

Transport Legislation (Waiving Fees and Other Matters) Amendment Regulation 2025

Explanatory notes for SL 2025 No. 127

made under the

Tow Truck Act 2023

Transport Operations (Passenger Transport) Act 1994

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport Legislation (Waiving Fees and Other Matters) Amendment Regulation 2025

Authorising laws

Section 151 of the *Tow Truck Act 2023*

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 policy objectives of the *Transport Legislation (Waiving Fees and Other Matters) Amendment Regulation 2025* (the Amendment Regulation) are:

- to enable the Department of Transport and Main Roads (TMR) to waive replacement fees for particular smartcards (physical cards that reflect information stored electronically with TMR) and number plates, where they require replacement due to theft, crimes or misdemeanours;
- to enable TMR to waive replacement fees for driver licences, where they require replacement due to unauthorised access to, or disclosure of, confidential information; and
- to clarify a taxi driver's obligations to ensure pre-booked trips for wheelchair users and Taxi Subsidy Scheme members are completed as agreed.

Waiving replacement fees

TMR regulates the application process and associated fees for replacing vehicle number plates, driver licences and other smartcards.

On 20 October 2024, the Crisafulli Government made an election commitment to deliver cost-of-living relief by waiving replacement costs of stolen driver licences and number plates for victims of crime. Additionally, a recommendation of the former Legal Affairs and Safety Committee (the Committee) in March 2023 was that the Queensland Government consider waiving fees for state government issued identification documents and number plates requiring replacement by victims as a result of a crime. The Committee considered that waiving replacement fees would assist victims that are simultaneously reorganising their affairs while going through the criminal justice process and would assist victims of crime in matters that are not directly part of the criminal justice system.

To deliver this election commitment and the committee recommendation the chief executive requires legislative authority to waive prescribed replacement fees for particular smartcards and number plates following theft, or damage, destruction or loss due to a crime or misdemeanour. Misdemeanours are included to capture offences such as dangerous operation of a vehicle, and wilful and unlawful destruction of property, which may result in a person's smartcard or number plate requiring replacement.

While crimes and misdemeanours committed in person can affect a range of smartcards and number plates, a driver licence can also be subject to unauthorised activity in a digital environment. Where information about a driver licence is accessed by, or disclosed to, an unauthorised party, the holder is at risk of having their licence details used by an unauthorised person for identity verification through the Document Verification Service (DVS). The DVS is used by a range of government and non-government organisations, including financial institutions, to verify identity. In these circumstances TMR recommends to customers to replace their driver licence, which creates a new card number and prevents the old card number from validating through DVS. This provides the holder a level of protection against identity theft and financial fraud following unauthorised information access or disclosure. As such, fee waiving for replacement of a driver licence is being extended to unauthorised information access or disclosure.

Clarifying taxi driver obligations

Section 81 of the *Transport Operations (Passenger Transport) Regulation 2018* (Passenger Transport Regulation) provides that a taxi driver must not refuse to provide:

- a hailed down service, or a journey commencing from a taxi rank, to any person, or
- a pre-booked trip to a prescribed person,

except in limited circumstances or if the driver has a reasonable excuse. A 'prescribed person' means any person who uses a wheelchair or a member of the Taxi Subsidy Scheme¹.

¹ Referred to as an 'approved relevant person' in the Passenger Transport Regulation.

This provision is intended to ensure access to personalised transport services for all passengers, particularly those who have accessibility needs and have difficulty using other forms of public and private transport. It is also intended to support equitable access by ensuring that trips that are considered by some drivers to be less-financially-lucrative are still completed as agreed.

This requirement was first introduced to the now repealed *Transport Operations (Passenger Transport) Regulation 2005* in 2017 as part of the reforms in *Queensland's Personalised Transport Horizon – Five Year Strategic Plan for Personalised Transport Services 2016-2021*, and was carried over into the current Passenger Transport Regulation.

