



Queensland

Transport Legislation Amendment Regulation (No. 2) 2009

Subordinate Legislation 2009 No. 248

made under the

Tow Truck Act 1973

Transport Operations (Road Use Management) Act 1995

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Transport Legislation Amendment Regulation (No. 2) 2009*.

2 Commencement

This regulation commences on 30 November 2009.

Part 2 Amendment of Tow Truck Regulation 2009

3 Regulation amended

This part amends the *Tow Truck Regulation 2009*.

4 Insertion of new s 15A

After section 15—

insert—

‘15A Holder of approval to give notice of particular events

‘The holder of an approval must give the chief executive signed notice of any of the following events within 14 days after the event happens—

- (a) the holder, or if the holder is a corporation, an executive officer of the holder is—
 - (i) convicted of a disqualifying offence; or
 - (ii) charged with a disqualifying offence and the charge has not been finally disposed of; or
 - (iii) convicted of an offence against the Act;

[s 5]

(b) if the holder is a corporation—a new executive officer of the holder is appointed.

Maximum penalty—20 penalty units.’.

5 Amendment of s 44 (Refund of additional application fee)

Section 44(1)(a) and (b), from ‘notify’ to ‘of’—

omit, insert—

‘ask the commissioner for a written report about a person’s criminal history under section 36(1) of’.

6 Amendment of sch 2 (Fees)

Schedule 2, item 1(b)(ii)—

omit, insert—

‘(ii) if the applicant is a corporation—for each executive officer of the corporation 33.05’.

Part 3 Amendment of Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005

7 Regulation amended

This part amends the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005*.

8 Amendment of s 71 (Suitability for registration)

(1) Section 71(2)(b) and (c)—

renumber as section 71(2)(c) and (d).

(2) Section 71(2)—

insert—

‘(b) any nominated person for the applicant has been—

(i) convicted of a disqualifying offence; or

(ii) convicted of an offence against the Act, or a corresponding law, within 5 years immediately before the application was made; or’.

9 Amendment of s 86 (Registered service provider may give competency declarations)

(1) Section 86(2)(b)—

omit, insert—

‘(b) if the provider is a corporation—an officer or employee of the provider who is a nominated person.’.

(2) Section 86(3)—

omit, insert—

‘(3) A competency declaration given by a provider who is an individual or an entity other than a corporation may be signed for the provider by a nominated person.

‘(4) Also, a competency declaration has no effect if it is signed for the provider by a nominated person whose authority to sign a competency declaration is cancelled, suspended or surrendered under section 86A(2).

‘(5) In this section—

nominated person means a person who—

(a) is an accredited rider trainer; and

[s 10]

- (b) has been nominated by notice signed by the provider and given to the chief executive; and
- (c) has agreed to the nomination.’.

10 Insertion of new s 86A

After section 86—

insert—

‘86A Restriction on signing competency declaration

- ‘(1) This section applies if—
 - (a) a person is a nominated person; and
 - (b) the person’s rider trainer accreditation is suspended, cancelled or surrendered.
- ‘(2) The person’s authority to sign a competency declaration under section 86 is—
 - (a) if the accreditation is suspended—automatically suspended when the accreditation is suspended and remains suspended while the accreditation is suspended; or
 - (b) if the accreditation is cancelled—automatically cancelled when the accreditation is cancelled; or
 - (c) if the accreditation is surrendered—automatically surrendered when the accreditation is surrendered.’.

11 Amendment of s 115 (Refund of particular fees)

Section 115(3)—

omit, insert—

- ‘(3) If the application is for appointment as an accredited person who is an approved person, the application fee paid under schedule 8 must be refunded to the applicant.
- ‘(4) If the application is for registration as a registered service provider and the applicant is—

- (a) 1 or more individuals; or
 - (b) a corporation;
- the application fee paid under schedule 8 for each individual or executive officer must be refunded to the applicant.’.

12 Insertion of new pt 7, div 3

After section 123—

insert—

‘Division 3 Transitional provision for Transport Legislation Amendment Regulation (No. 2) 2009

‘124 Existing nominated officer or person signing competency declaration

- ‘(1) This section applies to a person who, immediately before the commencement of this section—
 - (a) was a nominated officer under section 86(2)(b), as in force at that time; or
 - (b) was a person nominated by a registered service provider to sign a competency declaration for the provider under section 86(3), as in force at that time.
- ‘(2) Despite section 86(2)(b) and (3)—
 - (a) if the person is an accredited rider trainer, the person may, subject to section 86A, sign a competency declaration under section 86 as if the person was a nominated person; or
 - (b) if the person is not an accredited rider trainer, the person may sign a competency declaration under section 86 during the period of 6 months after the commencement of this section as if the person was a nominated person.’.

