

# Transport Legislation Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 160

made under the

*Tow Truck Act 1973*

*Transport Infrastructure Act 1994*

*Transport Operations (Marine Safety) Act 1994*

*Transport Operations (Road Use Management) Act 1995*

## General Outline

### Short title

*Transport Legislation Amendment Regulation (No. 1) 2015*

### Authorising law

Section 43 of the *Tow Truck Act 1973*

Sections 458C and 490 of the *Transport Infrastructure Act 1994*

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

Sections 152 and 171 of the *Transport Operations (Road Use Management) Act 1995*

### Policy objectives and the reasons for them

The primary policy objective of the *Transport Legislation Amendment Regulation (No. 1) 2015* (the amendment regulation) is to ensure national consistency and currency by adopting the third package of nationally-agreed amendments to the Model Subordinate Law on the Transport of Dangerous Goods by Road and Rail. These amendments were developed by the National Transport Commission and were endorsed by the Transport Infrastructure Council in May 2015.

The amendment regulation will also enhance maritime legislation by making a number of minor reforms, and make other miscellaneous amendments to update or enhance the operation of transport regulations.

## Achievement of policy objectives

### *Dangerous goods by road and rail*

National model laws have been developed to reduce the risks arising from the transport of dangerous goods by road and rail. Those laws include:

- the Model Law on the Transport of Dangerous Goods by Road and Rail;
- the Model Subordinate Law on the Transport of Dangerous Goods by Road and Rail; and
- the *Australian Code for the Transport of Dangerous Goods by Road and Rail* (the Code).

All of these laws are based on the internationally accepted United Nations Model Regulations on the Transport of Dangerous Goods which are revised every two years.

The National Transport Commission has developed the third Amendment Package to ensure national consistency and currency is maintained. The package amends the Model Law, the Model Subordinate Law and the Code to incorporate the recent changes made to the UN Model Regulations and to enhance the clarity of existing legislative requirements. The current edition of the Code is 7.3, with edition 7.4 to come into national effect on 1 January 2016.

In Queensland, the transport of dangerous goods by road is regulated under the *Transport Operations (Road Use Management) Act 1995* and the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008* (the Road Regulation). Likewise, the transport of dangerous goods by rail is governed by the *Transport Infrastructure Act 1994* and the *Transport Infrastructure (Dangerous Goods by Rail) Regulation 2008* (the Rail Regulation). These regulations are based on the Model Subordinate Law.

Both the Road and Rail Regulations will be amended to:

- clarify the definition of *multiple-element gas container*, which is an assembly of cylinders, tubes and bundles of cylinders used in the transport of dangerous goods;
- allow the chief executive to refer an approval, determination or exemption that has been given in another jurisdiction to the Competent Authorities Panel for the purpose of mutual recognition; and
- for changes to be made to the Code on 1 January 2016, provide industry with a 12-month transitional period during which they can comply with either the existing Code or the Code as amended.

The Road Regulation will also be amended to clarify that the requirement to display warning triangles when a dangerous goods vehicle is stopped on a road, only applies to vehicles with a gross vehicle mass of 12 tonnes or less. The Queensland Road Rules address the requirements for vehicles over 12 tonnes.

### *Maritime legislation*

Currently, Queensland legislation requires certain commercial and recreational ships to display a registration number that is at least 200mm high on both sides of the ship. In other Australian jurisdictions, the displayed number must be at least 150mm high.

This jurisdictional difference can lead to difficulties for boat owners, builders, manufacturers and dealers. For example, Queensland enforcement officers may unnecessarily intercept an interstate registered ship due to the smaller registration numbers displayed on the ship. To address this, it is proposed to amend the *Transport Operations (Marine Safety) Regulation 2004* to decrease, from 200mm to 150mm, the minimum size of registration numbers which must be displayed on the side of particular commercial and recreational ships. Current Queensland ship numbers will continue to satisfy the lower requirements.

Two additional minor amendments will:

- remove the need for recreational aircraft to obtain approval to take off and land in regulated waterways. To ensure safety, all aircraft, including recreational aircraft, must comply with the *Convention on the International Regulations for Preventing Collisions at Sea, 1972* when taking off and landing in regulated waters; and
- address a referencing error in the legislative description of the Gold Coast Seaway Coastal Bar.

#### *Minor amendments*

Further amendments will:

- allow approval holders under the *Tow Truck Regulation 2009* and the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008* the option of verbally notifying any change of address, rather than requiring written notification;
- remove redundant provisions, such as an unused provision in the *Tow Truck Regulation 2009* giving the chief executive the option of endorsing a change of name or address on an approval document;
- align the description of the lion alcolmeter breath-testing device, which is used by the Queensland Police Service in the enforcement of drink-driving legislation, with the manufacturer's registered name for this type of device;
- allow members of the public to electronically access, free of charge, vehicle-related information that will inform them about a vehicle's recorded purpose of use, whether a vehicle is a learner approved motorbike, or whether a vehicle has a current certificate of inspection; and
- make other minor amendments such as renumbering existing sections and making consequential changes.

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

The amendment regulation is consistent with the objective of the *Transport Infrastructure Act 1994* to establish a regime that provides for the safety of railways and persons at, on or near railways.

The amendment regulation is also consistent with the policy objectives in section 3 of the *Transport Operations (Road Use Management) Act 1995* to provide a scheme for managing the use of the State's roads that will improve road safety and the environmental impact of road use in ways that contribute to overall transport effectiveness and efficiency.

The amendment regulation is also consistent with the policy objectives in section 3 of the *Transport Operations (Marine Safety) Act 1994* to achieve an appropriate balance between regulating the maritime industry to ensure marine safety and enabling the effectiveness and efficiency of the maritime industry to be further developed.

## **Inconsistency with policy objectives of other legislation**

The amendments are not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The amendments are minor in nature and will not have a significant cost impact on government or other stakeholders.

## **Consistency with fundamental legislative principles**

The amendments are consistent with the fundamental legislative principles.

## **Consultation**

In developing the third Amendment Package for the transport of dangerous goods, the National Transport Commission undertook consultation with both industry and governments. Industry supports the nationally-consistent laws for the transport of dangerous goods and the amendment package was endorsed by the Transport Infrastructure Committee in May 2015.

The Queensland Recreational Boating Council, Queensland Boating and Fisheries Patrol and the Queensland Water Police Service were consulted on the amendment regarding the minimum size for display of registration numbers on particular ships.

The amendment regarding the operation of aircraft in regulated waterways was requested by the Seaplane Pilots Association of Australia.

Due to the minor nature of the other amendments, no public consultation was undertaken.