

Transport Legislation Amendment Regulation (No. 2) 2018

Explanatory notes for SL 2018 No. 144

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) 2018

Authorising laws

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 *Transport Legislation Amendment Regulation (No. 2) 2018* (amendment regulation) is to enhance the operation of transport legislation by:

- clarifying when an entity will be suitable for approval to provide training programs for the operation of recreational ships and personal watercraft;
- exempting an emergency worker (for example, an ambulance officer) riding a bicycle from complying with the road rules when responding to an emergency;
- allowing motorbike riders to edge filter on roads when the normal speed limit of 90km/h or more has been reduced to less than 90km/h by a variable illuminated message sign, and prohibiting motorbike riders from edge filtering in tunnels and on roads subject to roadworks;
- clarifying when a safety certificate is required to register a vehicle that has never previously been registered;
- facilitating the introduction of online registration certificates;
- allowing the owner of personalised number plates to notify the chief executive when the personalised number plates are sold or disposed of;

- allowing the chief executive to determine a reasonable fee, if any, to be paid by statutory entities for the release of vehicle registration information; and
- providing that safety recall agencies are not required to pay a fee for the release of vehicle registration information required to conduct a national vehicle safety recall program.

Achievement of policy objectives

The amendment regulation achieves the policy objectives listed above by amending the *Transport Operations (Marine Safety) Regulation 2016* (Marine Safety Regulation), the Queensland Road Rules and the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* (Registration Regulation), as set out below.

Training Program Approvals

Under section 67 of the Marine Safety Regulation, the chief executive may grant an approval to an entity to provide training programs for the operation of recreational ships and personal watercraft. Before granting the training program approval, the chief executive must be reasonably satisfied of a number of matters set out in section 68. Section 68(1)(f) incorrectly refers to the suitability of an entity for an ‘examining approval’. Accordingly, the amendment regulation replaces this reference with a reference to ‘a training program approval’.

Emergency Service Bicycles

The Queensland Ambulance Service has introduced ambulance bicycles as a means of transport for emergency workers. These bicycles will assist the Queensland Ambulance Service to provide an efficient emergency response service in congested areas or areas where conventional motor vehicle access is limited.

Currently, an emergency worker driving a motor vehicle is exempt from complying with the Queensland Road Rules when responding to an emergency, if, among other things, the driver takes reasonable care and the vehicle is displaying a red flashing light or sounding an alarm. The amendment regulation extends this exemption to an emergency worker riding a bicycle when responding to an emergency. The amendment regulation achieves this by referring to a ‘vehicle’ instead of a ‘motor vehicle’ in section 306 and in the definition of an ‘emergency vehicle’ in Schedule 5 of the Queensland Road Rules. These amendments also ensure that other road users are required to give way to, and keep clear of, emergency workers riding bicycles who are responding to an emergency, and provide emergency workers consistent road rule exemptions while riding a bicycle.

The amendment regulation also clarifies references to a ‘police or emergency vehicle’ in sections 78, 79, 267 and 268 of the Queensland Road Rules by replacing those references with references to a ‘police vehicle or emergency vehicle’, as ‘police vehicle’ is a defined term. To accurately reflect the type of lights that emergency vehicles may display, the amendment regulation also amends section 306(b) to refer to emergency vehicles that display a ‘blue or red flashing light.’

Motorbike Edge Filtering

To ease traffic congestion on major arterial roads, section 151B of the Queensland Road Rules permits motorbike riders to edge filter along a length of road by riding past stationary or slow moving vehicles on the edge of a road, subject to certain safety restrictions set out in subsection 151B(3).

In particular, section 151B(3)(b) prohibits a motorbike rider from edge filtering if the speed limit for the length of road is less than 90km/h. However, this restriction has prevented motorbike riders from edge filtering where a variable illuminated message sign has reduced the speed limit to less than 90km/h. As variable illuminated message signs are often used to reduce the speed limit for roads during peak traffic congestion to improve the flow of traffic, the benefits of edge filtering are not being fully realised on these roads.

Accordingly, the amendment regulation amends section 151B(3)(b) of the Queensland Road Rules to permit edge filtering when the normal speed limit of 90km/h or more has been reduced to less than 90km/h by a variable illuminated message sign. The amendment regulation also clarifies that edge filtering will be prohibited in tunnels and on roads subject to roadworks, irrespective of the speed limit applying to a length of road.

Safety Certificates for Unregistered Vehicles

A safety certificate issued under the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010* is required to sell or otherwise dispose of certain vehicles, referred to as ‘SC vehicles’. Safety certificates are issued after an SC vehicle has been inspected and it has been demonstrated that the vehicle complies with the vehicle safety standards.

