

Land Transport Rule

Traffic Control Devices Amendment 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 27th day of July 2020

Present:

The Right Hon Jacinda Ardern presiding in Council

Pursuant to sections 152, 152A, and 157 of the Land Transport Act 1998, Her Excellency the Governor-General makes the following ordinary rule, acting—

- (a) on the advice and consent of the Executive Council; and
- (b) on the recommendation of the Minister of Transport, after having regard to the criteria specified in section 164(2) of that Act.

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Section 1 Preliminary provisions

1.1 Title

This Rule is *Land Transport Rule: Traffic Control Devices Amendment 2020*.

1.2 Commencement

This Rule comes into force on 30 August 2020.

1.3 Principal Rule amended

This Rule amends *Land Transport Rule: Traffic Control Devices 2004*.

1.4 Objective of Rule

The objective of this Rule is to allow for the lawful installation on a roadway of markings that are not traffic control devices in particular circumstances.

Section 2 Amendments to principal Rule

2.1 Clause 1.5 amended (Application of rule provisions)

2.1(1) In clause 1.5, before “If there is a conflict”, insert “1.5(1)”.

2.1(2) After clause 1.5(1), insert:

1.5(2) If there is a conflict between a provision of this Rule and an example included in this Rule, the provision of this Rule applies.

2.2 Clause 5.1 amended (Purposes of markings)

2.2(1) In clause 5.1, after “A marking”, insert “(other than roadway art installed in accordance with 5.6(1))”.

2.3 Clause 5.2 amended (Provision of markings)

2.3(1) In clause 5.2(2), after “When providing markings for any of the purposes in 5.1”, insert “or when installing roadway art in accordance with 5.6(1)”.

2.4 Clause 5.3 amended (Method of marking)

2.4(1) In clause 5.3(a), before “paint, material”, insert “for any marking:”.

- 2.4(2) In clause 5.3(b):
- (a) delete “and that may supplement, but not replace, a regulatory marking or sign”; and
 - (b) before “contrasting” insert “for a marking that may supplement, but not replace, a regulatory marking or sign, or for roadway art installed in accordance with 5.6(1)”.

2.5 Clause 5.5 amended (Markings intended for advertising purposes or not connected with use of road)

- 2.5(1) In the heading to clause 5.5, after “for advertising purposes”, insert “or not connected with use of a road”.
- 2.5(2) In clause 5.5, after “the use of the road”, insert “unless it is roadway art installed in accordance with 5.6(1)”.

2.6 New clauses 5.6 to 5.9 inserted

After clause 5.5, insert:

5.6 Requirements for roadway art

5.6(1) Despite anything in 5.4, a road controlling authority may install any marking on a roadway (**roadway art**) if the roadway art:

- (a) is installed in a lower risk environment; and
- (b) does not resemble and is not similar to a marking described in this Rule; and
- (c) does not mislead road users about the meaning of any traffic control device; and
- (d) is not part of or visually integrated into a marking specified in *Schedule 2*.

5.6(2) In this Rule, **lower risk environment** means an area—

- (a) where the road controlling authority manages speeds, through the use of any combination of traffic control devices, roadside developments, roadway art and other changes in the road environment, with the aim to achieve an outcome where the operating speed of vehicles (except in emergency situations) is not more than 30km/h (whether or not the speed limit for the area is 30km/h); and
- (b) in relation to which it is reasonable for the road controlling authority to believe that outcome has been or will be achieved.

Example 1:

On a wide urban street with a 50km/h speed limit and that has a wide-angle intersection with another street, a road controlling authority has narrowed the roadway by installing planter boxes and removing car parks. It also paints an assortment of coloured circles on the roadway. The shapes do not resemble and are not similar to any markings described in this Rule, and are also not part of or visually integrated into any markings specified in *Schedule 2*.

Those measures will achieve an outcome where the operating speed of vehicles (except in emergency situations) is not more than 30km/h. The relevant area is a lower risk environment.

These painted circles are roadway art installed in accordance with *5.6(1)*.

Example 2:

A series of long rectangles are painted on the road, parallel to the kerb and perpendicular to oncoming vehicle traffic. These either resemble or are similar to markings for a pedestrian crossing, which are described in this Rule (see M1-1 in *Schedule 2*), so cannot be installed as roadway art under *5.6(1)*.

Example 3:

On a wide urban street that has a wide-angle intersection with another street, a road controlling authority has installed a sign advising to slow for pedestrians, with the aim of achieving an outcome where the operating speed of vehicles (except in emergency situations) is not more than 30km/h. However, it can be regularly observed that vehicles travel through the area at more than 30km/h. It is not reasonable to believe the outcome has been or will be achieved if nothing more is done. The relevant area is not a lower risk environment. Accordingly, roadway art cannot be installed in the area.