13 Amendment of sch 5 (Statutory registration conditions for registered service providers)

- (1) Schedule 5, section 9(b)—

omit, insert—

‘(b) the provider changes its nominated person or the provider’s nominated person changes the person’s name;’.

- (2) Schedule 5, section 9(c)—

omit.

- (3) Schedule 5, section 9(d)—

renumber as paragraph (c).

- (4) Schedule 5, section 9—

insert—

‘(d) if the provider is a corporation—if a new executive officer of the provider is appointed.’.

- (5) Schedule 5—

insert—

‘10 Giving competency declarations

- ‘(1) The provider must, when giving a competency declaration that is signed for the provider by a person mentioned in subsection (2), ensure that—

- (a) the person is a nominated person; and
- (b) the person’s authority to sign a competency declaration has not been cancelled or surrendered, or is not suspended, under section 86A(2).

- ‘(2) For subsection (1), the person is—

- (a) if the provider is a corporation—an officer or employee of the provider; or
- (b) if the provider is an individual or an entity other than a corporation—a person other than the provider.’.

14 Amendment of sch 8 (Fees)

Schedule 8, item 4(b)—

omit, insert—

‘(b) if the applicant is a corporation—for each executive officer of the corporation 33.05’.

15 Amendment of sch 9 (Dictionary)

(1) Schedule 9, definition *nominated officer—*

omit.

(2) Schedule 9—

insert—

‘*nominated person* see section 86.’.

Part 4 Amendment of Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 1999

16 Regulation amended in pt 4 and schedule

This part and the schedule amend the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 1999*.

17 Amendment of s 26 (Nominees)

(1) Section 26(5) and (6)—

omit, insert—

- ‘(6) If—
- (a) the holder of an AIS approval is required to have a nominee; and
 - (b) the person approved to be the nominee under this section stops being the nominee;
- the AIS approval is suspended until another person is approved under this section to be the nominee.’.
- (2) Section 26(3) and (4)—
renumber as section 26(4) and (5).
- (3) Section 26(2)—
omit, insert—
- ‘(2) An individual may apply to the chief executive for approval of the individual as the nominee for the holder of an AIS approval.
- ‘(3) The application must be—
- (a) in the approved form; and
 - (b) endorsed by the holder of the AIS approval.’.

18 Insertion of new s 26A

After section 26—

insert—

‘26A Nominee is required to notify chief executive of particular events

‘A nominee approved under section 26 must give the chief executive signed notice of any of the following events within 14 days after the event happens—

- (a) the nominee is convicted of a disqualifying offence; or
- (b) the nominee is convicted of an offence against the Act or a corresponding law.

Maximum penalty—30 penalty units.’.

19 Amendment of s 37 (Prescribed approvals—Act, ss 17B and 18(c)(ii))

- (1) Section 37, heading, ‘18(c)(ii)’—
omit, insert—
‘**18(1)(c)(ii)**’.
- (2) Section 37(1), from ‘if’ to ‘holder’—
omit, insert—
‘, other than an approval of a nominee under section 26, if the applicant or holder, or if the applicant or holder is a corporation, an executive officer of the applicant or holder,’.
- (3) Section 37(1)(a), ‘this Act’—
omit, insert—
‘the Act’.
- (4) Section 37(2), ‘18(c)(ii)’—
omit, insert—
‘18(1)(c)(ii)’.
- (5) Section 37(2)—
renumber as section 37(5).
- (6) Section 37—
insert—
 - ‘(2) The chief executive may refuse to grant an AIS approval if the individual proposed for approval, under section 26, as the nominee of the applicant for the AIS approval has been—
 - (a) convicted of an offence against the Act or a corresponding law; or
 - (b) convicted of a disqualifying offence.
 - ‘(3) The chief executive may refuse to renew an AIS approval if the nominee approved under section 26 for the holder of the AIS approval has been—

- (a) convicted of an offence against the Act or a corresponding law; or
 - (b) convicted of a disqualifying offence.
- ‘(4) The chief executive may refuse to grant an approval under section 26 if the applicant has been—
- (a) convicted of an offence against the Act or a corresponding law; or
 - (b) convicted of a disqualifying offence.’.

20 Replacement of s 44A (Waiver of additional application fee)

Section 44A—

omit, insert—

‘44A Waiver of particular fees

‘The chief executive may waive the payment of the following for a person—

- (a) an additional application fee payable under schedule 3, item 11(a)(ii) or 11(b)(ii);
- (b) an application fee payable under schedule 3, item 12A.’.

21 Amendment of s 44B (Refund of additional application fee for AIS approval)

- (1) Section 44B, heading—

omit, insert—

‘44B Refund of particular fees for AIS approval or approval as nominee’.

