



Queensland

# Transport and Other Legislation Amendment Regulation (No. 1) 2013

## Explanatory Notes for SL 2013 No. 150

made under the

*State Penalties Enforcement Act 1999*

*Transport Operations (Road Use Management) Act 1995*

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## General outline

### Short title

*Transport and Other Legislation Amendment Regulation (No. 1) 2013.*

### 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 regulation will:

- allow personal mobility devices (such as Segways) to be used on road-related areas such as footpaths and bicycle paths;
- provide an exemption from bicycle helmet laws based on religious grounds;

- introduce a one year maximum period for validity of medical certificates issued to drivers aged 75 years and over;
- require a person supervising a learner driver not to drink liquor while supervising the learner; and
- exclude the Toyota Landcruiser from the current high-powered vehicle restrictions.

## **Achievement of policy objectives**

### Personal mobility devices

The Minister for Transport and Main Roads announced on 23 April 2013 that Queensland laws would be amended to allow Segways to be used on footpaths and bikeways.

The amendments in this regulation concerning ‘personal mobility devices’ amend the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*, *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* and *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*.

The amendments will:

- introduce into Queensland legislation the concept of a ‘personal mobility device’ and initially specify that the ‘Segway Personal Transporter’ is such a device;
- generally apply the rules that apply to pedestrians under the Queensland Road Rules to the users of these devices;
- allow personal mobility devices to be used on footpaths, bicycle paths and either side of separated footpaths (that is, on either the bicycle or pedestrian side);
- exempt the devices from vehicle registration and compliance with vehicle standards;
- establish a maximum permissible speed for the devices of 12km/h;
- require users to be at least 12 years old, with those aged 12 to 15 years to be supervised by an adult and those aged 16 years and over able to use the device unsupervised;
- require users to wear an approved bicycle helmet;

- allow a personal mobility device to travel along a road for up to 50 metres, but only if there is an obstruction on the footpath or bicycle path which makes it impracticable to travel along that path;
- require users not to travel past a ‘no personal mobility devices’ sign, which will allow the use of these devices to be regulated by signage by State and local governments;
- require users of personal mobility devices to give way to pedestrians and otherwise to keep left on footpaths and bicycle paths;
- require users to display lights and reflectors (equivalent to those required for bicycles) when using the device at night or in hazardous weather conditions;
- prohibit the use of a mobile phone while using the device, except when used in ‘hands-free’ mode; and
- provide limited exemptions from the above rules for police officers acting in the course of their duty.

The amendments to the *State Penalties Enforcement Regulation 2000* will introduce infringement notice penalties for offences concerning ‘personal mobility devices’. The penalties are in line with penalties for similar offences in the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*.

The amendments will reduce red tape by allowing previously prohibited devices to be used in certain public places. The amendments also support the four pillar economy by facilitating the development of commercial tourism businesses to conduct tours using these devices or to hire the devices to tourists.

These amendments will commence on 1 August 2013.

#### Bicycle helmet exemption

The Minister for Transport and Main Roads announced on 23 April 2013 that Queensland laws would be amended to provide an exemption from bicycle helmet laws based on religious grounds.

Amendments to the *Transport Operations (Road Use Management—Road Rules) Regulation 2009* will provide that a person is exempt from wearing a bicycle helmet if:

- the person is a member of a religious group;

- the person is wearing a type of headdress customarily worn by members of that group; and
- the wearing of the headdress makes it impractical for the person to wear a bicycle helmet.

The exemption applies to the users of bicycles, bicycle trailers, motorised scooters and personal mobility devices.

#### Medical certificates for drivers aged 75 years and over

Amendments to the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* will introduce a one year maximum period for the validity of medical certificates issued to drivers aged 75 years and over. Annual medical assessments will assist these older drivers to make informed decisions about their fitness to drive.

These amendments will commence on 1 January 2014.

Medical certificates issued prior to the commencement of these amendments on 1 January 2014 will continue to be recognised for the existing period of their validity.

#### Supervisors of learner drivers not to drink liquor

Amendments to the *Transport Operations (Road Use Management—Road Rules) Regulation 2009* will prohibit a person drinking liquor while they are supervising a learner driver.

Under section 300A of the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*, the driver of a vehicle is prohibited from drinking liquor while driving. However, this does not extend to the supervisor of a learner driver. The *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* requires learner drivers to be supervised while they are learning to drive. The supervisor of a learner driver is considered to be in charge of the vehicle for the purpose of the drink driving provisions in the *Transport Operations (Road Use Management) Act 1995*.

It is considered that a learner driver witnessing a supervisor drinking while directing the learner sets a bad example. As such, this regulation amends the current rule in section 300A of the Queensland Road Rules so that it also applies to supervisors of learner drivers.

