

# Transport Legislation Amendment Regulation (No. 3) 2013

Explanatory notes for SL 2013 No. 295

made under the

*Transport Operations (Road Use Management) Act 1995*

## General Outline

### Short title

*Transport Legislation Amendment Regulation (No. 3) 2013*

### Authorising law

Sections 80 and 171 of the *Transport Operations (Road Use Management) Act 1995*

### Policy objectives and the reasons for them

The regulation will amend the *Traffic Regulation 1962* to specify new types of saliva testing devices for roadside drug testing.

On 1 December 2007, roadside drug testing was introduced to test for the presence of 'relevant drugs' which may affect a person's ability to drive a motor vehicle and continues to be an important road safety initiative.

Roadside drug testing in Queensland must be conducted in accordance with section 80 of the *Transport Operations (Road Use Management Act) 1995* (TORUM Act) and parts 19 and 20 of the *Traffic Regulation 1962*. Section 80(1) of the TORUM Act defines a 'saliva analysing instrument' as an instrument, approved under a regulation, for finding out whether a relevant drug is present in a person's saliva by analysing a specimen of the person's saliva. Section 80(8FA) of the TORUM Act sets out the process for providing a saliva specimen, which includes the use of a 'collection unit' prescribed under a regulation. Sections 184 and 187 of the *Traffic Regulation 1962* currently specify the approved types of saliva analysing instruments and collection units.

The Queensland Police Service (QPS) conducts roadside drug testing. QPS in cooperation with the Department of Transport and Main Roads and Queensland Health recently

concluded an evaluation of saliva analysis instruments within an authorised invitation to tender process. A comprehensive evaluation report was prepared and a contract with the recommended supplier was signed. It is proposed to amend the *Traffic Regulation 1962* to approve new types of devices for roadside drug testing that will be provided under the contract with the new supplier.

The amendments will only affect which devices police officers can use to undertake roadside drug testing. There will be no change to current testing procedures.

Section 63B of the *Transport Operations (Road Use Management – Driver Licensing) Regulation 2010* currently specifies approved alcohol ignition interlock devices. One of the devices currently specified as being approved is the ‘Dräger Interlock XT (also known as Dräger Interlock XT)’. The regulation amends the spelling of the company name from “Dräger” to “Draeger” to reflect the correct alternative spelling.

## **Achievement of policy objectives**

The *Traffic Regulation 1962* is being amended to approve new types of devices for roadside drug testing that will be provided under the contract with the new supplier, as follows:

- the ‘Dräger DrugTest 5000 Analyser’ will be approved as a saliva analysing instrument (also known as the ‘Draeger DrugTest 5000 Analyser’); and
- the ‘Dräger DCH 5000 attached to a Dräger DrugTest 5000 STK’ will be approved as a prescribed collection unit (also known as the ‘Draeger DCH 5000 attached to a Draeger DrugTest 5000 STK’).

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

The amendments are consistent with the policy objectives in section 3 of the *Transport Operations (Road Use Management) Act 1995* which include improving road safety.

## **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 ensure that roadside drug testing can be undertaken with new saliva testing devices. All costs associated with the new devices will be met by the Queensland Police Service.

## **Consistency with fundamental legislative principles**

The amendments are consistent with fundamental legislative principles.

## **Consultation**

Consultation on the proposed amendments was undertaken with the Department of the Premier and Cabinet, Queensland Treasury and Trade, the Department of Justice and Attorney-General, the Queensland Police Service and the Office of Best Practice Regulation.

All agencies support the proposed amendments.

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