

Transport and Other Legislation Amendment Regulation (No. 2) 2013

Explanatory notes for SL 2013 No. 192

made under the

State Penalties Enforcement Act 1999

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport and Other Legislation Amendment Regulation (No. 2) 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

All Australian states and territories are committed to maintaining essentially uniform road rules for drivers and other road users. The Australian Road Rules is model legislation which, subject to certain local variations, has been adopted in all Australian jurisdictions.

The National Transport Commission has developed amendments to the Australian Road Rules which will be implemented into Queensland law by this amendment regulation. In addition, the regulation will make a number of Queensland-specific amendments. The majority of the amendments in the regulation are technical in nature and clarify or enhance the operation of existing provisions.

There are a small number of more significant amendments. Specifically, amendments allowing bicycle riders to ride across crossings at traffic lights are being progressed as the current requirement for cyclists to dismount before using the crossing is seen as unnecessary. The fine for unlawfully parking in a disability parking space is being increased as this behaviour causes significant public concern and significant inconvenience for members of the community with a disability.

Achievement of policy objectives

The regulation amends the *Transport Operations (Road Use Management—Road Rules) Regulation 2009* to adopt amendments made to the Australian Road Rules and to implement some Queensland-specific amendments.

The regulation also amends the *State Penalties Enforcement Regulation 2000* to increase the fine for parking in a disability parking space and to remove references to sections of the road rules which are being omitted by other amendments in this regulation.

The regulation also makes a small number of amendments to the *Transport Operations (Road Use Management—Driver Licensing Regulation 2010* which are consequential on the road rule amendments.

The more significant amendments within the regulation are described below.

Use of marked foot crossings by bicycle riders

Amendments in the regulation will allow bicycle riders to ride across crossings for pedestrians at traffic lights (that is, those crossings controlled by the red/green man signal). The rider will, however, be required to obey the pedestrian lights, ride slowly and safely, give way to pedestrians and keep to the left of any oncoming rider.

Parking spaces for people with a disability

The fine for unlawfully parking in a disability parking space is being increased from two-fifths of a penalty unit (currently \$44) to two penalty units (currently \$220). This behaviour causes significant public concern and significant inconvenience for members of the community with a disability. The existing fine is an inadequate deterrent and is currently the lowest fine for this offence of all the Australian jurisdictions.

Consistency with policy objectives of authorising law

The amendments are consistent with the policy objectives of the *Transport Operations (Road Use Management) Act 1995* to—

- improve road safety;
- support a reasonable level of community access and mobility; and
- promote the effective and efficient movement of people, goods and services.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

Road users will benefit from the adoption of the nationally-agreed amendments as they will assist in ensuring uniformity between the Queensland Road Rules and those that apply in other Australian jurisdictions.

Bicycle riders, especially those that commute by bicycle, will benefit from the removal of the requirement for them to dismount and walk across crossings at traffic lights.

The increased fine for unlawfully parking in a disability parking space is designed to deter this behaviour and to ensure these spaces are available for use by those with the appropriate disability parking permit.

The Government will not incur any additional costs in the implementation of this legislation.

Consistency with fundamental legislative principles

The fine for parking in a space allocated to people with disabilities without the relevant parking permit is being increased from two-fifths of a penalty unit (currently \$44) to two penalty units (currently \$220). This is consistent with the penalty already being imposed by several major local governments including the Brisbane, Fraser Coast, Ipswich and Logan local governments. Unlawful occupation of these parking spaces is a matter of considerable public concern. A substantial increase in the penalty is justified as unlawful parking can significantly impede people with a disability going about everyday activities such as shopping, attending appointments and participating in cultural and social events. The current penalty in Queensland for this offence is the lowest of all Australian jurisdictions. Following this increase, Queensland's penalty will become the third highest in the country.

The regulation is otherwise consistent with fundamental legislative principles.

Consultation

Two packages of national amendments, known as the 8th and 9th packages, were developed by the National Transport Commission. A discussion paper on the 8th package was prepared by the Commission and public consultation was undertaken. A Regulatory Impact Statement was prepared by the Commission for the 9th package of amendments which included broad public consultation.

The Royal Automobile Club of Queensland has been consulted on, and supports, the amendments contained in this regulation.

The Office of Best Practice Regulation, Queensland Competition Authority, has confirmed that a Regulatory Impact Statement is not required for these amendments.

Notes on provisions

Clause 1 states that the regulation may be cited as the *Transport and Other Legislation Amendment Regulation (No. 2) 2013*.

Clause 2 provides that Part 2 amends the *State Penalties Enforcement Regulation 2000*.

