

Transport and Other Legislation Amendment Regulation (No. 3) 2014

Explanatory notes for SL 2014 No. 279

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. 3) 2014

Authorising laws

Section 165 of the *State Penalties Enforcement Act 1999*

Sections 147, 150 and 171 of the *Transport Operations (Road Use Management) Act 1995*

Policy objectives and the reasons for them

Nationally-agreed amendments to the road rules

The Australian Road Rules is national 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. The majority of the amendments are minor or technical in nature. The more significant amendments deal with mobile phones and seatbelts.

Use of mobile phones

The Queensland Road Rules currently prohibits drivers from looking at television or other visual display screens in their vehicle except where those screens are a 'driver's aid' (for example, a navigational device or a reversing camera). The amendments will clarify that a mobile phone may be used as a driver's aid provided it is not being held in the driver's hand. This will allow, for example, drivers to use the navigational function on their mobile phone.

Seatbelts

A passenger 16 years or older in a bus, taxi or tow truck will be permitted to have a child less than one year old in their lap if there is no suitable child restraint available and the passenger is not in the front row of seats of a vehicle with two or more rows of seats. It is believed that it is safer in a low speed accident for the infant to be held by another passenger rather than being placed unrestrained in a seating position.

Court enforcement officers (sheriffs and bailiffs), corrective service officers and civilian watchhouse officers who are required to transport persons in their custody or care will be exempt from the requirement to ensure that all passengers in their vehicle are wearing a seatbelt. It is unreasonable to impose this requirement on these drivers as often the passengers will not be travelling in the vehicle voluntarily.

Reforms for cyclists

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 interaction of cyclists with other road users*”.

As part of the report, the Committee recommended changes to the Queensland Road Rules about cyclists riding across children’s crossings and pedestrian crossings (Recommendation 20), cyclists riding in the centre of the lane when entering, travelling in, or exiting roundabouts (Recommendations 23) and the use of bicycle lanes (Recommendation 26).

On 28 May 2014, the Queensland Government tabled its final response to the report outlining support, with some modifications, for these recommendations. This regulation contains amendments to implement the necessary changes.

Learner driver logbooks

Young drivers who complete an electronic logbook recording their supervised driving hours must currently submit the logbook in paper form for approval. To reduce red tape, it is proposed to allow these logbooks to be submitted electronically.

Achievement of policy objectives

The regulation achieves its policy objectives by amending the Queensland Road Rules to:

- adopt the nationally-agreed amendments to the Australian Road Rules; and
- implement reforms for cyclists.

The regulation also amends the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* to facilitate electronic lodgement of learner driver logbooks.

The amendments to implement reforms for cyclists will:

- allow cyclists to ride across children’s crossings and pedestrian crossings where the cyclist stops at the crossing, proceeds slowly and safely, gives way to any pedestrian on the crossing and keeps to the left of any oncoming cyclist or person using a personal mobility device;

- remove requirements for cyclists to ride to the far left side of the road when entering, exiting or in a single lane roundabout; and
- remove the requirement for cyclists to ride in bicycle lanes.

Consistent with the Government's final response to the Committee's report, the amendments vary from the Committee's recommendations in some respects.

In relation to Recommendation 20, the Committee indicated a cyclist should be permitted to ride across a crossing provided the cyclist slows down before crossing and stops only "*where required for safety*". However, to enhance safety for cyclists and for other road users, the amendments require cyclists must always stop before riding across the crossings.

In relation to Recommendation 26, the requirement for cyclists to use bicycle lanes will be omitted completely. As with other special purpose lanes (e.g. bus lanes and transit lanes), cyclists will be able to use a bicycle lane where one is available, but will not be required to do so.

Consequential amendments will also be made to the *State Penalties Enforcement Regulation 2014* to remove references to offences that are being omitted from the Queensland Road Rules by these amendments.

Consistency with policy objectives of authorising law

The amendments are consistent with the policy objectives of the *Transport Operations (Road Use Management) Act 1995* and, in particular, the objectives of improving road safety and providing for the effective and efficient management of road use in the State.

The amendments to the *State Penalties Enforcement Regulation 2014* are consistent with the objectives in section 4 of the *State Penalties Enforcement Act 1999*.

Inconsistency with policy objectives of other legislation

The regulation is not inconsistent 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.

It is anticipated these amendments will improve the convenience and safety of cyclists travelling on roads without unduly hindering other road users.

A young driver who records all their supervised driving hours in an electronic logbook will no longer be required to print the logbook to submit it, reducing red tape for the community. 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 regulation is consistent with the fundamental legislative principles.

Consultation

Consultation on the amendments has been undertaken with the Department of the Premier and Cabinet, Queensland Treasury and Trade, the Department of Justice and Attorney-General and the Queensland Police Service. Consultation was also undertaken with Queensland Corrective Services on the amendments relating to seatbelt requirements that apply to their officers when transporting persons in their custody. The Office of Best Practice Regulation, Queensland Competition Authority, was also consulted.

The Royal Automobile Club of Queensland was consulted on the package of nationally-agreed road rule amendments and the learner driver logbook amendments.

In relation to the reforms for cyclists, extensive consultation was undertaken on a range of cycling issues by the Parliamentary Transport, Housing and Local Government Committee during its inquiry into cycling in Queensland.

All parties consulted support the proposed amendments.

The Office of Best Practice Regulation has advised that the amendments do not require a Regulatory Impact Statement.

