

Transport Operations (Road Use Management—Vehicle Registration) and Other Legislation Amendment Regulation 2023

Explanatory notes for SL 2023 No. 83

made under the

State Penalties Enforcement Act 1999

Tow Truck Act 1973

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport Operations (Road Use Management—Vehicle Registration) and Other Legislation Amendment Regulation 2023

Authorising law

Section 165 of the *State Penalties Enforcement Act 1994*

Section 43 of the *Tow Truck Act 1973*

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

Policy objectives and the reasons for them

Amendments to the Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021

Sharing concessionally registered primary production vehicles

The primary production industry is a key foundation of the broader Queensland economy. Given the importance of this industry, the Queensland Government provides a range of support measures to ensure the long-term sustainability and growth of the industry.

The Primary Producer Concession Scheme (PPCS) is a long-standing Queensland Government initiative that provides registration fee relief to primary producers to support the

use of Heavy Primary Production Vehicles (HPPVs) directly related to their primary production business. The PPCS provides a discount of between 50 per cent and 75 per cent off the standard heavy vehicle registration fees for primary producers. Vehicles eligible for the PPCS are limited to prime movers or trucks with a gross vehicle mass of at least 6t and trailers with an aggregate mass rating for charging of more than 4.5t.

Industry stakeholders have noted that the inability to share HPPVs registered under the PPCS does not reflect current business practices. Specifically, family members who own separate primary production businesses, or businesses within a geographical locality, are unable to share vehicles due to the restrictions of the scheme.

As such, the *Transport Operations (Road Use Management—Vehicle Registration) and Other Legislation Amendment Regulation 2023* (the Amendment Regulation) enables a primary producer to nominate up to five other primary producers that they may share their vehicles with.

Number plates on certain conditionally registered vehicles

Conditional registration is available for vehicles that do not comply with the standard regulations for registration and have a genuine need for limited access to the road network. This can include vehicles used in agriculture, construction and certain recreational activities. Conditional registration can provide limited road access to these vehicles subject to strict conditions of use.

There are three categories of road access allowable under the scheme. The most restrictive of those categories is *limited access registration* which is available for vehicles that are used predominantly on worksites or just in designated areas. This would include, for example, motorised golf buggies as their on-road access is predominantly restricted to designated areas such as car parks or holiday resorts.

Conditionally registered vehicles must still comply with the number plate requirements set out in the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021* (the Vehicle Registration Regulation). In practice, the display of a number plate on the front of some golf buggies has proven problematic, particularly for the owners of fleets of hire golf buggies. This is because, due to their construction, the front number plate must be mounted on the bumper bar and, as a result, is prone to damage. To replace a damaged number plate, the customer must attend a Department of Transport and Main Roads' (TMR) customer service centre or agency and pay the relevant fee.

Given the restrictions on where these vehicles can operate, and the low speeds at which they can travel, the Amendment Regulation will allow the owners of conditionally registered motorised golf buggies and other *limited access registration* vehicles to apply to the chief executive for approval to only attach one number plate to the rear of the vehicle. In making a decision about an application to only attach one number plate, the chief executive must have regard to a range of considerations including, for example, whether granting the application might endanger public safety or hinder or prevent enforcement.

Restricted areas concessional vehicle registration

TMR offers reduced vehicle registration fees to vehicles used only in certain restricted areas including:

- the following local government areas:
 - Aurukun,
 - Doomadgee,
 - Kowanyama,
 - Pormpuraaw, and
 - Yarrabah.
- a coastal island that is not joined to the mainland by a bridge;
- the area north of the Archer River from the western end to the eastern end of the river; and
- the area north of a straight line from the eastern end of the Archer River to Friendly Point.

Currently, vehicles on a restricted area concession are not permitted to operate outside of the restricted area. In recognition that these remote areas may lack a number of essential services, and to reduce the regulatory burden, concessional registration will be available to all vehicles that have a garage address within one of the prescribed areas. There will be no longer be a restriction on where those vehicles can travel.

Amendments to the Traffic Regulation 1962

Prescribe cocaine as a relevant drug and approve a new drug testing device

Driving while affected by impairing substances is dangerous and increases the risk of crashes. The Roadside Drug Testing program is a key component of *Queensland's Road Safety Strategy 2021-2031* to reduce road crashes in Queensland. The program currently tests drivers for the presence of methamphetamine (also known as speed and ice), 3,4-Methylenedioxymethamphetamine (the active ingredient in ecstasy and also known as MDMA) and delta-9-tetrahydrocannabinol (the active ingredient in cannabis and also known as THC).