Clause 3 omits infringement notice penalties for two provisions of the Queensland Road Rules which are being omitted by clauses 40 and 42. Clause 3 also increases the infringement notice penalty for the offence in section 203 of the Queensland Road Rules for unlawfully occupying a parking area allocated to people with disabilities.

Clause 4 provides that Part 3 amends the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*.

Clause 5 is a consequential amendment to ensure that demerit points are allocated to the traffic history of a driver who is guilty of failing to give way to the rider of a bicycle on a marked foot crossing as required by new sections 62(1)(aa) and 64(ba).

Clause 6 provides that Part 4 amends the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*.

Clause 7 inserts an explanation of the designations ‘AS’ and ‘AS/NZS’ used in relation to an Australian Standard and replaces a current provision dealing with compliance with a Standard to reflect the use of these designations.

Clause 8 makes a technical amendment to the definition of a ‘shared zone’ to include a shared zone on a single length of road or on a road-related area.

Clause 9 clarifies that a driver who has stopped at traffic lights may proceed if the red light goes out. There are situations, such as the controlled entrances to some freeways and motorways, where a red light goes out and no other light is showing.

Clause 10 includes a reference to a bicycle crossing to ensure that a driver who is facing red traffic lights at the crossing must not enter the crossing.

Clauses 11 and 12 clarify that a driver who is turning at an intersection must give way to a pedestrian who is crossing the road the driver is entering. As a consequence of allowing a bicycle rider to cross a road on a marked foot crossing, the driver must also give way to any cyclist who is crossing the road the driver is entering on a marked foot crossing or bicycle crossing.

Clause 13 amends section 65. This section governs conduct by a driver at a marked foot crossing, which is not at or near an intersection, when the traffic lights are flashing yellow. The requirement to give way to any pedestrian who is crossing the road is extended to include any cyclist who is crossing the road on the crossing.

Clause 14 amends various sections to replace references to a pedestrian who is ‘on’ the road, with a reference to a pedestrian who is ‘crossing’ the road.

Clauses 15 and 16 provide for consistency of signalling rules when approaching a roundabout with other signalling rules. A driver will be required, before entering a roundabout, to give a left or right change of direction signal for long enough to give other drivers and pedestrians

sufficient warning of the driver's intention. A driver who is turning right must continue to indicate a right turn until the driver is about to leave the roundabout.

Clause 17 amends the heading of section 128A and inserts a reference to a bicycle crossing to additionally provide that a driver must not enter a bicycle crossing if the crossing or the road beyond the crossing is blocked.

Clause 18 inserts additional examples of U-turns that are not permitted.

Clause 19 amends the drafting of the section to improve understanding and inserts additional examples.

Clause 20 inserts a provision deeming that a dividing strip is taken to be the same level as a road even though it contains one or more raised pavement bars or markers. Section 137 permits a driver to drive on a dividing strip that is the same level as the road to enter or leave the road, a parking area on a dividing strip or enter a turning lane. Pavement bars and markers sit slightly above the road surface to provide an audible and tactile warning that the driver has strayed from a marked lane. The deeming provision ensures that a driver is allowed to perform the manoeuvres contemplated by the section.

Clause 21 clarifies the requirements for passing or overtaking a vehicle with a *do not overtake turning vehicle sign* by addressing scenarios where the vehicle is travelling on a multi-lane road, turning right, making a U-turn or is stationary.

Clause 22 provides an additional exemption for a vehicle required to use a particular lane to depart from that lane to leave the road or to make a U-turn.

Clauses 23 and 24 simplify the requirements for passing a tram that is stopped or stopping.

Clause 25 introduces a new rule to require a driver who is stopped beside a tram stop that is not on the far left side of the road, to remain stationary if a tram approaches from behind and stops beside the driver.

Clause 26 will allow innovative engineering practices such as indented parking areas to increase parking capacity on a length of road near a children's crossing without compromising safety. This amendment ensures consistency with provisions for parking at or near pedestrian crossings and brings Queensland into line with the Australian Road Rules.

Clause 27 specifies where a driver may stop in relation to a bicycle crossing that is not at an intersection.

Clause 28 allows a local government to specify a longer or shorter time than the current maximum permitted stay in a loading zone for a vehicle other than a bus, truck or commercial vehicle that is dropping off or picking up goods. The provision adopts the same approach used in section 179(2) for buses, trucks and commercial vehicles.

Clause 29 clarifies conduct that constitutes double parking to ensure that there is no unintended prohibition on parking on both sides of a one-way road.

Clause 30 modifies the requirements in relation to warning triangles to enhance road safety following a coronial inquiry.

