

# **Transport Infrastructure (State-controlled Roads) Regulation 2017**

Explanatory notes for SL 2017 No. 169

made under the

*State Penalties Enforcement Act 1999*

*Transport Infrastructure Act 1994*

## **General Outline**

### **Short title**

*Transport Infrastructure (State-controlled Roads) Regulation 2017* (the Regulation).

### **Authorising law**

Section 165 of the *State Penalties Enforcement Act 1999*

Sections 79 and 490 of the *Transport Infrastructure Act 1994* (the Act)

### **Policy objectives and the reasons for them**

Under section 54(1) of the *Statutory Instruments Act 1992*, all subordinate legislation expires on 1 September first occurring after the 10th anniversary of the day of its making.

The *Transport Infrastructure (State-controlled Roads) Regulation 2006* (2006 Regulation) commenced on 7 July 2006 and was due to expire on 1 September 2016. The 2006 Regulation was granted a 1-year exemption from expiry under section 56 of the *Statutory Instruments Act 1992*.

A review of the 2006 Regulation has been conducted and confirmed the need for continued regulation of matters contained within it. As such, the 2006 Regulation will be remade largely as is prior to 1 September 2017.

### **Achievement of policy objectives**

The Regulation replaces the 2006 Regulation, and will provide for the continued regulation of matters contained within, which are consistent with the objectives of the Act:

- regulating traffic and animals on a motorway or State-controlled road;

- regulating camping on or near a State-controlled road;
- prescribing a list of matters the chief executive can seek from the owner of a public utility plant on a State-controlled road;
- declaring ancillary works and encroachments and setting out the application process for approval; and
- providing for the chief executive's power for carrying out road works on a State-controlled road or proposed State-controlled road.

The Regulation also:

- reflects contemporary drafting practices, including minor technical amendments to improve clarity and consistency;
- ensures consistency in the application, regulation and enforcement of camping provisions;
- updates the definition of ancillary works and encroachments to include a remotely piloted aircraft, in keeping with new developments in technology; and
- prescribes infringement notice offences and infringement notice fines in the *State Penalties Enforcement Regulation 2014*.

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

The amendments to the Regulation are consistent with the objectives in section 2(2)(b) of the Act, which includes establishing a regime under which:

- a system of roads of national and State significance can be effectively planned and efficiently managed;
- influence can be exercised over the total road network in a way that contributes to overall transport efficiency; and
- account is taken of the need to provide adequate levels of safety, and community access to the road network.

## **Inconsistency with policy objectives of other legislation**

The Regulation is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

As the Regulation will be remade largely as is without any major policy changes, the changes will not result in any costs for government, industry or the community.

## **Consistency with fundamental legislative principles**

The amendments are consistent with the fundamental legislative principles.

## Consultation

The Civil Aviation Safety Authority was consulted to determine the definition of a remotely piloted aircraft under the *Civil Aviation Safety Regulation 1998* (Cwlth).

The Office of Best Practice Regulation was consulted on the proposed remake of the Regulation, and considered that further analysis under the Queensland Government Guide to Better Regulation was not required for the remake. Their decision was based on a need to improve the efficiency and effectiveness of the Regulation, to include amendments which created clarity, consistency and which reflected changing technology.

## Notes on provisions

### Part 1 Preliminary

Clause 1 states the short title of the Regulation.

Clause 2 states 1 September 2017 as the commencement date of the Regulation.

Clause 3 states that certain words used in the Regulation are defined in the dictionary in Schedule 2.

### Part 2 Regulating traffic on roads

Clause 4 allows the chief executive to give notice to prohibit access by all traffic to a motorway from a road.

Clause 5 allows the chief executive to give notice to prohibit access by all traffic to a State-controlled road or future State-controlled road under specified circumstances.

Clause 6 allows the chief executive to give notice to prohibit specific types of traffic on a motorway.

Clause 7 allows the chief executive to give notice to prohibit a person to take an animal onto or have control of an animal on a State-controlled road (other than a motorway), unless in specified circumstances.

Clause 8 provides that a person must comply with a notice of prohibition given under clauses 4, 5, 6 or 7 unless the person has written permission from the chief executive to engage in the prohibited conduct.

Clause 9 provides that a person must not take an animal onto, allow an animal to be taken onto, or have control of an animal on a motorway, unless the animal is in or on a vehicle that is not prohibited on the motorway.

### **Part 3 Camping**

Clause 10 allows the chief executive to regulate camping on or near a State-controlled road and prescribes penalty units for non-compliance. In particular, it:

- prohibits a person from camping on or near the part of a road to which a sign relates;
- prohibits a person from camping on or near the part of a road to which a sign relates longer than a stated period;
- sets out the formula to calculate when a person has camped longer than a stated period; and
- provides the chief executive with powers to enforce compliance.

### **Part 4 Public utility plant on State-controlled roads**

Clause 11 prescribes a list of requirements the chief executive may make regarding a public utility plant located on a State-controlled road.

### **Part 5 Ancillary works and encroachments**

Clause 12 provides that the encroachments listed in Schedule 1 are ancillary works and encroachments as defined in Schedule 6 of the Act.

Clause 13 sets out the requirements for an application for approval to construct, maintain, operate or conduct ancillary works and encroachments on a State-controlled road under section 50(2) of the Act.

Clause 14 allows the chief executive to require an application made under clause 13 to be accompanied by certain documents or information when deciding the application. If these requirements are not met, the chief executive can refuse the application.

Clause 15 provides that a person must construct ancillary works and encroachments as approved under section 50(2) of the Act in accordance with the specifications approved and conditions fixed by the chief executive.

### **Part 6 Chief executive's powers for carrying out road works**

Clause 16 provides the chief executive with certain powers in relation to carrying out road works on a State-controlled road or proposed State-controlled road.

### **Part 7 Amendment of State Penalties Enforcement Regulation 2014**

Clause 17 states that Part 7 amends the *State Penalties Enforcement Regulation 2014*.

Clause 18 inserts the Regulation into Schedule 1 of the *State Penalties Enforcement Regulation 2014*, to prescribe infringement notice offences and infringement notice fines.

## **Schedule 1**

Schedule 1 lists the encroachments declared as ancillary works and encroachments under Schedule 6 of the Act. *Remotely piloted aircraft* has been added to this list, in keeping with changing technology and development of new encroachments.

## **Schedule 2**

Schedule 2 defines certain words used in the Regulation. *Remotely piloted aircraft* is defined to align with the definition of *RPA* under the *Civil Aviation Safety Regulations 1998* (Cwlth), Dictionary, Part 1.