Research has found that cocaine use is becoming increasingly prevalent in Queensland. The technology is now available for police to test drivers for the presence of cocaine through a saliva test. As such, the Amendment Regulation will list cocaine as a relevant drug for the Roadside Drug Testing program and will approve a new drug testing device.

Amendments to the Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021

Australian Light Vehicle Standards Rules

The Australian Design Rules (the ADRs) are developed and administered by the Commonwealth Department of Infrastructure, Transport, Regional Development, Communications and the Arts. They provide the rules for designing and building vehicles that apply at the time a vehicle is built or imported into Australia. The Australian Light Vehicle Standards Rules 2015 (the ALVSRs) are based on the ADRs and are the model law for implementing these nationally agreed standards in each jurisdiction.

In December 2022, the Infrastructure and Transport Ministers' Meeting approved amendments to the ALVSRs. The ALVSRs were developed and maintained by the National Transport Commission (NTC) working with jurisdictions to provide the basis for nationally consistent vehicle standards. To maintain and promote ongoing national consistency, jurisdictions are expected to amend their local legislation to reflect the changes made to the model law. These changes include:

- clarifying rules relating to left-hand drive vehicles; and
- correcting cross-referencing errors relating to the *Road Vehicle Standards Rules 2019*.

Amendments to the Tow Truck Regulation 2009, the Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015 and the Transport Operations (Road Use Management—Driver Licensing) Regulation 2021

Data breaches and smartcard product replacement

TMR issues a number of smartcard identification products including:

- a smartcard driver's certificate and smartcard assistant's certificate, under the *Tow Truck Regulation 2009*;
- a smartcard accreditation document, under the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*; and
- a smartcard driver licence, under the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2021*.

There have been a number of significant recent data breaches in Australia including those impacting customers of Optus and Medibank and data held by Latitude Financial. Following such breaches, for privacy and security reasons, customers may wish to replace their TMR smartcard identification document.

As such, the Amendment Regulation will expressly recognise that a person who is at risk from a data breach can apply to the chief executive for a replacement smartcard document.

Achievement of policy objectives

Amendments to the Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021

Sharing concessionally registered primary production vehicles

The Amendment Regulation enables a Recognised Primary Producer to nominate up to five other Recognised Primary Producers (nominated primary producer) they may share vehicles registered under the PPCS with. To take part in the scheme, primary producers will need to apply to the chief executive for authorisation as a *recognised primary producer*. This is designed to ensure that primary production vehicles lent to other recognised primary producers are only used for primary production purposes and not for other transport purposes.

Currently, under section 241 of the Vehicle Registration Regulation, the registered operator of a HPPV registered under the PPCS must not use the vehicle outside the purposes permitted under the scheme. The Amendment Regulation extends this to apply also to any nominated primary producer using the vehicle and increases the maximum penalty for failing to comply with this requirement from 60 penalty units to 80 penalty units. The Amendment Regulation amends Schedule 1, entry for the Vehicle Registration Regulation in the *State Penalties Enforcement Regulation 2014* (SPE Regulation) to increase the penalty for an offence under section 241(1) of the Vehicle Registration Regulation to 6^{2/5} penalty units.

New section 243A will impose a notification requirement, with a maximum penalty of 80 penalty units, on a person who is a recognised primary producer where a circumstance relating to whether they remain a primary producer changes. The Amendment Regulation amends the Schedule 1 entry for the Vehicle Registration Regulation in the SPE Regulation to introduce a penalty infringement notice amount for an offence under the new section 243A of 6^{2/5} penalty units.

These changes are designed to ensure that PPCS registered vehicles are being used solely for carrying out primary production activities. It also recognises the significant financial benefit that concessional registration provides and ensures there are appropriate levels of financial penalty for the deliberate disregard of the scheme's requirements.

Number plates on certain conditionally registered vehicles

The Amendment Regulation will allow the registered operator of certain conditionally registered vehicles, including motorised golf buggies, with *limited access registration* to apply to the chief executive for approval to only display a number plate on the rear of the vehicle.

This will address the issue of continual loss of or damage to, and need to replace, the front number plate on some of these vehicles. Removing the need to display a number plate on the front of these vehicles is considered low risk due to the restricted access the vehicles have to the road network and the reasonably low speeds they travel at.

