

Queensland



Subordinate Legislation 2002 No. 363

State Penalties Enforcement Act 1999
Transport Infrastructure Act 1994

**TRANSPORT INFRASTRUCTURE (BUSWAY)
REGULATION 2002**

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PART 1—PRELIMINARY

1 Short title

This regulation may be cited as the *Transport Infrastructure (Busway) Regulation 2002*.

2 Definitions

In this regulation—

“**busway safety officer**” means a person appointed under section 22.

“**moving expenses**”, for part 3, see section 19.

PART 2—GENERAL OBLIGATIONS

3 Wilful damage or defacing

A person must not wilfully damage or deface busway transport infrastructure.

Example of wilfully damaging busway transport infrastructure—

Putting graffiti on busway transport infrastructure.

Example of defacing busway transport infrastructure—

Putting up a poster on busway transport infrastructure.

Maximum penalty—40 penalty units.

4 Driving and parking vehicles

(1) A person must not drive a vehicle, other than a bus operating on a busway, on busway transport infrastructure at more than—

(a) the speed indicated on a sign displayed by the chief executive on the infrastructure; or

(b) if no sign is erected, 10 km/h.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply to a person driving in the course of the person's duty as an employee of an emergency service in an emergency situation.

(3) A person must not park a vehicle, other than a bus, on busway transport infrastructure except in a space where the chief executive has authorised parking.

Maximum penalty—20 penalty units.

(4) A person driving a vehicle on busway transport infrastructure must obey a direction indicated on a sign displayed by the chief executive on the infrastructure about driving or parking the vehicle, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(5) A person driving a vehicle on busway transport infrastructure must obey a busway safety officer's direction about driving or parking the vehicle, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(6) In this section—

“emergency service” means—

- (a) the Queensland Ambulance Service; or
- (b) the Queensland Fire and Rescue Service; or
- (c) the Queensland Police Service; or
- (d) the State Emergency Services.

5 Entering or leaving busway

A person must not enter or leave a busway other than through an entrance or exit provided by the chief executive for the purpose of entering or exiting the busway.

Maximum penalty—20 penalty units.

6 Person not to enter route unless authorised

A person who is not on a bus operating on a busway must not enter a route designed and constructed for, or dedicated to, the priority movement

of buses for passenger transport purposes, unless the person is authorised by the chief executive to enter the route.

Maximum penalty—20 penalty units.

7 Direction to ensure orderly movement

(1) A busway safety officer may give a direction to a person on a busway for the purpose of ensuring the orderly movement of persons onto, off, towards or away from a bus operating on the busway.

(2) The person must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—20 penalty units.

8 Creating disturbance on busway

(1) A person must not create a disturbance on a busway, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply to a person on a bus operating on the busway.

9 Direction to leave busway

(1) This section applies if a busway safety officer believes, on reasonable grounds, that a person on a busway is causing, or is likely to cause, a disturbance.

(2) Subsection (1) does not apply to a person on a bus operating on the busway.

(3) The busway safety officer may direct the person to leave the busway.

(4) A person must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(5) The busway safety officer must tell the person, in a general way, that—

- (a) the person has been directed to leave the busway because the person is causing, or likely to cause, a disturbance; and

- (b) it is an offence to fail to comply with the direction, unless the person has a reasonable excuse.

10 Animals

(1) This section does not apply—

- (a) to a person with a visual, hearing or other disability who has an assisting animal under the person’s control; or
- (b) to a person having control of an animal on a busway if the animal is being controlled in a way stated on a sign displayed by the chief executive; or
- (c) to a person having control of an animal in a tunnel, or on a bridge, that is busway transport infrastructure if the animal is being controlled in a way stated on a sign displayed by the chief executive.

(2) A person must not allow an animal under the person’s control to go onto a busway or busway transport infrastructure.

Maximum penalty—20 penalty units.

(3) In this section—

“**assisting animal**”, for a person, means—

- (a) a guide dog for the person; or
- (b) an animal, other than a guide dog, trained to assist the person with a disability to alleviate the effect of the disability.

11 Litter

(1) A person must not leave litter on busway transport infrastructure except in a container provided for the purpose of depositing litter.

