

Transport Operations (Road Use Management—Road Rules) and Other Legislation Amendment Regulation (No. 1) 2016

Explanatory notes for SL 2016 No. 240

made under the

State Penalties Enforcement Act 1999

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport Operations (Road Use Management—Road Rules) and Other Legislation Amendment Regulation (No. 1) 2016

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*.

Section 171 of the *Transport Operations (Road Use Management) Act 1995*.

Policy objectives and the reasons for them

The policy objectives of the regulation are to improve safety for riders and passengers on quad bikes and utility off-road vehicles, improve flexibility in child restraint and loading zone rules for people with a disability or medical condition, and make other minor amendments.

Quad bikes and utility off-road vehicles

Quad bikes and utility off-road vehicles are popular with farmers because they operate on low pressure tyres which have less impact on pastures and soils, operate on uneven terrain and provide a lower working platform than conventional vehicles. A quad bike has a seat that is designed to be straddled whereas a utility off-road vehicle has car-like seats and four to six wheels.

Quad bikes and utility off-road vehicles do not comply with vehicle standards laws but, with conditional registration, are able to legally operate on roads and road-related areas in limited circumstances, such as when crossing roads between farms.

In 2014, the Deputy State Coroner initiated an inquest examining the circumstances of the deaths of nine individuals in quad bike accidents and also to hear evidence about recommendations that should be made to help prevent similar deaths. In August 2015, the Coroner recommended that mandatory helmet laws and minimum age restrictions for passengers be introduced for the use of quad bikes and utility off-road vehicles (also referred to as *side by side vehicles*) on roads and road-related areas.

In November 2015, following the Coroner's recommendation, the conditional registration scheme for quad bikes and utility off-road vehicles was amended to require the use of a motorcycle helmet while these vehicles are used on a road or road-related area. In recognition of the importance of this requirement, and to ensure the penalty for breaching the requirement is equivalent to the penalties for other motorcycle helmet offences, the amendment regulation will now insert that requirement into the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*. In line with the Coroner's recommendation, the *Transport Operations (Road Use Management—Road Rules) and Other Legislation Amendment Regulation (No. 1) 2016* will also introduce minimum age restrictions for passengers.

Medical conditions and disabilities

Changes to requirements for the restraint of children in vehicles will provide greater flexibility for transporting a child with a medical condition or disability. For example, medical professionals such as occupational therapists will be able to specifically prescribe alternative seating restraint arrangements.

The amendments will also provide additional time for a driver to stop in a loading zone to drop off or pick up a passenger with a disability.

Achievement of policy objectives

The policy objectives will be achieved by amending the *State Penalties Enforcement Regulation 2014* and the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*.

Quad bikes and utility off-road vehicles

To implement the policy objectives in relation to quad bikes and utility off road vehicles, the amendments will:

- require an approved motorcycle helmet to be worn by a person operating or being transported on a quad bike or utility off-road vehicle on a road or road-related area;
- make a person who fails to comply with these helmet requirements liable for an infringement notice fine of three penalty units (currently \$365) and a maximum penalty of 20 penalty units (currently \$2438);
- include the helmet requirements for the operators of quad bikes and utility off-road vehicles in the existing double demerit point scheme that applies where a person commits two motorcycle helmet offences within any 12-month period;
- retain an existing exemption from the helmet requirements for operators of, and passengers on, utility off-road vehicles that are restricted to designated areas (for example, hospital or university grounds) provided the vehicle has seatbelts and a roll-over protection system that were fitted to the vehicle at the time of manufacture;

- prohibit a person from carrying a passenger on a quad bike or utility off-road vehicle who is less than eight years old, or whose feet cannot reach the footrests or floor, or whose hands cannot reach any hand rail provided; and
- make a person who fails to comply with these new passenger requirements liable for an infringement notice fine of 1 1/3 penalty units (currently \$162) and a maximum penalty of 20 penalty units (currently \$2438).

Medical conditions and disabilities

A child who is less than seven years old and who has a medical condition or disability will be allowed to travel in the front row of a vehicle with two or more rows of seats, provided a doctor, occupational therapist or physiotherapist has issued a certificate stating that this is appropriate. This could be due to, for example, respirator needs or the wearing of a plaster cast. This implements an amendment to the national model legislation with minor changes, the most significant being that the certificate can be issued by an occupational therapist or physiotherapist as well as by a doctor.

The amendments will also recognise Australian Standard AS/NZS 4370 and allow a doctor, occupational therapist, psychologist, physiotherapist or biomedical engineer to prescribe a specific child restraint suitable for a child with a medical condition or disability. The Queensland approach enhances an amendment to the national model legislation, which limits the ability to prescribe an alternate child restraint to a doctor and does not require the alternate restraint to be prescribed in accordance with the Australian Standard.

The amendments also increase, from 2 to 5 minutes, the length of time a driver is allowed to stop in a loading zone to drop off or pick up a passenger with a disability.

Minor amendments

The regulation contains a number of minor amendments, including some nationally-agreed amendments to the road rules.

Consistency with policy objectives of authorising law

The amendments are consistent with the policy objectives in section 3 of the *Transport Operations (Road Use Management) Act 1995* which include improving road safety and providing for the effective and efficient management of road use in the State.

Inconsistency with policy objectives of other legislation

The amendments are not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

Quad bikes and utility off-road vehicles

The helmet and passenger restrictions for quad bikes and utility off-road vehicles will contribute to meeting the objectives of the plan adopted by the Government in response to the number of deaths and serious injuries attributed to quad bikes. While most quad bike and utility off-road vehicle use occurs off-road, the helmet requirements and passenger restrictions will improve safety while the vehicles are being used on a road or road-related area. Additionally, there may be educative and flow-on benefits for the use of such vehicles off-road through, for example, the convenience of wearing a helmet for a whole trip where part of that trip will require the wearing of a helmet.

Medical conditions and disabilities

Changes to requirements for the restraint of children in vehicles will provide greater flexibility for transporting a child with a medical condition or disability. Where a relevant medical professional has determined that it is appropriate, the child may travel in the front row of seats or in an alternate child restraint.

The extension of the permitted stopping time in loading zones will allow additional time for drivers to pick up or set down passengers with a disability.

Consistency with fundamental legislative principles

The amendments are consistent with the fundamental legislative principles.

Consultation

As part of the Coroner's broader inquiry into minimising quad bike fatalities, the Coroner's Office consulted widely with that part of the motor industry associated with quad bikes and utility off-road vehicles, farming organisations, workplace health and safety regulators, road safety experts and tourism industry representatives. The Coroner found that most stakeholders, including the quad bike industry, representatives of the agricultural community, and representatives of quad bike recreational clubs, agreed that quad bike helmet use should be mandatory. He also found that passenger age restrictions were not contentious.

The Government's Quad Bike Interagency Group consulted the Quad Bike Industry Reference Group about the use of helmets and passenger restrictions. The Reference Group comprises representatives of the Federal Chamber of Automotive Industries, Queensland Farmers Federation, Agforce, James Cook University, tourism operators and recreational rider groups. The Reference Group supports the proposed changes.

Consultation for the national road rules amendment package was conducted by the National Transport Commission in August 2015.

Consultation on the amendments was also undertaken with the Department of the Premier and Cabinet, Queensland Treasury, the Department of Justice and Attorney-General and the Queensland Police Service. All agencies supported the amendments.

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation was not consulted in relation to the minor amendments to the *State Penalties Enforcement Regulation 2014*. The Department of Transport and Main Roads applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category A). The Office of Best Practice Regulation has advised that the other amendments do not require further regulatory impact assessment.

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