- (2) Section 44B(1)(a)—

omit, insert—

- ‘(a) a person makes an application—
- (i) for an AIS approval; or

- (ii) for approval, under section 26, as the nominee for an AIS approval holder; and’.
- (3) Section 44B(2)—
omit, insert—
- ‘(2) The following fees must be refunded to the applicant—
- (a) if subsection (1)(a)(i) applies and the applicant is 1 or more individuals—the additional application fee paid for the application under schedule 3, item 11(a)(ii);
 - (b) if subsection (1)(a)(ii) applies—the application fee paid under schedule 3, item 12A for the application.
- ‘(3) If the application is for an AIS approval and is made by a corporation, the additional application fee paid under schedule 3, item 11(b)(ii) for the application must be refunded to the applicant.’.

22 Insertion of new ss 48A and 48B

After section 48—

insert—

‘48A Existing nominees for holders of AIS approvals

‘A person who, immediately before the commencement of this section, was under section 26 as in force at that time, appointed as the nominee for the holder of an AIS approval is taken to be the approved nominee for the holder under section 26.

‘48B Application for appointment of nominee

- ‘(1) This section applies if—
- (a) the holder of an AIS approval applied to the chief executive under old section 26 for the appointment of an individual as the holder’s nominee; and
 - (b) the application has not been decided.

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- ‘(2) The chief executive must decide the application as if old section 26 was still in force.
- ‘(3) If the chief executive approves the individual to be the holder’s nominee, the individual is taken to be the approved nominee for the holder under section 26.
- ‘(4) In this section—
old section 26 means section 26 as in force immediately before the commencement of this section.’

23 Insertion of new s 50

Chapter 6, after section 49—

insert—

‘50 Meaning of *nominee* for Act, s 17C

‘For section 17C of the Act, *nominee*, for an AIS approval, means nominee approved under section 26.’

24 Amendment of sch 3 (Fees)

(1) Schedule 3—

insert—

‘12A Application for appointment as the nominee for an AIS approval holder 33.05’.

(2) Schedule 3, item 11(b)(ii)—

omit, insert—

‘(ii) additional application fee—for each executive officer of the corporation 33.05’.

25 Amendment of sch 3A (Statutory conditions of AIS approval)

Schedule 3A—

insert—

- ‘7 The holder must give the chief executive signed notice of any of the following events within 14 days after the event happens—
- (a) the holder, or if the holder is a corporation, an executive officer of the holder is—
 - (i) convicted of a disqualifying offence; or
 - (ii) charged with a disqualifying offence and the charge has not been finally disposed of; or
 - (iii) convicted of an offence against the Act, or a corresponding law;
 - (b) if the holder is a corporation—a new executive officer of the holder is appointed.’.

Schedule **Minor amendments of
Transport Operations (Road
Use Management—Vehicle
Standards and Safety)
Regulation 1999**

section 16

- 1** **Section 20(3)(d) and (e)—**
renumber as section 20(3)(c) and (d).
- 2** **Section 44(5), ‘the’, second mention—**
omit, insert—
‘this’.
- 3** **Schedule 1, section 136(2)—**
omit, insert—
‘(2) In this section—
commission means the National Transport Commission
established by the *National Transport Commission Act 2003*
(Cwlth).’.
- 4** **Schedule 1, section 135(6)(a) and (b), ‘centre line’—**
omit, insert—
‘centre-line’.
- 5** **Schedule 1, section 154(4), definition *tow coupling*
overhang, ‘centre line’—**
omit, insert—
‘centre-line’.

6 Schedule 4, definition *axle group*—

omit, insert—

‘*axle group* means a single axle, tandem axle, twinsteer axle, tri-axle, or quad-axle group.’.

7 Schedule 4, definition *centre line*—

omit, insert—

‘*centre-line* of an axle group means—

- (a) if the group consists of 2 axles, 1 of which is fitted with twice the number of tyres as the other axle—a line located one-third of the way from the centre-line of the axle with more tyres towards the centre-line of the axle with fewer tyres; and
- (b) in any other case—a line located midway between the centre-lines of the outermost axles of the group.’.

8 Schedule 4, definition *quad axle group*—

omit, insert—

‘*quad-axle group* means a group of 4 axles in which the horizontal distance between the centre-lines of the outermost axles is over 3.2m, but not over 4.9m.’.

9 Schedule 4, definitions *single axle group, tandem axle group and twinsteer axle group, ‘centre lines’*—

omit, insert—

‘centre-lines’.

10 Schedule 4, definition *tri axle group*—

omit, insert—

‘*tri-axle group* means a group of at least 3 axles in which the horizontal distance between the centre-lines of the outermost axles is over 2m, but not over 3.2m.’.

ENDNOTES

- 1 Made by the Governor in Council on 5 November 2009.
- 2 Notified in the gazette on 6 November 2009.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Transport and Main Roads.

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