5.7**Powers of Agency over markings**

5.7(1)

The Agency may, by notice in writing, require a road controlling authority to remove any marking from a roadway if one or more of the following applies:

- (a) the marking is a traffic control device, or the road controlling authority or the Agency considers the marking is a traffic control device, and the Agency considers on

reasonable grounds that the marking does not comply with *Section 3*, clause 5.3, or clause 5.4:

- (b) the marking is roadway art for the purposes of 5.6(1), or the road controlling authority or the Agency considers the marking is roadway art for the purposes of 5.6(1), and the Agency considers on reasonable grounds that the marking does not comply with 5.3 or has not been installed in accordance with 5.6(1):
- (c) the Agency considers on reasonable grounds that the marking has been installed in breach of 5.5.

5.7(2) A notice in 5.7(1) must:

- (a) specify the marking or markings to be removed; and
- (b) include the grounds on which the Agency requires the marking to be removed; and
- (c) include a deadline for removal, which must be no earlier than 5 working days after the date the notice is given.

5.7(3) A road controlling authority that is given a notice under 5.7(1) must remove the marking or markings stated in the notice before the deadline stated in the notice.

5.7(4) If after the deadline stated in the notice the marking or markings have not been fully removed, the Agency may:

- (a) remove the marking or markings; and
- (b) install markings that are traffic control devices that comply with this Rule.

5.7(5) Without limiting the Agency's powers under this clause, the Agency can also exercise its powers under 3.2(3) or 13.8(1) in respect of a marking that is roadway art for the purposes of 5.6(1) as if the marking were a traffic control device for the purposes of 3.2(3) or 13.8(1).

5.8 Powers of Agency over lower risk environments

5.8(1) This clause applies to a marking that is roadway art for the purposes of 5.6(1), or that the road controlling authority or the Agency considers is roadway art for the purposes of 5.6(1) (**the relevant marking**).

5.8(2) If the Agency considers on reasonable grounds that the roadway on which the relevant marking has been installed is not a lower risk environment, the Agency may, by notice in writing, require a road controlling authority to install or remove traffic control

	devices or roadside developments or make other changes in the road environment (take action), with the aim of making the roadway a lower risk environment.
5.8(3)	A notice in 5.8(2) must: <ul style="list-style-type: none"> (a) specify the action to be taken, including by specifying the outcome to be achieved from the action (for example, a roadway of a certain maximum width); and (b) include the grounds on which the Agency requires that action to be taken; and (c) include a deadline for that action to be taken, which must be no earlier than 5 working days after the date the notice is given.
5.8(4)	A road controlling authority that is given a notice under 5.8(2) must take the action stated in the notice before the deadline stated in the notice.
5.8(5)	If after the deadline stated in the notice the action has not been fully taken, the Agency may take the action or remaining action.
5.8(6)	The Agency may issue a notice under this clause whether or not the Agency also issues a notice under 5.7(1) in respect of the relevant marking or exercise its powers under 3.2(3) or 13.8(1) in respect of the relevant marking.
5.9	Road controlling authority may appeal a notice from Agency
5.9(1)	A road controlling authority that receives a notice under 5.7(1) or a notice under 5.8(2) may appeal against that decision under section 106 of the Act.
2.7	Clause 13.1 amended (Responsibilities of road controlling authorities)
2.7(1)	In clause 13.1(1), after “a traffic control device”, insert “or roadway art installed in accordance with 5.6(1)”.
2.8	Clause 13.7 amended (Responsibilities of all persons)
2.8(1)	In clause 13.7(a), after “a traffic control device”, insert “or roadway art installed in accordance with 5.6(1)”.
2.9	Clause 13.8 amended (Functions and powers of the Agency)
2.9(1)	After clause 13.8(4), insert:
13.8(4A)	The Agency may, in accordance with 5.7 and 5.8, exercise powers in relation to a marking that is roadway art for the

purposes of 5.6(1), or that the road controlling authority or the Agency considers is roadway art for the purposes of 5.6(1).

2.10 Part 2 amended (Definitions)

2.10(1) In Part 2, insert in the appropriate alphabetical order:

Lower risk environment has the meaning given by 5.6(2)

2.10(2) In Part 2, replace the definition of **Traffic control device** with:

Traffic control device

- (a) means a device used on a road for the purpose of traffic control; and
- (b) includes any:
 - (i) sign, signal, or notice; or
 - (ii) traffic calming device; or
 - (iii) marking or road surface treatment; but
- (c) does not include roadway art installed in accordance with 5.6(1).

Michael Webster,
Clerk of the Executive Council.