

Transport Legislation and Another Regulation Amendment Regulation (No. 2) 2014

Explanatory notes for SL 2014 No. 219

made under the

Adult Proof of Age Card Act 2008

State Penalties Enforcement Act 1999

Tow Truck Act 1973

Transport Operations (Marine Safety) Act 1994

Transport Operations (Passenger Transport) Act 1994

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport Legislation and Another Regulation Amendment Regulation (No. 2) 2014

Authorising laws

Section 49 of the *Adult Proof of Age Card Act 2008*

Section 165 of the *State Penalties Enforcement Act 1999*

Section 43 of the *Tow Truck Act 1973*

Section 207 of the *Transport Operations (Marine Safety) Act 1994*

Section 155 of the *Transport Operations (Passenger Transport) Act 1994*

Section 171 of the *Transport Operations (Road Use Management) Act 1995*

Policy objectives and the reasons for them

The *Transport Legislation and Another Regulation Amendment Regulation (No. 2) 2014* (the Amendment Regulation) contains a range of consequential amendments needed as a result of the passage of the *Transport and Other Legislation Amendment Act 2014* (the Amendment Act).

Achievement of policy objectives

Red tape reduction measures

The Amendment Regulation will:

- remove the \$2,500 threshold limit for reporting property damage traffic incidents to police from the *Queensland Road Rules*. The amendments also allow for greater flexibility in crash reporting through channels such as the PoliceLink call centre or through online reporting where appropriate, by clarifying that reports may be given to the Queensland Police Service rather than to a police officer; and
- remove section 161 of the *Traffic Regulation 1962* (the Traffic Regulation) which deals with requirements for vehicle repairers to keep records of certain repairs. Section 161 is redundant as all the requirements have been moved into a single location in the *Transport Operations (Road Use Management) Act 1995* (TORUM Act) as part of the Amendment Act.

Other consequential amendments

The Amendment Regulation will also:

- amend the *Queensland Road Rules* to prescribe the new offence of transporting dangerous goods in a tunnel contained in section 84A of the TORUM Act, which was inserted by the Amendment Act, to be an offence that can be detected by camera technology;
- prescribe operation and testing requirements in the *Traffic Regulation 1962* for automatic number plate recognition (ANPR) camera systems used to detect offences for unregistered vehicles, vehicles without compulsory third party (CTP) insurance and the new offence of transporting a placard load of dangerous goods in a tunnel. The operation and testing requirements for ANPR cameras are based on similar provisions for speed and redlight cameras. The amendments also insert datablocks for new types of ANPR camera systems used to detect these offences. The datablocks show information such as the time, date and location of the alleged offence shown in an image and are used by prosecutors for evidentiary purposes;
- prescribe an infringement notice penalty of 10 penalty units for individuals and 50 penalty units for corporations in the *State Penalties Enforcement Regulation 2014* (SPE Regulation) for the new offence of transporting dangerous goods in a tunnel;
- require holders of driver licences and Adult Proof of Age Cards, registered operators of vehicles and holders of other transport authorities to keep any postal address they have provided to the Department of Transport and Main Roads updated. This will facilitate notices being sent to a postal address in accordance with a new provision in the *Transport Planning and Coordination Act 1994*, as inserted by the Amendment Act. These amendments are being made to the *Adult Proof of Age Card Regulation 2010*, *Tow Truck Regulation 2009*, *Traffic Regulation 1962*, *Transport Operations (Marine Safety) Regulation 2004*, *Transport Operations (Passenger Transport) Regulation 2005*, *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005*, *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008*, *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*, and *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*;

- remove the infringement notice penalty for unlicensed driving where a person has never held a licence from the SPE Regulation. The Amendment Act inserted a new provision into the TORUM Act to provide that an infringement notice cannot be issued for the offence of unlicensed driving if a person has never held a driver licence. Instead, these unlicensed drivers will need to attend court and will be disqualified from holding or obtaining a licence for 3 months; and
- make a number of minor technical amendments.

The majority of the amendments in the regulation commence on 1 October 2014, including the amendments to allow ANPR cameras to be used to detect unregistered vehicles and vehicles without CTP insurance. This coincides with the date that registration labels will cease to be issued in Queensland for light vehicles.

The amendments to remove the \$2,500 threshold for reporting property damage traffic incidents to police and the provisions requiring postal address details to be kept up to date will commence on 1 January 2015. A longer implementation time has been allowed for these amendments, as they require more complex changes to systems, processes and procedures.

The related amendments in the *Transport and Other Legislation Amendment Act 2014* also commence on the same dates.

