

Transport Legislation Amendment Regulation (No. 2) 2015

Explanatory notes for SL 2015 No. 162

made under the

Adult Proof of Age Card Act 2008

Tow Truck Act 1973

Transport Operations (Marine Safety) Act 1994

Transport Operations (Passenger Transport) Act 1994

Transport Operations (Road Use Management) Act 1995

Transport Planning and Coordination Act 1994

General Outline

Short title

Transport Legislation Amendment Regulation (No. 2) 2015

Authorising laws

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

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*

Section 38 of the *Transport Planning and Coordination Act 1994*

Policy objectives and the reasons for them

The *Holidays and Other Legislation Amendment Act 2015* (the Act) will amend a number of transport Acts to consolidate existing provisions about taking, keeping and using customers' digital photos and digitised signatures (digital image set provisions) into the *Transport Planning and Coordination Act 1994* (TPC Act).

A policy objective of the Act is to establish a legislative framework with sufficient flexibility that it will allow the digital image set provisions to be applied to high risk work licences issued under the *Work Health and Safety Act 2011* and, if appropriate, to other government authorities and licences in future.

Under work health and safety laws across Australia, a high risk work licence is required for persons operating certain high risk equipment such as cranes and forklifts, or performing scaffolding duties. Applying the digital image set provisions to high risk work licences will support the implementation of an online application service for high risk work licences using electronic identity verification and the existing digital bank of customer image sets and card production processes used by the Department of Transport and Main Roads.

The policy objective of the *Transport Legislation Amendment Regulation (No. 2) 2015* (the amendment regulation) is to provide for the operation of the amendments in the Act by applying digital image set provisions to applicants for high risk work licences, prescribing other particular matters for the Act and making other consequential amendments required as a result of the Act.

The amendment regulation will commence on 1 January 2016.

Achievement of policy objectives

The Act amends the TPC Act to provide that a person who applies under a *prescribed authorisation Act* for the grant, renewal, amendment or replacement of a *prescribed authority* must allow the chief executive to take and keep a digital photo and digitised signature of the person. The chief executive may use the photo and signature for identifying the person and to reproduce on the document or card given to the person. The TPC Act provides that a regulation will specify those certificates, licences and other authorities or documents that are *prescribed authorities* and those Acts that are *prescribed authorisation Acts*.

The amendment regulation will apply the digital image set provisions to applicants for high risk work licences by including those licences as *prescribed authorities* in the *Transport Planning and Coordination Regulation 2005*. Existing transport authorities which use the digital image sets provisions, including driver licences, marine licences and tow truck driver certificates, will also be *prescribed authorities*. The *Work Health and Safety Act 2011* will be included as a *prescribed authorisation Act* in the *Transport Planning and Coordination Regulation 2005* along with transport Acts under which existing transport *prescribed authorities* are issued.

The amendment regulation will also prescribe *transport authorities* and *authorised officers* in the *Transport Planning and Coordination Regulation 2005*. The Act inserts new definitions for these terms into the TPC Act which provide that they can be prescribed in a regulation to achieve the policy objective of creating a legislative scheme that can be applied to additional types of government licences or authorities in future. At this time, only transport authorities and authorised officers to whom the provisions currently apply will be prescribed.

The Act also inserts a new definition of *transport Act* into the TPC Act which authorises a regulation to prescribe those Acts which are *transport Acts*, rather than rely on the Administrative Arrangements Order. The amendment regulation will prescribe those Acts which are *transport Acts*. Only those Acts covered by the current definition will be prescribed.

The amendment regulation will also make minor consequential amendments, such as:

- inserting definitions of *prescribed smartcard Act* into a number of regulations. This term is currently defined in the authorising Acts for these regulations but will be omitted from the Acts as part of the consolidation of the digital image set provisions. To maintain the current position in the regulations, the definitions that were previously in the Acts will be inserted into the regulations; and
- updating notes and definitions to refer to the consolidated digital image set provisions in the TPC Act.

Consistency with policy objectives of authorising law

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

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

Applying the digital image set provisions to high risk work licences will support the implementation of an online application service for high risk work licences which will streamline service delivery, achieve operational and financial efficiencies for government and improve the customer experience in obtaining high risk work licences.

Consistency with fundamental legislative principles

The regulation is consistent with the fundamental legislative principles.

Consultation

Consultation on the high risk work licence amendments was undertaken with representatives of employers and workers, namely the Chamber of Commerce and Industry Queensland, the Australian Industry Group, the Australian Workers' Union and the Queensland Council of Unions. These organisations support the amendments.