions of the Rules are explained in its accompanying explanatory statement.

Over the five-week consultation period, the public was invited to make submissions on the Ordinance and Rules, including the provisions relating to the determination of fees by the Minister, to the NCA by close of business 10 January 2025. The NCA did not receive any submissions in response to the consultation notice.

Impact analysis

The Office of Impact Analysis (OIA) advised that detailed analysis is not required (OIA reference number OIA24-08526).

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 *Australian Capital Territory National Land (Road Transport) (Parking Fees) Determination 2025*

Section 1 – Name

This section provides that the name of the instrument is the *Australian Capital Territory National Land (Road Transport) (Parking Fees) Determination 2025* (Determination).

Section 2 – Commencement

This section provides for the Determination to commence immediately after the commencement of the *Australian Capital Territory National Land (Road Transport) Rules 2025* (Rules). The note to this section explains that the Rules commence immediately after the *Australian Capital Territory National Land (Road Transport) Ordinance 2025* (Ordinance), which commences on 1 April 2025.

Section 3 – Authority

This section provides that the Determination is made under subsection 96(1) of the *Road Transport (General) Act 1999* (ACT)(Cth), as applied by the Ordinance and the Rules.

Section 4 – Definitions

The explanatory note to this section provides a non-exhaustive list of expressions used in the Determination that are defined in the Ordinance and the Rules to aid reading the Determination, including ‘NCA’ and ‘Ordinance’.

The term ‘multi-stay parking area’ is defined as meaning a ticket parking area where all-day parking is permitted by the signs applying to the area.

The term ‘Rules’ is defined as meaning the *Australian Capital Territory National Land (Road Transport) Rules 2025*.

The term ‘short-stay parking area’ is defined as meaning any ticket parking area other than a multi-stay parking area.

The term ‘third-party parking service provider’ is defined as meaning a person with whom the Minister (or their delegate) has entered into an arrangement under section 12 of the Ordinance.

Section 5 – Parking fees

This section determines the fees payable for parking in a parking space in a ticket parking area that forms part of a ticket parking scheme established by the Minister (or their delegate).

Subsection (1) provides that the whole of this section determines the fee payable for parking in a ticket parking space in a ticket parking area that forms part of a ticket parking scheme established by the Minister (or their delegate).

Subsection (2) determines fees by reference to both the type of ticket parking area and the time period for which the parking fee is payable, and presents those fees in a table.

Subsection (3) provides that the parking fee payable for parking up to and including 4 hours in either a short-stay parking area or multi-stay parking area for a portion of an hour is the pro rata equivalent of that portion of that hour. For example, a person parking in a short-stay parking area for 2 hours and 30 minutes would pay \$4.00 for the first hour, another \$4.00 for the second hour, and another \$2.00 for the first 30 minutes of the third hour (being 50% of the fee payable for the third hour), for a total parking fee payable of \$10.00.

Subsection (4) provides that the responsible party for paying a fee determined in this section is the person using the ticket parking space and that the fee is payable to the Commonwealth. Money received by the Commonwealth forms part of the Consolidated Revenue Fund.

Subsection (5) provides that the fee may be collected by a third-party parking service provider on behalf of the Commonwealth. Although the fee amount is collected by the third-party parking service provider, that is only on behalf of the Commonwealth. The fee is still payable to the Commonwealth, in accordance with subsection (4), and money received by the Commonwealth forms part of the Consolidated Revenue Fund.

Section 6 – Parking permit fees – ticket parking area

This section determines the fees payable for a parking permit for a ticket parking area issued by the Minister (or their delegate) under paragraph 64(1)(b) of the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT)(Cth).

Subsection (1) provides that the whole of the section determines the fee payable for a parking permit for a ticket parking area issued by the Minister (or their delegate) under paragraph 64(1)(b) of the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT)(Cth).

Subsection (2) determines fees by reference to the type of parking permit for a ticket parking area issued by the Minister (or their delegate). This subsection determines that the fee for each type of parking permit for a ticket parking area is payable per ticket parking space per business day. This subsection lists only those kinds of parking permits for ticket parking areas that currently attract fees.

Subsection (3) provides that the responsible party for paying a fee determined in this section is the applicant for the parking permit for a ticket parking area and that the fee is payable to the Commonwealth. Money received by the Commonwealth forms part of the Consolidated Revenue Fund.

Section 7 – Parking permit fees – open area

This section determines the fees payable for a parking permit for an open area accessible to the public issued by the Minister (or their delegate) under paragraph 64(1)(c) of the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT)(Cth). An open area accessible to the public, as defined in subsection 197(3) of the *Road Transport (Road Rules) Regulation 2017* (ACT)(Cth), includes any grassed, mulched, gravelled, tiled, paved, landscaped or partially landscaped area on National Land that is accessible to the public.

Subsection (1) provides that the whole of the section determines the fee payable for a parking permit for an open area accessible to the public issued by the Minister (or their delegate) under paragraph 64(1)(c) of the *Road Transport (Safety and Traffic Management) Regulation 2017* (ACT)(Cth).

Subsection (2) determines fees by reference to the type of parking permit for an open area accessible to the public issued by the Minister (or their delegate). This subsection determines that the fee for each type of parking permit for an open area accessible to the public is payable per vehicle per business day. This subsection lists only those kinds of parking permit for an open area accessible to the public that currently attract fees.

Subsection (3) provides that the responsible party for paying a fee determined in this section is the applicant for the parking permit for an open area accessible to the public and that the fee is payable to the Commonwealth. Money received by the Commonwealth forms part of the Consolidated Revenue Fund.

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 Fees) Determination 2025

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

The *Australian Capital Territory National Land (Road Transport) (Parking Fees) Determination 2025* (Determination) is made under subsection 96(1) of the *Road Transport (General) Act 1999* (ACT)(Cth), as that provision is applied to National Land by the *Australian Capital Territory National Land (Road Transport) Ordinance 2025* (Ordinance) and the *Australian Capital Territory National Land (Road Transport) Rules 2025* (Rules).

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Human rights implications

The Determination does not engage any of the applicable rights or freedoms.

Conclusion

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