

# Transport Legislation and Another Regulation Amendment Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 26

made under the

*State Penalties Enforcement Act 1999*

*Transport Operations (Road Use Management) Act 1995*

## General Outline

### Short title

*Transport Legislation and Another Regulation Amendment Regulation (No. 1) 2014.*

### 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

#### *Cycling reforms*

In November 2013, the Parliamentary Transport, Housing and Local Government Committee tabled its report titled *A new direction for cycling in Queensland* (Report No. 39). The report outlined recommendations designed to improve the interactions between cyclists and other road users.

To increase safety for cyclists, the report specifically recommended that a minimum overtaking distance should be introduced (Recommendation 8). In this regard, the Committee noted a number of studies in Australia and in other jurisdictions have identified passing too closely (or side-swiping) as a frequent and significant factor in incidents resulting in death or serious injury to cyclists. This amendment regulation introduces a minimum passing distance for motorists passing a cyclist.

In its report, the Committee noted that “*the current imbalance between cyclists and other vehicle drivers in relation to infringement penalties warrants review*”. It commented that there is significant potential for cyclists to endanger

other vulnerable road users and do harm to themselves. It recommended that the penalties for road rules offences for cyclists should be increased to the level that applies to motorists where the potential to endanger other road users is greatest (Recommendation 31).

This amendment regulation implements and, for simplicity, extends that recommendation by providing that:

- where cyclists currently receive a lower infringement notice fine than motorists for any road rules offence, the fine for cyclists will be increased to the level that applies to motorists; and
- where the offence can only be committed by a cyclist and the current infringement notice fine is less than one penalty unit, the fine will be increased to one penalty unit.

### Gold Coast Light Rail service

While Queensland does not currently have a tram service that operates on roads, for national consistency purposes the *Queensland Road Rules* already contains provisions and offences relating to the interaction between trams and other road users.

As the Gold Coast Light Rail service will commence operation in mid-2014 and will, in a limited number of circumstances, operate on roads, it is necessary to introduce infringement notice fines and demerit points for breaches of these tram-related road rules. This is essential to ensure that the interaction between the trams and other road users is safely regulated and can be enforced, if necessary, by the police.

### Minor amendments

The current infringement notice fine for driving at night or in hazardous weather conditions without the vehicle's headlights, tail lights or number plate lights operating effectively is only two-fifths of a penalty unit. This is an insufficient deterrent to this potentially unsafe behaviour. The regulation amends the *State Penalties Enforcement Regulation 2000* to increase the fine to one penalty unit.

The *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* includes an administration fee that relates to inspections of written-off vehicles. Listing this fee in legislation is unnecessary as it is managed through contractual arrangements.

## Achievement of policy objectives

### Cycling reforms

This regulation amends the *Queensland Road Rules* to provide that motorists must leave a minimum distance of 1 metre between their vehicle and any cyclist they are overtaking on a road where the speed limit is 60 km/h or below and at least 1.5 metres where the speed limit is more than 60 km/h.

To facilitate these minimum passing distances, the amendments provide that a driver may straddle lane lines, drive to the right of the centre of the road (including crossing dividing lines) or drive on a painted island or dividing strip that is the same level as the road provided the driver has a clear view of any approaching traffic and it is safe to do so.

In line with the Parliamentary Committee's Recommendation 9, a breach of the new minimum passing distance requirement will carry a maximum court penalty of 40 penalty units.

The *State Penalties Enforcement Regulation 2000* and the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* will be amended to provide that a breach of the minimum passing distance requirement will carry an infringement notice fine of three penalty units and three demerit points. The level of demerit points matches the level that applies to offences of a similar risk including, for example, disobeying a red traffic light, failing to wear a motorbike helmet and entering a level crossing when a train is approaching.

The *State Penalties Enforcement Regulation 2000* is also being amended to increase infringement notice fines for cyclists by providing that:

- where cyclists currently receive a lower fine than motorists for any road rules offence, the fine for the cyclists will be increased to the level that applies to motorists; and
- where it is an offence that can only be committed by a cyclist and the current fine is less than one penalty unit, the fine will be increased to one penalty unit.

While the Committee had recommended that cycling fines be increased only “where the potential to endanger others is greatest”, it is believed the proposed approach represents a simpler and more easily understood penalty regime.

The increased penalties will reinforce that cyclists have an equal responsibility for road safety. Those cyclists who comply with the road rules will not be affected by these changes.

For consistency, the fines for the drivers of animals and animal-drawn vehicles are being increased in line with the increases for cyclists. This will significantly simplify the road rules penalties set out in the *State Penalties Enforcement Regulation 2000* and remove approximately 10 pages of legislation from that regulation.

### Gold Coast Light Rail service

In preparation for the start of the Gold Coast Light Rail service in mid-2014, this amendment regulation creates infringement notice fines and demerit points for road rules offences involving trams.

Specifically, the *State Penalties Enforcement Regulation 2000* is amended to insert infringement notice fines for sections 76(1) and (2), 84(1)(a), 114(1)(b) and (2), 155, 155A, 160(2) and (3), 161(2) and (3), 163(2), (3) and (4), 164(2), (3) and (4), 164AA(2) and (3), 196, 233(1) and (2), 274, 275, 277 and 279(2) and (3). The *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* is amended to provide that three demerit points accrue for offences against sections 114(2), 155A(1), 162(1), 274, 275, 277 and 279(2) of the *Queensland Road Rules* and two demerit points accrue for offences against sections 164AA(2) and (3).

### Minor amendments

The regulation amends the *State Penalties Enforcement Regulation 2000* to increase the penalty for an offence against section 215(1) of the *Queensland Road Rules* from two-fifths of a penalty unit to one penalty unit to better reflect the potential consequences of driving at night or in hazardous weather conditions without adequate lighting on the vehicle.

The regulation also amends the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* to omit the fee mentioned in schedule 3, Part 2, item 16. This fee, which relates to the written-off vehicle inspection program, is dealt with through contractual arrangements and does not need to appear in legislation.

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

The amendments to the *Queensland Road Rules*, the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* and the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* are consistent with the objectives in section 3(1)(b)(iii) of the *Transport*

*Operations (Road Use Management) Act 1995* relating to improving road safety.

The amendments to the *State Penalties Enforcement Regulation 2000* are consistent with the objectives in section 4 of the *State Penalties Enforcement Act 1999*.

## **Benefits and costs of implementation**

It is anticipated that the minimum lateral passing distance for motorists overtaking cyclists will improve the safety of cyclists travelling on roads.

The introduction of fines and demerit points for tram-related road rules offences should assist in ensuring the interaction between the Gold Coast Light Rail service and other road users is safely regulated.

Implementation of the amendments contained in this regulation is not expected to result in any significant cost to government.

## **Consistency with fundamental legislative principles**

The amendments are consistent with the 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 and the Office of Best Practice Regulation, Queensland Competition Authority.

All agencies consulted support the amendments.

During the inquiry by the Parliamentary Transport, Housing and Local Government Committee extensive public consultation was undertaken on various cycling initiatives. The Committee specifically acknowledged in its report “*the overwhelming support by submitters for the introduction of a minimum overtaking distance law*”.