Restricted areas concessional vehicle registration

The Amendment Regulation amends the Vehicle Registration Regulation to remove the requirement that vehicles with a restricted areas concessional registration can only be used within that restricted area. This reduces the regulatory burden and recognises that some of these areas may lack essential services that residents will need to access.

Amendments to the Traffic Regulation 1962

Prescribe cocaine as a relevant drug and approve a new drug testing device

Under section 79(2AA) of the *Transport Operations (Road Use Management) Act 1995*, it is an offence for a person to drive while a *relevant drug* is present in their blood or saliva. A relevant drug is one prescribed by regulation. Section 172 of the *Traffic Regulation 1962* currently lists the relevant drugs for the purposes of Queensland's roadside drug testing program. The Amendment Regulation will add cocaine to that list of relevant drugs.

The Amendment Regulation also adds a new device, the Securetec Drugwipe 3 S, to the approved devices listed in section 186 *Traffic Regulation 1962* for use in roadside drug testing.

Amendments to the Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021

Australian Light Vehicle Standards Rules

The Amendment Regulation amends the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021* to adopt certain amendments to the ALVSRs approved by the Infrastructure and Transport Ministers' Meeting in December 2022.

The Amendment Regulation clarifies that, under the ALVSRs, a motor vehicle to which the third edition ADRs apply may have left-hand drive if it is at least 30 years old. This will apply instead of the position under the ADRs which is that any vehicle supplied to the Australian market after 1 July 1988 must be right hand drive.

The Amendment Regulation also corrects an error adopted from the model law that referred to section 15 of the *Road Vehicle Standards Act 2018* (Cwlth) but should instead have referred to section 15 of the *Road Vehicle Standards Rules 2019* (Cwlth).

Queensland will adopt the intent of new Rule 29A of the ALVSRs to provide greater protection in relation to the secure attachment of any after-market accessories to a vehicle. However, due to the structure of Queensland's legislation, this will be implemented through non-legislative amendments to the Queensland Road Vehicle Modification Handbook.

Certain other amendments within the ALVSRs amendment package are not required due to the manner in which the rules have been adopted in Queensland.

Amendments to the Tow Truck Regulation 2009, the Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015 and the Transport Operations (Road Use Management—Driver Licensing) Regulation 2021

Data breaches and smartcard product replacement

The Amendment Regulation amends the *Tow Truck Regulation 2009*, the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015* and the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2021* to enable a customer to apply for a replacement smartcard product where they may be at risk from a data breach.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the authorising laws.

Benefits and costs of implementation

Sharing concessionally registered primary production vehicles

The benefits of the amendments include increased support to Queensland's strong agricultural industry through recognition of contemporary business practices. This is achieved by enabling a recognised primary producer to share a HPPV registered under the PPCS with up to five nominated primary producers. Five primary producers was determined to be an appropriate maximum number of allowable nominations following consultation with industry. The agricultural industry provided contemporary business scenarios in which sharing would be likely, none of which required sharing with a large number of other primary producers. Further, to address concerns raised by the commercial trucking industry, it was determined that a maximum of five primary producers would be appropriate to allow primary producers to operate their businesses most effectively, while limiting the potential impact on the commercial trucking industry.

To ensure the vehicles are used solely for the primary production related activities allowed under the scheme, appropriate financial penalties will be in place for any use of these vehicles outside the requirements of the scheme. The cost of implementing these amendments is minimal and will be met within existing budget allocations.

It is unlikely that allowing limited sharing of these concessionally registered vehicles will have any impact on the number of vehicle registrations in this category. The number of vehicles registered under the PPCS is relatively stable. From March 2021 to March 2023 the number of vehicles registered under the PPCS increased by 3.48 per cent.

Number plates on certain conditionally registered vehicles

The benefits of the amendment include a reduction in the frequency that registered operators of certain conditionally registered vehicles will need to attend a TMR customer service centre to pay to replace damaged or lost front number plates. The cost of implementing this amendment is minimal and will be met within existing budget allocations.

Restricted areas concessional vehicle registration

The benefits of the amendment include allowing vehicles that are eligible for concessional registration due to being garaged in particular areas of the State to be used outside those areas. As a result, the registered operators of these vehicles will no longer have to apply for a permit to authorise their vehicle's use outside of the restricted area.