Under section 13(1)(h)(ii) of the Registration Regulation, an application to register an SC vehicle must be accompanied by a safety certificate unless the vehicle has never previously been registered in Queensland, in another State or in a foreign country. This exception was intended to exempt newly manufactured vehicles from obtaining a safety certificate, as these vehicles have been subject to very limited use and comply with the vehicle safety standards.

However, section 13(1)(h)(ii) as it is currently drafted refers to any SC vehicle that has never previously been registered in Queensland, in another State or in a foreign country. The result is that some SC vehicles that have never previously been registered for on-road use but have been used extensively in off-road environments, such as on private property, are exempt from obtaining a safety certificate when registering that vehicle in Queensland. This outcome is inconsistent with the intent of providing the exemption, and could pose safety risks to the driver and passenger of these vehicles as well as other road users.

Accordingly, the amendment regulation amends section 13(1)(h)(ii) of the Registration Regulation to clarify that SC vehicles that have never previously been registered will only be exempt from obtaining a safety certificate if, when the application is made to register the vehicle in Queensland, the vehicle’s odometer reads a distance of not more than 500km. This distance requirement will exclude SC vehicles that have been used extensively off-road from benefiting from the exemption from obtaining a safety certificate under section 13(1)(h)(ii).

Online Registration Certificates

The Department of Transport and Main Roads (TMR) is introducing an online service which allows customers to independently visit TMR's website and either download an electronic copy of their registration certificate or request that their registration certificate be sent to their email address. Initially, the service will include the ability to download vehicle registration certificates as well as registration certificates for dealer plates.

Transitioning registration certificates to this online service will improve customer service by enabling customers to access their registration certificate online at any time and will reduce the costs incurred by TMR from printing and posting registration certificates. Customers who do not wish to use the online service can request to receive their registration certificate by post or in hard copy at a customer service centre. Customers that are not permitted to access the online service (for example, businesses without an Australian Company Number) will continue to receive their registration certificates by post.

To accommodate the transition of registration certificates to this online service, the amendment regulation inserts new section 119B into the Registration Regulation. Section 119B provides that a registration certificate may be issued by the chief executive by making the certificate available to a person electronically. The amendment regulation also makes related amendments to sections 31, 33, and 36 and the definition of a 'registration certificate' in Schedule 8 of the Registration Regulation, to clarify that registration certificates may be issued for vehicles, personalised number plates and dealer plates.

Notice of Transfer of Personalised Number Plates

Section 34(2) of the Registration Regulation requires a person who acquires a personalised number plate to notify the chief executive within 14 days of the transfer of the personalised number plate. However, the Registration Regulation does not currently give the disposer of a personalised number plate the option to also notify the chief executive of the transfer. Accordingly, if the acquirer fails to notify the chief executive that the personalised number plates have been transferred, the personalised number plates remain registered in the disposer's name and the disposer will continue to receive any infringement or tolling offence notices incurred by the acquirer.

Accordingly, the amendment regulation amends section 34 of the Registration Regulation to allow the disposer of a personalised number plate to notify the chief executive of the transfer and for the chief executive to subsequently record information about the transfer in the register. While the disposer will have the option to notify the chief executive of the transfer under the new subsection 34(2A), there will be no obligation upon the disposer to do so. The acquirer will remain responsible for notifying the chief executive of the transfer and paying the relevant fee for the transfer under section 34(2).

The amendment regulation also amends section 33(1) of the Registration Regulation to clarify that any person may apply to the chief executive for the issue of a personalised number plate, irrespective of whether that person is the registered operator of a vehicle.

Release of Vehicle Registration Information Fees

Part 10, Division 5 of the Registration Regulation provides for the release of vehicle registration information to certain persons and entities. Depending on the circumstances, a person or entity that receives this information may be required under that Division to pay a fee for the release of that information. In circumstances where that information is provided to a statutory entity, the currently prescribed fees may not be appropriate. Accordingly, the amendment regulation amends Part 10, Division 5 and Schedule 3 of the Registration Regulation to give the chief executive the power to determine a reasonable fee, if any, to charge a statutory entity for the release of vehicle registration information.

The amendment regulation also makes amendments to provide that a safety recall agency is not required to pay a fee for the release of vehicle registration information required in the course of conducting a national vehicle safety recall program. This amendment recognises the public interest in assisting safety recall agencies to conduct national vehicle safety recall programs quickly and effectively.

Consistency with policy objectives of authorising law

The amendment to the Marine Safety Regulation is consistent with the policy objectives of the *Transport Operations (Marine Safety) Act 1994*. In particular, the amendment is consistent with the objectives of regulating the maritime industry to ensure marine safety and enabling the effectiveness and efficiency of the Queensland maritime industry to be further developed.