Maximum penalty—10 penalty units.

(2) Subsection (1) does not apply to a person on a bus operating on a busway.

12 Alcohol

(1) A person must not drink alcohol on a busway, unless the person drinks it at a place the chief executive sets aside for drinking it.

Maximum penalty—10 penalty units.

(2) Subsection (1) does not apply to a person on a bus operating on the busway.

13 Smoking

A person must not smoke in an area of a busway where the chief executive has displayed a sign indicating that smoking is not allowed in the area.

Maximum penalty—10 penalty units.

14 Selling, seeking business or conducting survey

(1) A person on a busway must not, without the chief executive's permission, publicly and personally—

- (a) sell anything; or
- (b) seek business; or
- (c) conduct a survey.

Maximum penalty—10 penalty units.

(2) Subsection (1) does not apply to a person on a bus operating on the busway.

15 Playing musical instrument or operating sound equipment

(1) A person on a busway must not, without the chief executive's permission—

- (a) play a musical instrument; or
- (b) operate sound equipment.

Maximum penalty—10 penalty units.

(2) Subsection (1) does not apply to a person on a bus operating on the busway.

(3) Also, subsection (1) does not apply if—

- (a) earphones are attached to the instrument or equipment; and
- (b) the sound level from the earphones is not likely to be a nuisance.

(4) In this section—

“sound equipment” means an amplifier, radio, tape recorder or other device that emits sound.

16 Official traffic signs

(1) A sign displayed by the chief executive on busway transport infrastructure under this part may be in the form of an official traffic sign and, if it is, it is taken to contain the indication given by the corresponding official traffic sign.

(2) In this section—

“official traffic sign” means an official traffic sign as defined under the *Transport Operations (Road Use Management) Act 1995*.

PART 3—MOVING PROPERTY ABANDONED, PARKED OR LEFT ON BUSWAY

17 Moving property abandoned, parked or left on busway

(1) This section applies if a vehicle or other property—

- (a) is abandoned on a busway; or
- (b) is parked or left on a busway against the chief executive’s directions.

(2) The chief executive may take steps that are reasonable and necessary to move the property.

(3) In this section—

“direction”, of the chief executive, includes—

- (a) a direction given by a busway safety officer; and
- (b) a direction indicated on a sign displayed on the busway by the chief executive.

18 Notifying owner that property moved

(1) Within 14 days after moving the property, the chief executive must give its owner a written notice stating—

- (a) the property has been moved; and
- (b) how the property may be recovered; and
- (c) if the chief executive considers, on reasonable grounds, the property has been abandoned on a busway—
 - (i) the property is abandoned property; and
 - (ii) if the property is not recovered within 2 months, the property may be sold.

(2) If the owner can not be identified or located within the 14 days, the notice may be given by publishing it in a newspaper circulating generally in the State.

(3) The chief executive need not give the notice if—

- (a) the property has insufficient value to justify giving the notice; or
- (b) it is otherwise impracticable to give the notice.

19 Moving expenses

The chief executive may recover the reasonable expenses of moving the property, securely storing it and publishing any newspaper notice for it (the “**moving expenses**”) from—

- (a) the person who was in charge of the property immediately before it was moved; or
- (b) if the person in charge can not be identified, the property’s owner, unless the property was being used on the busway without the owner’s consent.

20 Releasing property when expenses paid

The chief executive must release the property to its owner or in accordance with its owner’s written directions if the moving expenses are paid.

21 Disposing of property

(1) The chief executive may dispose of property the chief executive considers, on reasonable grounds, to have been abandoned on a busway if—

- (a) the moving expenses are not paid within 2 months of giving notice under section 18 to the owner that the property has been moved; or
- (b) if the chief executive decides not to give a notice under section 18, at least 2 months have passed since the decision.

(2) The chief executive may dispose of the property—

- (a) by selling it; or
- (b) if the proceeds of its sale are not likely to cover the reasonable expenses that would be incurred by the chief executive in selling it, in the way the chief executive considers appropriate.

(3) If the property is sold, the sale proceeds must be applied in making payments in the following order—

- (a) the expenses reasonably incurred by the chief executive in selling the property (the “**sale expenses**”);
- (b) the moving expenses;
- (c) any balance to the owner.

