

Transport and Other Legislation Amendment Regulation (No. 1) 2017

Explanatory notes for SL 2017 No. 170

made under the

State Penalties Enforcement Act 1999

Transport Operations (Marine Safety) Act 1994

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport and Other Legislation Amendment Regulation (No. 1) 2017

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*

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 policy objective of the amending regulation is to enhance the operation of transport legislation by:

- reducing the fine for individuals who fail to display or produce a safety certificate when selling a vehicle;
- making minor amendments to clarify the lifejacket requirements for Queensland regulated ships that are tenders;
- allowing people (primarily volunteers) who have been assessed as competent to direct traffic in limited circumstances to support community events;
- exempting Queensland government entities, such as the Gold Coast 2018 Commonwealth Games Corporation (GOLDOC), from the requirement to pay a fee for traffic history and driver licence checks;

- allowing the application fee for an exemption from the young driver logbook requirements to be waived in limited circumstances; and
- adopting the 'Australian Light Vehicle Standards Rules 1st Amendment Package'.

Achievement of policy objectives

Reducing fine for failure to display or produce a safety certificate

A person selling a registered vehicle in Queensland must display a current safety certificate on the vehicle or, if the certificate has been issued electronically, produce a copy of it to a prospective buyer if asked. The safety certificate indicates the vehicle is safe for use on the road. The fine for not complying with these requirements is five penalty units and applies to both motor dealers and private sellers. It is considered that the current fine is excessive for private sellers and therefore this amendment of the *State Penalties Enforcement Regulation 2014* will reduce it to three penalty units while maintaining the existing fine for motor dealers.

Clarifying lifejacket requirements for tenders

A tender is an auxiliary ship that is employed to attend another ship. Minor amendments are being made to the *Transport Operations (Marine Safety) Regulation 2016* to clarify that lifejacket requirements for ships do not apply to tenders which already have their own lifejacket requirements.

Traffic direction at community events

Special events, including small community-based events and larger events such as marathons and cycling races, are becoming increasingly popular in Queensland. Currently, where operational STOP/SLOW traffic control is required for these events, traffic management companies are often used to provide accredited traffic controllers on a commercial basis.

The costs involved with traffic control are often prohibitive, especially for smaller, community-based events. In response, the Department of Transport and Main Roads (DTMR) has developed a process to allow people (primarily volunteers) to direct traffic at community events (event traffic marshals). As part of this, DTMR is creating an online information and assessment tool to ensure potential participants have the requisite information to perform the function. There will also be a tool kit for event organisers to ensure that a person is competent to perform this function. The tool kit will include an onsite practical assessment that event organisers will administer after participants have successfully completed the online assessment.

Those participants who have been assessed as competent will be entitled to use STOP/SLOW signs and associated traffic control devices as appropriate, to direct traffic in road environments that DTMR has assessed as being low risk. The authority of these event traffic marshals to direct traffic will only be in relation to an event for which a special event permit has been issued under the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015* (Accreditation regulation).

Special event traffic marshals will not be accredited traffic controllers under the Accreditation regulation. This is because the authority of these traffic marshals to direct traffic is much more limited than the traffic direction function of accredited traffic controllers. Accredited traffic controllers' authority to direct traffic is not limited to low speed/low risk traffic environments.

The Accreditation regulation however currently provides that it is an offence for a person who is not an accredited traffic controller to direct traffic. It also provides an offence for a person to engage a person who is not an accredited traffic controller to direct traffic.

Amendments are therefore being made to ensure that event traffic marshals can be used to direct traffic provided the marshal:

- is performing a function stated in the special event traffic control procedure in accordance with that procedure;
- is performing that function within three months of successfully completing the online traffic control assessment, or within 12 months of previously acting as an event traffic marshal; and
- is performing that function at a special event conducted under a permit.

The *Queensland Road Rules* are also being amended so that it is a defence to the prosecution of a person for breach of the rules if the person was obeying a direction given by a special event traffic marshal – for example, a direction to cross over a dividing line on a road and drive to the right of the centre of the road.

Exemption from fee for licence and traffic history checks

In preparation for the Commonwealth Games on the Gold Coast in 2018, GOLDOC is in the process of recruiting volunteers. For volunteers who may be driving as part of their role, for example, by transporting athletes and officials to various events, GOLDOC is requiring traffic history checks. Information about a person's driver licence and traffic history may currently be obtained by applying to the chief executive and paying the prescribed fee (\$22.45).

