

Transport Legislation Amendment Regulation (No. 2) 2016

Explanatory notes for SL 2016 No. 241

made under the

Transport Operations (Marine Safety) Act 1994

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport Legislation Amendment Regulation (No. 2) 2016

Authorising law

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

Section 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. 2) 2016* (the Amendment Regulation) is to reduce the regulatory burden imposed by transport legislation on business and foreign car licence holders.

The Amendment Regulation will also make a number of changes to update, clarify or enhance the operation of existing legislative provisions.

Achievement of policy objectives

High-powered vehicle exemption for businesses

Under the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* (Driver Licensing Regulation) young drivers are prohibited from driving a high-powered vehicle on a road. It is currently possible for a young driver to obtain a certificate of exemption from this prohibition if they need to drive a high-powered vehicle to or from work or in the course of their employment but only if there is no other transport reasonably available and they would suffer severe hardship if they were not granted the exemption certificate.

However, due to these requirements, this exemption is not available to certain young drivers who are required to drive high-powered vehicles in the course of their employment, such as apprentice motor mechanics who are road testing vehicles.

The Amendment Regulation will provide for a new exemption for businesses if driving high-powered vehicles is essential to the operation of the business and the business is run by, or employs, young drivers. The exemption certificate will be granted only if the nature of the young drivers' duties is likely to require them to drive a high-powered vehicle on a road. The exemption will apply to all young drivers employed by the business who carry out these duties.

Foreign car licence holders

In Queensland, class C (car) licences allow the holder to drive motor vehicles with a gross vehicle mass (GVM) up to 4.5t. Some foreign car licences, including European Union licences, are restricted to vehicles with a lower GVM. This means that those licence holders visiting Queensland cannot drive the full range of class C vehicles. Because some other states and territories allow holders of these licences to drive the larger class C vehicles (for example, hired motorhomes) this can cause difficulties for interstate travel for foreign driver licence holders.

The Amendment Regulation will provide that holders of foreign driver licences will be authorised to drive any class C vehicle. The authorisation will not apply to driver licences which only authorise the holder to ride or drive a motorbike or specially constructed vehicle.

The driving characteristics of class C vehicles and road crash statistics for foreign licence holders indicate that the public safety risk of this change is low. Similar legislative amendments in other states and territories have not resulted in any negative road safety outcomes. A higher level of licence will still be required in order to drive other classes of vehicles.

Release of information for NEVDIS

The National Exchange of Vehicle and Driver Information Systems (NEVDIS) is owned by Austroads, the association of Australasian road transport and traffic agencies. The purpose of NEVDIS is to facilitate the sharing of registration and licensing information among road agencies to manage the granting of registration and driver licences in Australia.

The chief executive currently releases information from the vehicle register for use by NEVDIS under general provisions within the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* (Vehicle Registration Regulation).

Because of the important and expanding role of NEVDIS in sharing information between jurisdictions, it is considered appropriate to insert a new, specific provision into the Vehicle Registration Regulation that expressly provides for the authority to release information from the vehicle register to Austroads for use in NEVDIS.

Minor amendments

The Amendment Regulation will also:

- clarify that unregistered vehicles and vehicles recorded as repairable write-offs can be driven to their garage address if the journey is reasonably connected with registering the vehicle or having the vehicle's record updated so that it is no longer a written-off vehicle. This will, for example, allow the vehicle to be driven home in between obtaining inspections necessary for registration;
- clarify that vehicles that are repairable write-offs can be driven for on-road testing for issuing an inspection certificate;
- provide that certain vehicles used for driver training for reward must have a safety certificate if they are offered for sale or disposed of. These vehicles are currently required to have annual inspections to obtain a certificate of inspection (COI) but this requirement will end on 17 December 2016. Amendments will also provide that owners of these vehicles may use a current COI in place of a safety certificate until the COI expires;
- clarify that vehicles with internal-combustion engines are not eligible for the *low-powered vehicle* exemption from registration when used on roads;
- clarify that, for vehicle standards purposes, a low-powered vehicle includes a vehicle with two or more motors with a combined maximum power output of not more than 200W;
- update references to the repealed *Property Agents and Motor Dealers Act 2000* in the Vehicle Registration Regulation and the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010* (Vehicle Standards and Safety Regulation) to refer instead to the *Motor Dealers and Chattel Auctioneers Act 2014*;
- correct the description of the Gold Coast Seaway Bar in the *Transport Operations (Marine Safety) Regulation 2016* (Marine Safety Regulation).

Consistency with policy objectives of authorising law

The amendments to the Driver Licensing Regulation, the Vehicle Registration Regulation and the Vehicle Standards and Safety Regulation are consistent with the main objects of the *Transport Operations (Road Use Management) Act 1995*, including in particular, the objectives of providing for the effective and efficient management of road use in the State and improving road safety.

The amendment to the Marine Safety Regulation is consistent with the objectives of the *Transport Operations (Marine Safety) Act 1994*.

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

Release of information for NEVDIS

Clause 19 of the Amendment Regulation will insert a specific provision into the Vehicle Registration Regulation which authorises the chief executive to give an extract from the vehicle register to Austroads, for the purposes of the NEVDIS agreement. In line with existing practice, the information given may include personal information about a vehicle's current or previous registered operator.

Allowing the disclosure of personal information may impact on an individual's right to privacy. The provision of this information to other participating jurisdictions, however, is an essential component in the efficient administration of their driver licensing and vehicle registration systems. It allows, for example, the owner of an interstate registered vehicle to easily re-register their vehicle in Queensland and vice-versa. As already noted, the amendment will not result in an expansion of the personal information that may be released. The inclusion of the provision simply clarifies the operation of the Vehicle Registration Regulation by providing by an express provision authorising the release of information from the vehicle register to support the sharing of information between jurisdictions under the NEVDIS agreement.

High-powered vehicle exemption for businesses

Clause 8 of the Amendment Regulation will provide that a person may apply for the reconsideration of a decision of the chief executive to not grant a high-powered vehicle exemption for a business (section 71A(9)). The chief executive must give reasons for this decision and information that the person may also apply to QCAT for a review of the decision on reconsideration. However, for a decision to impose a condition on the exemption, reasons will not be given and a person will not be able to apply for a reconsideration or review.

The former Scrutiny of Legislation Committee considered that to provide practical rights of review, and consistent with having sufficient regard to the rights and liberties of individuals, a decision-maker should be required to give reasons for the decision together with information about review or appeal rights.

The approach for the new exemption is consistent with the process for the existing exemptions from the high-powered vehicle restrictions and the late night driving restrictions for young drivers. It is not considered necessary to provide reasons or review rights for a decision to impose a condition as the conditions that will be imposed will relate directly to the need of the business for the exemption. For example, the exemption may be restricted to the operating hours of the business to ensure that it is only used by young drivers during their employment.

Consultation

Consultation was undertaken with the Department of the Premier and Cabinet, the Department of Justice and the Attorney-General, Queensland Treasury and the Queensland Police Service. The Motor Accident Insurance Commission was consulted on the amendment relating to moving unregistered and written-off vehicles. All agencies supported the amendments.

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation was not consulted in relation to the amendments relating to driver trainer vehicles. The Department of Transport and Main Roads applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category A, “Regulatory proposals that make consequential amendments”). The Department of Transport and Main Roads also applied a self-assessable exclusion to the amendments for the description of the Gold Coast Seaway Bar (Category F – Regulatory proposals that correct technical errors).

The Office of Best Practice Regulation, Queensland Productivity Commission advised that the other amendments are excluded from the Regulatory Impact Assessment system.