Consistency with policy objectives of authorising laws

The amendments are consistent with the objectives of the authorising laws.

Benefits and costs of implementation

The benefits of implementing these amendments include:

- reducing unnecessary reports to police by removing the need to report crashes exceeding the \$2,500 property damage threshold;
- allowing reports of crashes to be made through more efficient means where appropriate, such as through the PoliceLink call centre or online reporting;
- ensuring the new offence of transporting dangerous goods in tunnels can be detected by camera system technology; and
- facilitating the use of ANPR cameras to detect unregistered vehicles and vehicles without CTP insurance, which is particularly important given the phasing out of registration labels from 1 October 2014.

The implementation of the amendments is largely administrative in nature and will not involve significant costs, with any costs being met within existing departmental budget allocations.

The amendments relating to the use of ANPR cameras to detect unregistered vehicles and vehicles without CTP insurance will have some ongoing administrative costs associated with them, but it is expected that the revenue obtained will cover the costs. Section 117 of the *Transport Operations (Road Use Management) Act 1995* requires that all money collected for camera-detected offences in excess of administrative costs must be used for road safety and associated purposes.

Consistency with fundamental legislative principles

Evidentiary Certificates for ANPR Camera System Coding Manual

New section 212A of the Traffic Regulation provides that a court must presume a document purporting to be an ANPR Camera System Coding Manual is an ANPR Camera System Coding Manual until the contrary is proved. It also provides that a certificate purporting to be signed by a toll officer of a toll operator, stating a document is a copy of a part of the ANPR Camera System Coding Manual issued by the toll operator, is evidence of that fact. This may raise the fundamental legislative principle that legislation should not reverse the onus of proof without adequate justification.

Section 212A is in very similar terms to existing section 212 of the Traffic Regulation which already operates in relation to other camera systems, including digital redlight camera systems and digital speed camera systems. The purpose of the ANPR Camera System Coding Manual is merely to show the locations of ANPR cameras installed in tunnels, which will assist prosecutors to establish where a vehicle entered a tunnel to commit an alleged offence against section 84A of the TORUM Act.

Any reversal of the onus of proof is justified in this situation for the following reasons:

- the certificate is about a technical matter, namely the location of a camera system used to capture an image of a vehicle in a tunnel, which is not likely to be contentious;
- the amendment allows for contrary evidence to disprove the matters in the certificate; and
- the evidentiary certificate merely provides a convenient way for a court to be informed by the prosecution about the matters provided for in the certificate and prevents the need to call witnesses unless the evidence is challenged, streamlining court proceedings and reducing court costs.

The remaining amendments are consistent with fundamental legislative principles.

Consultation

Consultation on all the 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 (Queensland Competition Authority). All government agencies consulted agree with the proposed amendments.

Consultation on removing the \$2,500 threshold for reporting traffic incidents to police from the *Queensland Road Rules* was undertaken with the Royal Automobile Club of Queensland (RACQ), Queensland Road Freight Industry Council, Motor Trades Association of Queensland and Centre for Accident Research and Road Safety Queensland (CARRS-Q).

Consultation on removing section 161 of the Traffic Regulation dealing with requirements to keep records of vehicle repairs was undertaken with the RACQ, Motor Trades Association of Queensland, Commercial Vehicle Industry Association of Queensland and Institute of Automotive Mechanical Engineers.

Consultation on the infringement notice penalties for the new offence of transporting dangerous goods in tunnels and the use of camera systems to detect this offence was undertaken with the RACQ, Queensland Trucking Association, BrisConnections, Queensland Motorways Limited, Queensland Road Freight Industry Council and Plastics and Chemicals Industries Association.

Consultation on requiring postal addresses to be kept updated was undertaken with the RACQ and the Queensland Law Society.

Consultation on removing the ability to issue an infringement notice for unlicensed driving where a person has never held a licence was conducted with the RACQ and CARRS-Q.

A number of matters in the amending regulation were foreshadowed as consequential amendments that would be needed as a result of passage of the Transport and Other Legislation Amendment Bill 2014. The RACQ, Queensland Law Society and Queensland Trucking Association raised issues with some of these amendments as part of the Transport, Housing and Local Government Committee's consideration of the Bill. The views of these stakeholders and the departmental responses to the issues they raised were summarised in the Committee's Report No. 46. The Committee recommended that the Bill be passed without amendment and it was subsequently passed by the Legislative Assembly.

Apart from the issues raised and reported on by the Committee, all stakeholders support the amendments.