The amendments to the *State Penalties Enforcement Regulation 2000* will introduce an infringement notice penalty of 3 penalty units for supervisors of learners who drink liquor while supervising the learner. The penalty is

the same as the existing penalty in section 300A for the driver of a motor vehicle who commits the offence.

#### High-powered vehicle restrictions

Amendments to the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* will exclude the Toyota Landcruiser from the current high-powered vehicle restrictions.

Under section 70 of the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*, certain drivers are prohibited from driving high-powered vehicles (generally these are provisional licence holders under 25 years of age). High-powered vehicles are defined in the regulation and include vehicles with 8 or more cylinders and vehicles with an engine with a power output of more than 210kW.

Toyota Landcruisers are considered high-powered vehicles because they have 8 cylinders and, for the petrol powered version, an engine output that exceeds 210kW. This means they cannot be driven by drivers identified in section 70. This is causing difficulties for employment of young people in businesses which use these types of vehicles (for example, agricultural businesses) and is restricting the use of these vehicles more generally. It has been decided that Toyota Landcruisers can be excluded from the current high-powered vehicle restrictions because they have a low power-to-weight ratio.

While there is currently an ability to issue a certificate of exemption from the high-powered vehicle restrictions for employment related factors, it has been decided that to reduce red tape and regulation, there should be no need for individual applications for exemption and the exclusion should apply generally. The amendments will support the agricultural industry, one of the four pillars of the Queensland economy.

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

The amendments to transport regulations are consistent with the policy objectives in section 3 of the *Transport Operations (Road Use Management) Act 1995* which include providing for the effective and efficient management of road use in the State, improving road safety and the environmental impact of road use and providing for the effective and efficient management of vehicle use in a public place.

The amendments to the *State Penalties Enforcement Regulation 2000* are consistent with the policy objective in section 4 of the *State Penalties*

*Enforcement Act 1999* which is to maintain the integrity of fines as a viable sentencing or punitive option for offenders and to reduce the cost to the State of enforcing fines and other money penalties.

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

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

### **Benefits and costs of implementation**

The amendments will:

- expand commuting and recreational options for individuals by approving the use of personal mobility devices (such as Segways) on certain road-related areas;
- enhance opportunities for businesses involving personal mobility devices including, for example, tours or a hiring service;
- allow those people whose customary religious headdress might otherwise prohibit them from wearing a bicycle helmet to ride bicycles;
- assist in ensuring that drivers aged 75 years or more are medically fit to drive;
- contribute to road safety efforts by ensuring that the supervisors of learner drivers do not drink liquor while supervising;
- allow P plate drivers to drive the Toyota Landcruiser, which will be of particular assistance to many agricultural enterprises which employ young people; and
- apply the exclusion of the Toyota Landcruiser from the high-powered vehicle restrictions without the need for an application, thereby reducing red tape and regulatory burden for industry.

#### *Personal mobility devices*

Some costs will be incurred by the Department of Transport and Main Roads in assessing devices that are suitable for approval as personal mobility devices. These costs will be met from existing budget allocations. Local councils may also incur some costs where they choose to erect signage restricting the use of personal mobility devices within specified areas.

### *Medical certificates for drivers aged 75 years and over*

A large proportion of drivers aged 75 years and older will have a health care card and will continue to be bulk billed by their doctor. However, if a driver aged 75 years and over currently pay for their visits, this will not change.

### **Consistency with fundamental legislative principles**

It is considered that the amendments are consistent with fundamental legislative principles.

### **Consultation**

Consultation on the proposed amendments was undertaken with the Department of the Premier and Cabinet, the Department of Justice and Attorney-General, the Queensland Police Service, Queensland Treasury and Trade, the Department of Local Government, Community Recovery and Resilience, the Department of National Parks, Recreation, Sport and Racing, the Department of Agriculture, Fisheries and Forestry, the Department of Tourism, Major Events, Small Business and the Commonwealth Games and the Office of Best Practice Regulation.

In July 2011, the Older Driver Safety Advisory Committee was convened to consider the issues relevant to older driver safety and to provide advice which could be taken into account in policy processes. To assist the Committee, the Centre for Accident Research and Road Safety Queensland (CARRS-Q) was commissioned to review the literature, review practices in other jurisdictions and perform an analysis of Queensland crash data. The resulting report, Older Driver Safety, was released in October 2012 for public consideration and submissions were invited from the community for a one month period (9 October to 9 November 2012). The report recommended the introduction of a one year maximum period for validity of medical certificates issued to drivers aged 75 years and over, which is being progressed in this regulation.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Transport and Main Roads.

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