The amendment will not change the intention of the concession, as it continues to recognise that these vehicles are garaged in remote areas that often lack a number of essential services. Registered operators may sometimes need to use their vehicle outside of those remote areas. The amendment will reduce the regulatory burden of the concession holder having to apply for a permit each time they need to use their vehicle outside of the restricted area. This amendment was identified through customer feedback which indicated that the permit process was time-consuming and inefficient, as permit applications could only be made in person during business hours. The amendment aims to rectify this issue and retain the same concession benefit.

The cost of implementing this amendment is minimal and will be met within existing budget allocations.

Prescribe cocaine as a relevant drug and approve a new drug testing device

The amendments to include cocaine in the Roadside Drug Testing program and to approve a new drug testing device will contribute to the reduction of drug driving rates and create a safer road environment for all road users across Queensland. The cost of implementing the amendment is minimal and will be met within existing budget allocations.

Australian Light Vehicle Standards Rules

The benefits of the amendments include maintaining nationally consistent and up-to-date standards and safety requirements that light vehicles must comply with in order to be used on Queensland roads. The cost of implementing these amendments is minimal and will be met within existing budget allocations.

Data breaches and smartcard product replacement

The benefits of the amendment include clarifying the ability for customers to replace their smartcard product where it is at risk of being compromised due to a data breach. There are no additional costs of implementing this amendment as minor necessary system enhancements have been met within existing budget allocations.

Consistency with fundamental legislative principles

The Amendment Regulation increases an existing penalty for non compliance with the requirements for HPPVs registered under the PPCS. It also introduces a new penalty for failure to notify the chief executive of a change related to primary producer status and, consequently, eligibility for HPPV concessional registration. This may engage the Fundamental Legislative Principle (FLP) consideration under section 4(2)(a) of the *Legislative Standards Act 1992*, rights and liberties of individuals.

However, any potential FLP breach is considered justified on the basis that the current maximum penalties for misuse of a concessionally registered HPPV are less than the concessional benefit for a number of different types of vehicles. Therefore, it is considered appropriate that the financial penalty be increased to reflect the significance of the benefit received. It is essential to provide an appropriate financial deterrent to encourage compliance with the PPCS requirements. A person can avoid the impact of any fine by complying with the PPCS requirements.

Consultation

Sharing concessionally registered primary production vehicles

Consultation was undertaken in 2019 to 2020 and again in May 2022 with primary production and transport industry bodies.

In the 2019 to 2020 consultation process, industry views were sought generally on the proposal to allow vehicle sharing of HPPVs registered under the PPCS. The Queensland Farmers' Federation, AgForce Queensland, Cotton Australia, Canegrowers, and Growcom Australia were supportive of allowing the vehicle sharing. The Queensland Trucking Association Ltd was supportive, provided there are sufficient controls and enforcement provisions in place to ensure compliance. The Livestock and Rural Transporters Association of Queensland Inc submitted that the PPCS unfairly disadvantages the broader transport industry and that compliance with vehicle sharing obligations will be difficult to enforce.

In May 2022, TMR consulted on the proposed amendments with primary producer and transport industry groups. Support was given by primary producer industry groups and no further comment was made by transport industry groups.

TMR considers that the administrative framework providing that sharing only occur with up to five nominated primary producers will limit the scheme appropriately and not unfairly disadvantage the broader transport industry, and that penalties for misuse of concessionally registered HPPVs will encourage compliance.

Australian Light Vehicle Standards Rules

The amendments to the ALVSRs were developed by the NTC in consultation with relevant stakeholders including automotive industry bodies, motoring organisations and all State, Territory and Australian Government road agencies. The NTC undertook public consultation on the proposed amendments to the ALVSRs between February and March 2022.

Remaining amendments

No external consultation was undertaken on the remaining amendments given their minor or technical nature.

In accordance with *The Queensland Government Guide to Better Regulation* (the Guide), TMR applied a self-assessable exclusion from undertaking further regulatory impact analysis for amendments relating to the adoption of amendments to the ALVSRs on the basis of Category G - the regulatory proposals are machinery in nature.

The Office of Best Practice Regulation (OBPR) was consulted on the other amendments. OBPR considered that no further regulatory impact analysis was required under the Guide for amendments related to the PPCS, number plates on conditionally registered vehicles, restricted areas concession registration and smartcard replacement on the basis that the amendments will not add to the burden of regulation and are unlikely to result in significant adverse impacts. OBPR considered that no further regulatory impact analysis is required for the amendments to make cocaine a relevant drug and to approve a new drug testing device on the basis that it is reasonably clear there will not be significant adverse impacts.