Currently, the driver of a vehicle with a gross vehicle mass over 12 tonnes is required to deploy three portable warning triangles to alert other drivers if the vehicle is disabled or a load has fallen from it, and the vehicle or load is not visible for at least 200m in all directions. The triangles must be placed between 50m and 150m, to the front and rear of the vehicle or fallen load, and a triangle to the side.

The amendment increases the sight distance for the placement of warning triangles to 300m and increases the placement specification to between 200m and 250m on roads with a posted speed limit of 80km/h or more. It also removes the necessity to place a warning triangle to the front of the vehicle or load on a divided road or one way road.

Clause 31 clarifies the rules in relation to a pedestrian crossing a road and allows a pedestrian to return to the side of the road or a safety area that the person had just left if the lights change while the person is crossing.

Clause 32 allows a bicycle rider to ride across a marked foot crossing. The rider must, however—

- proceed slowly and safely when the pedestrian lights are green;
- give way to any pedestrian on the crossing; and
- keep to the left of any oncoming rider or a person using a personal mobility device.

If there are pedestrian lights and bicycle crossing lights at the crossing, the rider must not proceed until the bicycle crossing lights are green.

Clause 33 clarifies the rule for riding across a road at a bicycle crossing when the lights change. This amendment is similar to that made for pedestrians (see clause 31).

Clauses 34, 35(2), 36(1) and (4), 37(4)–(6) and 38 replace references to ‘*seatbelt*’ with ‘*approved seatbelt*’ to ensure a person must be using a seatbelt that complies with the relevant vehicle standards.

Clause 35(1) makes a minor editorial amendment.

Clause 36(2) relocates a provision for consistency with the model national rules.

Clause 36(3) amends section 266(3A) which currently provides that a child who is 4 years or more and under 7 years old must not sit in the front row of a vehicle which has two or more rows of seats unless all the other seats are occupied by children who are also less than 7 years old. This exemption may not cover the case where it is impossible to fit a third booster seat in the back row of a vehicle with 3 seating positions because two other booster seats are present. In this situation, a seating position remains although it cannot be used as the passenger is required to be restrained in an approved child restraint or booster seat.

The amendment confirms that the passenger may sit in the front row of seats in circumstances where there is no remaining seating position in the back row because of the presence of other occupied child restraints.

Clauses 36(5)–(8) update the definitions of ‘*approved booster seat*’, ‘*approved child restraint*’ and ‘*approved child safety harness*’.

Clause 37(1) omits subsections 267(1), (1AA) and (1AB) which are redrafted and relocated by clause 36(2).

Clauses 37(2)–(3) make minor editorial amendments.

Clause 37(7) inserts a new subsection (8B) to clarify that a passenger in a bus is exempt from the requirement to occupy a seating position fitted with an approved seatbelt while the passenger is standing as allowed by section 11 of the Passenger Transport Standard, or while entering or leaving the bus.

Clause 39 updates references to relevant Standards for an ‘*approved motorbike helmet*’.

Clause 40 removes a provision covered by other transport legislation.

Clause 41 amends the current requirement that the rider of a motorbike must not ride with an animal on the petrol tank of the motorbike. As some motorbikes do not have petrol tanks, the provision is being amended to provide that the rider must not ride with an animal between them and the handlebars of the motorbike or in a position that interferes with the rider’s control of the bike or view of the road.

Clause 42 removes an obsolete Brisbane CBD driving restriction.

Clause 43 makes a minor editorial amendment to the heading of section 301.

Clause 44 extends the circumstances in which breakdown workers (e.g. RACQ workers) are exempt from particular road rules to include assisting someone to gain entry to a locked vehicle. The amendment also allows breakdown workers to drive and park on a path, or to park on a dividing strip, nature strip or painted island.

Clause 45 clarifies that the obligation under particular sections of the Queensland Road Rules to give way to a pedestrian who is crossing the road or part of the road the driver is entering when turning at an intersection applies only if the pedestrian’s line of travel is more or less at right angles to the edges of the road.

Clause 46 inserts an additional version of a *no personal mobility devices* sign and makes a minor editorial amendment to the title of a particular traffic sign.

Clause 47 updates references to an ‘*approved bicycle helmet*’, a ‘*do not overtake turning vehicle sign*’ and to other legislation. Definitions for ‘*approved seatbelt*’, ‘*AS/NZS*’ and ‘*bicycle crossing*’ are inserted. The definitions of ‘*give way line*’ and ‘*stop line*’ are amended to insert references to a bicycle crossing. A minor editorial change is made to the definition of ‘*marked foot crossing*’. *Clause 47(4)* removes the requirement for a bicycle storage area to have a bicycle lane leading into it. This will allow road authorities to provide bicycle storage areas at signalised intersections where there is insufficient road width for a bicycle lane.