Prior to this:

- taxi service providers were required to have a service contract with TMR, which set minimum service levels and defined relevant terms. Under the former service contracts, 'refusal' was explicitly defined to include a cancellation of a pre-booked trip, and
- a condition was attached to a wheelchair-accessible taxi service licence that required the operator and driver to give preference to carriage of wheelchair users.

While it was the policy intention for cancellations to be covered by the term 'refusal', the definition was not transitioned into the new legislative requirement in 2017, which has resulted in a lack of clarity around whether cancellation constitutes a refusal of service.

Concerns about service levels for Wheelchair Accessible Taxis (WAT) have been the subject of regular complaints to TMR, and of media reporting, with examples of long wait times or taxis not arriving to deliver a booked service. TMR takes enforcement action when investigations identify that drivers have failed to comply with the requirement of section 81 of the Passenger Transport Regulation, but the ambiguity makes it more difficult for TMR to effectively enforce this requirement in circumstances when taxi drivers cancel bookings for prescribed persons. In particular, there have been examples of taxi drivers who operate a WAT cancelling trips requested by a wheelchair user, in favour of high occupancy jobs that some drivers consider to be more lucrative.

To ensure fair and equitable access to personalised transport for all Queenslanders, the Passenger Transport Regulation needs to clarify that a taxi driver must provide a booked hire service to a prescribed person for which they have accepted a booking. This will provide greater certainty to drivers about their legislative obligations and address a cause of poor service to passengers who use a wheelchair.

Achievement of policy objectives

Waiving replacement fees

To achieve the policy objectives relating to waiving replacement fees, the Amendment Regulation includes the legislative amendments outlined below:

- Amendments to section 17 of the *Tow Truck Regulation 2024* provide for the chief executive to waive the payment of a fee where a person applies for replacement of a driver accreditation or assistant accreditation smartcard that was stolen, lost or damaged (including destroyed) because of a crime or misdemeanour committed by another person.

- Amendments to section 60 of the *Transport Operations (Road Use Management – Accreditation and Other Provisions) Regulation 2015* (the Accreditation Regulation) provide for the chief executive to waive the payment of a fee where a person applies for replacement of an accreditation smartcard that was stolen, lost or damaged (including destroyed) because of a crime or misdemeanour committed by another person.
- A minor amendment to section 367 of the *Transport Operations (Road Use Management – Driver Licensing) Regulation 2021* (the Licensing Regulation) supports online processing of eligible replacement applications.
- Amendments to section 367A of the Licensing Regulation provide for replacement of a licence due to unauthorised access to, or disclosure of, confidential information about the licence, rather than only providing for replacement following an eligible data breach under the *Privacy Act 1988* (Cwlth). For example, this allows for replacement due to unauthorised access following a cyber-attack, human error or system vulnerabilities. For this provision, confidential information includes a person’s personal information, digital photo, digitised signature, licence number and card number.
- A new provision (section 398) in the Licensing Regulation provides for the chief executive to waive the payment of a fee for a replacement driver licence if the application is for replacement of a licence that was stolen, lost or damaged (including destroyed) because of a crime or misdemeanour committed by another person; or following unauthorised access or disclosure of information about a driver’s licence.
- A new provision (section 123A) in the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021* (the Registration Regulation) enables the chief executive to waive the payment of a fee if the application is for replacement of a number plate that was stolen, lost, damaged or destroyed because of a crime or misdemeanour committed by a person other than the registered operator.
- The amendments will not enable waiving of the fee for replacement of a personalised or customised number plate (a *special plate*) with another special plate, as a replacement plate issued with the same combination as the original does not address the risk of the original being used to commit further crime. Instead, a person may apply for a free standard plate with a new number or letter combination as replacement for the special plate requiring replacement, and their original special plate combination would be cancelled.

To support a streamlined application process for customers, there is no requirement for applicants to provide evidence of the crime, misdemeanour or unauthorised information access or disclosure relevant to the replacement request. However, as part of the application process, customers will be required to declare they are seeking a replacement on the basis of being a victim of crime. Existing offences for providing false or misleading information will apply.