Notes on provisions

Clause 1 states that the regulation may be cited as the *Transport and Other Legislation Amendment Regulation (No. 3) 2014*.

Clause 2 states that the regulation commences on 1 January 2015.

Clause 3 states that Part 2 amends the *State Penalties Enforcement Regulation 2014*.

Clause 4 omits references to offences which are to be omitted from the Queensland Road Rules by this amendment regulation.

Clause 5 states that Part 3 amends the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*.

Clause 6 allows a learner driver who records all of their supervised driving hours in an electronic logbook to submit that logbook for approval electronically.

Clause 7 states that Part 4 amends the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*.

Clause 8 modifies the requirement to give way to another vehicle on a bridge or a narrow section of road to include a vehicle approaching the bridge or narrow road section.

Clause 9 provides that a driver to stop for a person riding a bicycle on a children's crossing.

Clause 10 provides that a driver to give way to a person riding a bicycle on a pedestrian crossing.

Clause 11 provides that a driver must not overtake or pass another vehicle that has stopped for the rider of a bicycle who is crossing a road on a children's crossing or on a pedestrian crossing.

Clause 12 removes the requirement for a bicycle rider who is approaching a roundabout with room for 2 or more lines of traffic and who is turning left at the roundabout to enter the roundabout from as near as practicable to the left side of the road.

Clause 13 amends the definition of *level crossing* to include areas on the approach to and exit from the main crossing that are painted with cross-hatched road markings. This will ensure, for example, that drivers do not enter these areas when warning lights are operating, a boom or gate is closed or a train is on or approaching the crossing.

Clause 14 removes the need for the rider of bicycle on a single lane road, who is entering or riding in a roundabout, to keep to the far left side of the road.

Clause 15 will allow a driver to cross two parallel broken dividing lines to overtake another driver or make a U-turn, or to enter or leave a road, or to enter another part of the road (such as an emergency stopping lane). A driver will also be permitted to cross various lines to angle-park on the opposite side of the road.

Clause 16 will allow a turn to be made across a painted island to enter such things as an emergency stopping bay or to angle-park.

Clause 17 amends a note.

Clause 18 will allow a driver to cross a continuous line separating a special purpose lane from other marked lanes if the driver enters or leaves the special purpose lane during a time the driver is permitted to be in the lane.

Clause 19 will allow bicycle lanes to be delineated by road markings in place of signs. Currently road markings are used to supplement roadside signage.

Clause 20 clarifies that stopping and parking is not permitted on a painted island.

Clause 21 will ensure that the exemption from the requirement for certain heavy vehicles to display warning triangles does not apply if there is no physical separation of lanes of traffic travelling in the opposite direction.

Clause 22 simplifies the rules for pedestrian behaviour in shared zones by making the requirements consistent regardless of whether the pedestrian is using a shared zone that is a road-related shared zone or a shared zone that is a road.

Clause 23 removes the requirement for a cyclist to ride in a bicycle lane if one has been provided and removes the requirement to enter a bicycle storage area from a bicycle lane.

Clause 24 amends section 248 to provide for the way in which cyclists may ride across a road at children's crossings or pedestrian crossings.

Clause 25 replaces two sections dealing with bicycle crossing lights to align the wording with provisions in the road rules for pedestrian lights.

Clause 26 will amend section 265 to allow a passenger in a bus, taxi or tow truck who is 16 years or older to have a child less than one year old in the passenger's lap. This exemption will apply if there is no suitable child restraint available and the passenger is not in the front row of seats of a vehicle with two or more rows of seats.

Section 265 is also amended to exempt the drivers of certain detention vehicles from the requirement to ensure that a passenger who is 16 years or older is restrained by a seatbelt. These drivers do not have an option to refuse to carry unco-operative passengers. This exemption will apply to corrective services officers, sheriffs and bailiffs, and civilian watchhouse officers. However, the exemption does not apply to the front row of a vehicle with two or more rows of seats unless there is no seating position in which the passenger can sit because all other seating positions are occupied by other passengers.

Clause 27 will align section 266 with the Australian Standard for child restraints where the passenger is four years or older but less than seven. Under the Standard a booster seat cannot be used with a lap only child restraint. The amendment will provide that the child must be placed on a properly positioned approved booster seat and be restrained by a suitable lap and sash seatbelt or by a suitable approved child safety harness.

An exemption similar to that provided by clause 26 will allow the driver of a detention vehicle to carry a person under 16 years of age who is not restrained by a seatbelt.

Clause 28 amends section 267 to remove an anomaly that allowed a child under seven years of age to be unrestrained while travelling in a slow moving vehicle that is involved in the collection of waste or the delivery or collection of goods.

Section 267 is also amended to allow a passenger in a bus, taxi or tow truck who is less than one year old to be unrestrained if the passenger is seated in the lap of a passenger who is 16 years or older. This exemption applies if there is no suitable child restraint available and the passenger is not in the front row of a vehicle that has two or more rows of seats. Also, if the vehicle is a tow truck, the exemption only applies if the infant is being carried because the vehicle in which the passenger had been travelling is being towed.

Clause 29 amends section 299 to provide that any visual display unit being used as a driver's aid must not be held in the driver's hand. An example will also be inserted into section 299 indicating that a mobile phone may be used as a navigational aid by a driver, subject to the restriction that it not be held in the driver's hand.

Clause 30 inserts an example to illustrate the effect of section 316.

Clause 31 amends several definitions, inserts new definitions, and replaces the definition of a postal worker.