

# Transport and Other Legislation Amendment Regulation (No. 2) 2014

Explanatory notes for SL 2014 No. 161

made under the

*Adult Proof of Age Card Act 2008*  
*State Penalties Enforcement Act 1999*  
*Tow Truck Act 1973*  
*Transport Operations (Marine Safety) Act 1994*  
*Transport Operations (Passenger Transport) Act 1994*  
*Transport Operations (Road Use Management) Act 1995*

## General Outline

### Short title

*Transport and Other Legislation Amendment Regulation (No. 2) 2014.*

### Authorising laws

Section 49 of the *Adult Proof of Age Card Act 2008*.  
Section 165 of the *State Penalties Enforcement Act 1999*.  
Section 43 of the *Tow Truck Act 1973*.  
Section 207 of the *Transport Operations (Marine Safety) Act 1994*.  
Section 155 of the *Transport Operations (Passenger Transport) Act 1994*.  
Section 171 of the *Transport Operations (Road Use Management) Act 1995*.

### Policy objectives and the reasons for them

The primary policy objective of the amendment regulation is to reduce red tape and the regulatory burden imposed on the community by transport legislation. Amendments will remove or relax requirements where appropriate and will reduce administrative processes currently imposed in legislation.

The regulation will also make a number of changes to enhance the operation of existing legislative provisions.

### Achievement of policy objectives

*Red tape reduction measures*

Amendments to the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* will:

- remove the three year restriction in relation to young driver learner logbooks to allow supervised driving hours accumulated more than three years ago to be recognised and to extend the validity of logbook approvals beyond three years;
- encourage the use of the department's new online services by providing a fee exemption for a person who checks their driver licence or demerit point information online or who unsuccessfully undertakes a motorbike road rules test online;
- remove provisions relating to eyesight testing of driver licence applicants as the 'Jet's Law' legislation requires a person who has a vision disorder that affects their ability to drive safely to disclose that disorder to the department;
- simplify the requirements for the display of L and P plates to provide that these should be displayed in a clear and readily visible manner;
- remove the requirement for a person to provide a notice of surrender of a non-Queensland driver licence prior to being granted a Queensland driver licence; and
- remove the fee entries for laminate driver licence products which are no longer being produced (with corresponding amendments to be made to the *Tow Truck Regulation 2009*, the *Transport Operations (Marine Safety) Regulation 2004*, the *Transport Operations (Passenger Transport) Regulation 2005*, the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005*, and the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008*).

Amendments to the *Adult Proof of Age Card Regulation 2010* and the *Tow Truck Regulation 2009*, the *Transport Operations (Marine Safety) Regulation 2004*, the *Transport Operations (Passenger Transport) Regulation 2005*, the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005*, and the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008*) will remove the requirement for a person to complete a form when requesting a replacement proof of age card, licence or accreditation document which has not been received in the mail.

Amendments to the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005* will also allow a broader range of people to sign documentation which verifies the competency of learner riders who have undergone Q-Ride motorbike training. Redundant provisions will also be removed from this regulation together with corresponding provisions in the *State Penalties Enforcement Regulation 2000*.

Amendments to the *Traffic Regulation 1962* will allow a broader range of appropriately qualified people to prepare and certify standard alcohol solutions which are used to calibrate breath analysis instruments for drink driving enforcement.

### *Other amendments to enhance the operation of the legislation*

Amendments to the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* will also:

- clarify the requirements to progress to a class MC (multi-combination heavy vehicle) driver licence to ensure that all class MC licence holders have demonstrated competency in driving large articulated heavy vehicles; and
- allow late night driving and high powered vehicle exemptions granted to young drivers to be amended, suspended or cancelled where the circumstances warrant it (e.g. where the driver has failed to comply with a condition of the exemption).

A new infringement notice penalty of two penalty units will be included in the *State Penalties Enforcement Regulation 2000* for the offence committed by the holder of a late night driving or high powered vehicle exemption who fails to notify a change in circumstances which would impact on the continuing appropriateness of the exemption.

Amendments to the *Transport Operations (Road Use Management—Road Rules) Regulation 2009* will insert a definition of ‘pavement bar’ and ‘pavement marker’ in response to a recommendation by the Parliamentary Transport, Housing and Local Government Committee.

Amendments to the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* will update the references to local government legislation.

Amendments to the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010* will align provisions with the Australian Vehicle Standards Rules. An additional consequential amendment required due to the adoption of the Heavy Vehicle National Law is also being made.

Amendments to the *Traffic Regulation 1962* will make minor modifications to ensure the accuracy of the ‘datablock’ provisions for a camera system soon to be deployed for speed enforcement.

## **Consistency with policy objectives of authorising laws**

The amendments are consistent with the objectives of the authorising laws.

## **Benefits and costs of implementation**

The amendments which encourage the use of online services by providing fee exemptions are not expected to result in any significant cost to government. The reduction in the amount of time Customer Service Centre personnel spend administering motorbike road rules tests will benefit other customers through reduced waiting times.

Implementation of the remaining amendments contained in this regulation is not expected to result in any significant cost to government.

## **Consistency with fundamental legislative principles**

### *Evidentiary Certificates in relation to standard alcohol solutions*

Section 175 of the *Traffic Regulation 1962* authorises an analyst to sign an evidentiary certificate stating that the analyst prepared a quantity of a solution consisting of ethyl alcohol and distilled water suitable for calibration of an approved breath analysing instrument. An analyst is a person who is appointed as a State analyst under the *Health Act 1937*. The certificate is part of the evidence used to demonstrate that the breath analysing instrument was properly calibrated and operating accurately.

An amendment will allow an approved supplier to perform the same function as an analyst. An approved supplier is defined to be an entity that the Commissioner of Police is satisfied is competent to prepare, certify and supply the standard alcohol solutions and has approved to perform those activities. Agencies producing standard alcohol solutions in Australia operate within strict controls around the production process in order to ensure and maintain the traceability of testing results to national and international standards. Certification of standard alcohol solutions is conducted in accordance with Regulation 48 of the *National Measurement Regulations 1999* made under the *National Measurement Act 1960*.

The certificate when produced in evidence by an analyst or by the approved supplier is conclusive evidence, unless the contrary is proved, that a container contained standard alcohol solution. This may raise the fundamental legislative principle that legislation should not reverse the onus of proof without adequate justification.

However, any reversal of the onus of proof is justified in this situation for the following reasons:

- the certificate is about a scientific matter which is not likely to be contentious;
- the amendment continues to allow for contrary evidence to disprove the matters in the certificate;
- the amendment is to allow an additional qualified entity to supply and certify standard alcohol solutions. That is, the amendment is to an existing provision which already allows for evidentiary certificates to be provided in relation to standard alcohol solutions; and
- the evidentiary certificates merely provide a convenient way for a court to be informed by the prosecution about the matters provided for in the certificate and prevent the need to call witnesses unless the evidence is challenged, streamlining court proceedings and reducing court costs.

The remaining amendments are consistent with the fundamental legislative principles.

## **Consultation**

Consultation on the proposed amendments was undertaken with the Department of the Premier and Cabinet, the Department of Justice and Attorney-General, the Queensland Police Service, Queensland Treasury and Trade, the Department of Local Government, Community Recovery and Resilience, Queensland Health, and the Office of Best Practice Regulation (Queensland Competition Authority).

All agencies consulted support the amendments.

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