Given the benefits the Commonwealth Games will bring to Queensland, to assist smooth preparations for the games, it is proposed to exempt GOLDOC from paying the fee. The proposed amendment will exempt any Queensland government entity, including government corporations such as GOLDOC, from paying driver licence and traffic history search fees.

The amendment will streamline processes where a traffic history check is needed as part of normal Queensland Government business, or in relation to future events like the Commonwealth Games.

Waiver of logbook exemption application fee for remote communities

Currently, learner drivers under 25 years of age must record 100 hours of supervised driving in a logbook to obtain a provisional licence. In areas with a very limited road network, young drivers can apply for an exemption from the logbook requirement and pay the application fee, as required under the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*.

The Indigenous Driver Licensing Unit (IDLU) is a mobile team that visits remote communities throughout far north Queensland to assist with licensing matters, including applications for logbook exemptions. Many remote communities have limited road networks in which to record the required 100 hours of supervised driving. For this reason, exemptions from the logbook requirements are always granted by the IDLU. Because there is no need for the unit to invest time processing logbook exemption applications in these remote communities, this amendment will allow the exemption application fee to be waived for these young drivers.

Australian Light Vehicles Standards Rules – national amendment package No. 1

In May 2016, the Transport and Infrastructure Council approved the 'Australian Light Vehicle Standards Rules 1st Amendment Package'. Amendments are required to the Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010 to reflect these agreed changes relating to window tinting, headlights and brake lights.

The amendments will allow a tint with 20% minimum luminous transmittance to be applied to the rear windows of passenger vehicles. A tint with 0% luminous transmittance may be applied to the rear windows of vehicles designed primarily for the carriage of goods, provided rear vision mirrors are fitted to each side of the vehicle. This amends the current minimum level of 35% and will align Queensland's requirements with the national Australian Design Rules that apply to new vehicles.

The amendments will allow an odd number of additional headlights to be fitted to a vehicle, to accommodate new lighting technology such as a single LED light bar. This amends the current requirement for additional headlights to be fitted in pairs.

A clarification is also being made to cater for old vehicles that may be fitted with brake lights that can also be used as a direction indicator light.

A Queensland specific amendment to make a minor drafting clarification in the rule about exhaust systems is also being made.

Consistency with policy objectives of authorising law

The amendments to the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*, the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*, the *Transport Operations (Road Use Management—Road Rules) Regulation 2009* and the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010* 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 *State Penalties Enforcement Regulation 2014* is consistent with the objectives of the *State Penalties Enforcement Act 1999*. The amendment to the *Transport Operations (Marine Safety) Regulation 2016* is likewise 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 benefits of the amendments are explained above. As the amendments are minor in nature, they will not have a significant cost impact on government or other stakeholders.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles.

Consultation

Community consultation has been undertaken via the Queensland Government's 'Get Involved' website to determine the level of support for the concept of event traffic marshals. The results demonstrated high levels of support for the concept.

The National Transport Commission undertook public and stakeholder consultation during the development of the changes to the Australian Light Vehicle Standards Rules.

The Office of Best Practice Regulation, Queensland Productivity Commission has advised that the amendments relating to event traffic marshals appear unlikely to result in significant adverse impacts, and therefore no further assessment is required under the Queensland Government Guide To Better Regulation (the guidelines).

In accordance with the guidelines, the Office of Best Practice Regulation was not consulted in relation to the remaining amendments. The Department of Transport and Main Roads applied a self-assessable exclusion from undertaking further regulatory impact analysis based on the categories indicated below:

Category A—Amendments that are made as a consequence of an Act being enacted or subordinate legislation being made:

- Adoption of the 'Australian Light Vehicle Standards Rules 1st Amendment Package'.

Category F—Regulatory proposals that correct technical errors:

- Removal of redundant provisions in the *Transport Operations (Marine Safety) Regulation 2016*.

Category G—Regulatory proposals that are of machinery nature:

- Reducing the penalty infringement amount for private sellers failing to display a safety certificate;
- Exempting Queensland government entities from the requirement to pay a fee for traffic history and licence checks;
- Introducing the power to waive the application fee for a young driver logbook exemption.