(4) If the sale proceeds are less than the sale and moving expenses, the difference between the expenses and the proceeds—

- (a) is a debt payable to the chief executive by the person who is liable for the moving expenses; and
- (b) may be recovered as a debt by action against the person in a court of competent jurisdiction.

(5) If the property is not sold, the moving expenses and the expenses reasonably incurred by the chief executive in disposing of the property—

- (a) are a debt payable to the chief executive by the person who is liable for the moving expenses; and
- (b) may be recovered as a debt by action against the person in a court of competent jurisdiction.

(6) The chief executive may waive part or all of the expenses.

PART 4—BUSWAY SAFETY OFFICERS

22 Appointment of busway safety officers

(1) The chief executive may appoint a person to be a busway safety officer.

(2) However, the chief executive may appoint a person as a busway safety officer only if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

(3) Also, the chief executive may appoint a person other than a public service officer as a busway safety officer only if the person has completed, to the chief executive's satisfaction, training approved by the chief executive.

23 Appointment conditions and limit on powers

(1) A busway safety officer holds office on any conditions stated in—

- (a) the officer's instrument of appointment; or
- (b) a signed notice given to the officer.

(2) The instrument of appointment or a signed notice given to the officer may limit the officer's powers under this regulation.

24 Issue of identity card

(1) The chief executive must issue an identity card to each busway safety officer.

(2) The identity card must—

- (a) contain a recent photo of the officer; and
- (b) contain a copy of the officer's signature; and
- (c) identify the officer as a busway safety officer under this regulation; and
- (d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this regulation and other purposes.

25 Production or display of identity card

(1) In exercising a power under this regulation in relation to a person, a busway safety officer must—

- (a) produce the officer's identity card for the person's inspection before exercising the power; or
- (b) have the identity card displayed so it is clearly visible to the person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the officer must produce the identity card for the person's inspection at the first reasonable opportunity.

26 Powers of busway safety officer

A busway safety officer has the following powers—

- (a) power to give a direction to a person driving a vehicle on busway transport infrastructure about driving or parking the vehicle;
- (b) power to give a direction to a person about parking or leaving a vehicle or other property on a busway;
- (c) power to give a direction under section 7(1) or 9(3).

27 When busway safety officer ceases to hold office

(1) A busway safety officer ceases to hold office if any of the following happens—

- (a) the term of office stated in a condition of office ends;
- (b) under another condition of office, the officer ceases to hold office;
- (c) the officer's resignation under section 28 takes effect.

(2) Subsection (1) does not limit the ways an officer may cease to hold office.

(3) In this section—

“condition of office” means a condition on which the officer holds office.

28 Resignation

(1) A busway safety officer may resign by signed notice given to the chief executive.

(2) However, if holding office as a busway safety officer is a condition of the officer holding another office, the officer may not resign as an officer without resigning from the other office.

29 Return of identity card

A person who ceases to be a busway safety officer must return the person’s identity card to the chief executive within 21 days after ceasing to be a busway safety officer, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

**PART 5—AMENDMENT OF STATE PENALTIES
ENFORCEMENT REGULATION 2000**

30 Regulation amended in pt 5

This part amends the *State Penalties Enforcement Regulation 2000*.

31 Amendment of sch 3 (Transport legislation)

Schedule 3—

insert—

**‘TRANSPORT INFRASTRUCTURE (BUSWAY)
REGULATION 2002**

Column 1	Column 2
Infringement notice offence	Infringement notice fine (penalty units)
s 4(1)	2
s 4(3)	2
s 4(4)	2

Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)
s 4(5)	2
s 5	2
s 6	2
s 7(2)	2
s 8(1)	2
s 9(4)	2
s 10(2)	2
s 11(1)	1
s 12(1)	2
s 13	2
s 14(1)	2
s 15(1)	2
s 29	1

Authorised person for service of infringement notices—a busway safety officer appointed under the *Transport Infrastructure (Busway) Regulation 2002*, section 22’.

ENDNOTES

1. Made by the Governor in Council on 19 December 2002.
2. Notified in the gazette on 20 December 2002.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Transport.