

State Penalties Enforcement Amendment Regulation (No. 2) 2015

Explanatory notes for SL 2015 No. 187

made under the

State Penalties Enforcement Act 1999

General Outline

Short title

The *State Penalties Enforcement Amendment Regulation (No. 2) 2015*.

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*.

Policy objectives and the reasons for them

The *Heavy Vehicle National Law Amendment Act 2015* (Amendment Act) amended the *Heavy Vehicle National Law Act 2012* (the Act) to implement nationally agreed reforms which provide for the consistent regulation of heavy vehicle operations across most of Australia.

The amendments provided for the further harmonisation of the penalties for certain offences and included new penalties for tampering with a plate on a vehicle, using a restricted access vehicle without authority, as well as updated record keeping and defect notice offences.

The amendments to the *State Penalties Enforcement Regulation 2014* reflect the changes to provisions under the Amendment Act and are to commence on 6 February 2015, the date of proclamation of the Amendment Act.

Achievement of policy objectives

The proposed amendments to the *State Penalties Enforcement Regulation 2014* provide for infringement notices to be issued for offences committed against the Act in Queensland. These offences are listed in the following table.

Section	Offence	Maximum Penalty	Proposed PIN
87A(1)	A Person must not tamper with a plate or label fitted or affixed to a heavy vehicle under section 86(2) or 87(3).	\$3,000	\$300

153A(1)	A person must not use a restricted access vehicle, or permit a restricted access vehicle to be used, on a road unless the road is one on which the vehicle is allowed to be used under a mass or dimension authority applying to the vehicle.	\$6,000	\$600
307(3)	Driver who is the record keeper must notify Regulator if electronic work diary filled up etc. – Within a period required by the Regulator, the driver must ensure the electronic work diary is examined and brought into working order.	\$3,000	\$300
312(3)	Obligations on the record keeper after becoming aware that an electronic work diary is not in working order or malfunctioning.	\$6,000	\$600
324A(2)	Record keeper must give record to driver if requested – The driver’s record keeper must, as soon as reasonably practicable— (a) give the driver a copy of the record, or make the record available to the driver; or (b) if the information is recorded in an electronic work diary—give the driver, in a way that makes the information readily available to the driver, the information recorded in the work diary.	\$1,500	\$150
341(7)	Period for which, and way in which, records must be kept – If the driver’s work diary is an electronic work diary, the driver’s record keeper must maintain a record of the information that is recorded in the work diary in a way complying with— (a) if the Regulator has, when approving the electronic recording system constituting the work diary, or of which the work diary is a part, imposed any conditions in relation to the way information must be recorded in the work diary—those conditions; and (b) the manufacturer’s instructions, if any, for recording information in the electronic work diary, to the extent the instructions are consistent with the conditions mentioned in paragraph (a).	\$1,500	\$150
531(4)	Amendment or withdrawal of vehicle defect notices – If the person given the notice of amendment or withdrawal is not the operator of the vehicle, the person must, as soon as reasonably practicable, give the notice to the operator.	\$3,000	\$300

The penalty amounts, expressed in dollar values within the Act, are indexed annually in accordance with increases in relevant inflation (or similar) indexes. Section 737 of the Act (Increase of penalty amounts) provides for this indexation. As soon as practicable prior to 1 July each year, the National Heavy Vehicle Regulator must publish the amounts of each penalty applying from that date.

Consistency with policy objectives of authorising law

The amendment regulation remains consistent with the main objectives 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

There are no financial benefits nor costs associated with this amendment.

Consistency with fundamental legislative principles

The amendment does not breach any fundamental legislative principles.

Consultation

The National Transport Commission consulted widely in the development of the Amendment Act. As these amendments are made to reflect the provisions of the Amendment Act, no additional external consultation was undertaken.

Consultation has been undertaken by the Department of Transport and Main Roads with the Departments of the Premier and Cabinet, Treasury and the Queensland Office of Best Practice Regulation in relation to the RIS system.

Government departments consulted were supportive of the proposed amendments in the Amendment Regulation.

DJAG has advised that the amendments to the *State Penalties Enforcement Regulation 2014* are consistent with the Guidelines.

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