Amendments that enable fee waiving for replacement due to unauthorised information access or disclosure are limited to driver licences. No other TMR-issued smartcard products are used in the DVS, and as such, replacing them in these circumstances is unlikely to be beneficial.

The Amendment Regulation also includes an amendment that removes a duplicative provision in the Accreditation Regulation. This amendment removes the ability under section 60(6) for the chief executive to waive a fee for replacement of a smartcard that was not received by mail due to loss or theft. This provision is redundant because an application made in this situation is already exempt from the replacement fee under section 60(3).

The Amendment Regulation does not include TMR-issued products that are already replaced without a fee.

Clarifying taxi driver obligations

To achieve the objective relating to clarifying taxi driver obligations, the Amendment Regulation clarifies that section 81 of the Passenger Transport Regulation applies where a taxi driver fails to provide a pre-booked service, for example, where the driver cancels the booking or does not arrive.

Consistency with policy objectives of authorising laws

The Amendment Regulation is consistent with the objective of the *Tow Truck Act 2023* to facilitate best practice in the tow truck industry by providing a balanced framework for regulating the operation of tow trucks to carry out regulated towing.

The Amendment Regulation is consistent with the objective of the *Transport Operations (Road Use Management) Act 1995* to establish a scheme to allow identification of vehicles, drivers and road users.

The Amendment Regulation is consistent with the main objective of the *Transport Operations (Passenger Transport) Act 1994* to achieve the provision of the best possible public passenger transport at reasonable cost to the community and government, keeping government regulation to a minimum.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternative ways to achieve the policy objectives.

Benefits and costs of implementation

Waiving replacement fees

There are no adverse impacts anticipated as a result of the amendments relating to waiving replacement fees.

Following introduction, a person will be able to access free replacement of their driver licence, accreditation smartcard or number plates (other than excluded plates), where replacement is required because of theft, crime or a misdemeanour. This includes a person who is replacing their driver licence where the information on the driver licence has been accessed by, or disclosed to, an unauthorised party (for example, via a data breach). This aims to reduce financial burden on those who are reorganising their affairs following such events.

Waiving the requirement to pay a fee for driver licences affected by unauthorised information access or disclosure may encourage holders to take this action to address the risk of their compromised information being used in the DVS, consequently enhancing their security.

The Queensland Government Budget 2025-26 provides for \$5 million per year in foregone replacement fee revenue from 2025-26 through to 2027-28 to deliver the election commitment. Implementation costs will be met from existing budget allocations.

Clarifying taxi driver obligations

The Amendment Regulation clarifies the existing policy objective that a booked hire trip requested by a prescribed person in a taxi must be completed by a taxi driver. This will improve service reliability and service wait times for vulnerable Queenslanders who are prescribed persons.

Implementation costs will be met from existing budget allocations.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles under the *Legislative Standards Act 1992*.

Consultation

Waiving replacement fees

In developing its recommendations, the Committee held public hearings and invited written submissions from key stakeholders, organisations, and members of the public. No additional public consultation was conducted by TMR, due to this being a clear election commitment and the deregulatory and beneficial nature of implementing fee relief.

In accordance with *The Queensland Government Better Regulation Policy* (the Better Regulation Policy), a summary Impact Analysis Statement (IAS) has been prepared. Further regulatory impact analysis is not required because the amendments are deregulatory.

Clarifying taxi driver obligations

Consultation on the proposal to clarify the meaning of ‘refuse’ was undertaken with the Accessible Taxi Services Working Group, which is chaired by TMR. Membership consists of taxi booking companies, peak industry bodies, and disability advocacy groups. The Working Group supported the proposal.

In accordance with the Better Regulation Policy, a summary IAS has been prepared. The IAS found that the amendments did not create significant regulatory impacts for the community or the government. The amendments are exempt from further regulatory impact analysis.