The amendments to the Queensland Road Rules and the Registration Regulation are consistent with the policy objectives of the *Transport Operations (Road Use Management) Act 1995*. In particular, these amendments are consistent with the objectives of providing for the effective and efficient management of road use in the State, and providing a scheme for managing the use of the State's roads that will improve road safety in ways that contribute to overall transport effectiveness and efficiency.

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 making the amendment regulation include:

- avoiding any confusion that may arise about the suitability of applicants for training program approvals;
- providing emergency workers greater flexibility when responding to an emergency in congested or confined areas, and assisting emergency workers to respond quickly and efficiently to emergency incidents at major events;
- helping to safely alleviate traffic congestion on major arterial roads by clarifying the circumstances where motorbike edge filtering is permitted;
- ensuring the safety of vehicles by requiring SC vehicles that have a distance of more than 500km on their odometer to obtain a safety certificate when registering those vehicles in Queensland;

- improving customer experience and reducing costs to TMR by making registration certificates available online;
- providing greater flexibility in transferring personalised number plates;
- providing greater flexibility in the fees applying to the provision of vehicle registration information to statutory entities; and
- assisting safety recall agencies to conduct national vehicle safety recall programs quickly and effectively.

There are costs involved in implementing the online registration certificates amendments, including the costs of developing the online service and system enhancements to cease the automatic print and post of registration certificates. These costs will be met from existing resources. The costs of implementing the remaining amendments are minimal and will be met from existing resources.

Consistency with fundamental legislative principles

The amendments are consistent with the fundamental legislative principles.

Consultation

The Royal Automobile Club of Queensland and the Motorcycle Riders' Association of Queensland were consulted on, and support, the motorbike edge filtering amendments. Personalised Plates Queensland was consulted on, and supports, the amendments to allow the owner of personalised number plates to notify the chief executive when the personalised number plates are sold or disposed of.

The remaining amendments are administrative in nature and clarify or enhance existing policy positions and practice as outlined below. Given the administrative nature of these amendments, external stakeholders have not been consulted.

The emergency service bicycle amendments extend the existing road rule exemption that applies to emergency vehicles and will assist emergency workers to respond quickly and efficiently to incidents.

The amendments to facilitate the online registration certificates are beneficial and reduce duplication of services provided by TMR. Since October 2017, certain registered operators have been able to obtain duplicate registration certificates electronically in addition to the original hardcopy certificates which are sent by post. Data collected has shown that over 99 per cent of customers requesting a duplicate registration certificate prefer to use the online service. As customers who cannot or do not want to use the online service will continue to receive registration certificates by post, it is expected that these amendments will have no significant adverse impacts. A communications plan has been developed to ensure that various customer and industry groups are notified of the amendments before they are implemented.

The amendment to allow the chief executive to charge statutory entities a reasonable fee for the release of vehicle registration information will assist those entities to undertake their functions. The amendment to provide that no fee is payable by a safety recall agency for the release of vehicle registration information will assist safety recall agencies to conduct national vehicle safety recall programs quickly and effectively.

The amendments regarding when an entity will be suitable for a training program approval, and when a safety certificate is required to register a vehicle that has never previously been registered, clarify existing policy positions and will not result in any significant impacts.

The Office of Best Practice Regulation in the Queensland Productivity Commission has advised that the following amendments are excluded from further regulatory impact assessment under *The Queensland Guide to Better Regulation* (the Guidelines) as they either have no apparent significant adverse impacts or are unlikely to result in significant adverse impacts:

- Clarifying when a safety certificate is required to register a vehicle that has never previously been registered in Queensland, in another State or in a foreign country.
- Facilitating the introduction of online registration certificates.
- Allowing the owner of personalised number plates to notify the chief executive when the personalised number plates are sold or disposed of.
- Allowing the chief executive to determine a reasonable fee, if any, to be paid by statutory entities for the release of vehicle registration information.
- Providing that safety recall agencies are not required to pay a fee for the release of vehicle registration information required in the course of conducting a national vehicle safety recall program.

In accordance with the Guidelines, TMR applied a self-assessable exclusion from undertaking further regulatory impact analysis on the remaining amendments based on the categories indicated below:

Category F – Regulatory proposals that correct technical errors:

- Clarifying when an entity will be suitable for approval to provide training programs for the operation of recreational ships and personal watercraft.

Category G—Regulatory proposals that are of machinery nature:

- Exempting an emergency worker riding a bicycle from complying with the Queensland Road Rules when responding to an emergency.
- Allowing motorbike riders to edge filter on roads when the normal speed limit of 90km/h or more has been reduced to less than 90km/h by a variable illuminated message sign, and prohibiting motorbike riders from edge filtering in tunnels and on roads subject to roadworks.