

Transport and Other Legislation Amendment Regulation (No.1) 2019

Explanatory notes for SL 2019 No. 51

made under the

State Penalties Enforcement Act 1999

Transport Operations (Marine Safety) Act 1994

Transport Operations (Road Use Management) Act 1995

Transport Planning and Coordination Act 1994

General Outline

Short title

Transport and Other Legislation Amendment Regulation (No. 1) 2019

Authorising laws

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*

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

Policy objectives and the reasons for them

The policy objectives of the *Transport and Other Legislation Amendment Regulation (No. 1) 2019* (amendment regulation) are to:

- facilitate the use of online registration certificates under the *Transport Operations (Marine Safety) Regulation 2016* (Marine Safety Regulation);
- remove the requirement to display registration labels under the Marine Safety Regulation from 1 October 2019;
- clarify that special interest vehicles must have a concessional registration under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* (Registration Regulation) to be exempt from the requirement to possess a current certificate of inspection under the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010* (VSS Regulation);
- extend the time available to renew a certificate of inspection under the VSS Regulation from one month to two months;

- allow conspicuity markings, which improve the visibility of a vehicle, to be fitted to motor vehicles or trailers under the VSS Regulation consistent with amendments to the Australian Light Vehicle Standards Rules (ALVSRs);
- update the definition of a moped in the VSS Regulation to include mopeds with alternative power sources such as electric motors, consistent with the Australian Design Rules (ADRs);
- align safety certificate exemption requirements in the VSS Regulation with corresponding vehicle registration duty exemptions;
- update section references in the *Transport Planning and Coordination Regulation 2017* (TPC Regulation) and references to the *Load Restraint Guide for Light Vehicles* in the VSS Regulation; and
- make consequential amendments to Schedule 1 of the *State Penalties Enforcement Regulation 2014* (SPER) arising from the Marine Safety Regulation amendments.

Achievement of policy objectives

The amendment regulation achieves the policy objectives listed above by amending the Regulations, as set out below.

Marine safety registration certificates

The Department of Transport and Main Roads (TMR) has developed an online service which allows customers to independently access an electronic copy of their vessel registration certificate from TMR's website. As customers can now access registration certificates online at any time, TMR proposes to cease posting registration certificates when the registration for a Queensland regulated ship (QRS) is renewed.

Transitioning QRS 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 in producing 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.

To facilitate the use of online registration certificates, the amendment regulation inserts section 159A into the Marine Safety Regulation which provides that the administering agency may issue a QRS registration certificate by making the certificate available to a person electronically. The amendment regulation also makes related amendments to sections 120, 122, 125 and 159 of the Marine Safety Regulation and Schedule 1 of the SPER.

Marine safety registration labels

Section 38 of the Marine Safety Regulation currently requires the owner or master of a registered QRS to ensure that the ship's current registration label is displayed on the ship. Until recently, registration labels were used by enforcement agencies to indicate whether a QRS was registered. However, advances in technology have provided alternative methods for verifying whether a QRS is registered, such as verifying the registration online. Given the availability of other methods for verifying registration, TMR will cease issuing registration labels from 1 October 2019. Accordingly, the amendment regulation removes the requirement to display registration labels contained in section 38 and makes other related amendments to section 222 of the Marine Safety Regulation and Schedule 1 of the SPER.

Special interest vehicles

The VSS Regulation requires the owner of a registered Certificate of Inspection (COI) vehicle to possess a current certificate of inspection for the vehicle. COI vehicles include vehicles such as trucks, buses, taxis and tow trucks. Under section 25(2) of the VSS Regulation, certain COI vehicles are exempt from this requirement including COI vehicles that are a ‘special interest vehicle’ within the meaning of the Registration Regulation. Special interest vehicles include vehicles that are at least 30 years old, certain historic vehicles, street rod vehicles and certain buses.

Under the Registration Regulation, special interest vehicles can be granted a concessional registration with conditions that limit the use of these vehicles on roads for purposes such as rallies, processions, exhibitions and ceremonies, or to have the vehicle repaired or inspected. Vehicles that fall within the definition of a special interest vehicle can also be registered for general road use, including semi-trailers used for commercial purposes. It is intended that COI vehicles that are special interest vehicles registered for general road use should be subject to the inspection requirements that apply to a COI vehicle.

Accordingly, the amendment regulation amends section 25(2)(c) of the VSS Regulation to clarify that the exemption from possessing a current certificate of inspection only applies to COI vehicles that are special interest vehicles that have been granted a concessional registration under the Registration Regulation.

Certificate of inspection renewal timeframes

Under section 28 of the VSS Regulation, owners of COI vehicles currently have a one month window to renew their current certificate of inspection before it expires. If the owner renews their certificate of inspection within this one month timeframe, their new inspection certificate will be effective from the day after their current inspection certificate expires. If the owner renews the inspection certificate more than one month before their current certificate of inspection expires, their new inspection certificate will be effective from the day the new inspection certificate is issued rather than the day after their current inspection certificate expires. That is, the owner effectively forfeits the time remaining on their current inspection certificate if they renew their inspection certificate in advance of the one month window allowed for in the current legislation.

A large number of COI vehicle owners have been unable to have their vehicle inspected within this one month timeframe, often due to the limited availability of inspection appointments on short notice. If the owner fails to renew their current inspection certificate before their registration expires, the owner will not be able to renew their vehicle registration unless they are granted an extension of time to comply under section 29 of the VSS Regulation. The number of extensions issued annually has risen to approximately 30,000, which has created a significant administrative burden for customers and TMR.

To reduce the number of extensions issued and to encourage early renewals of certificates of inspection, the amendment regulation extends the renewal timeframe for these certificates to two months prior to the expiry of a current certificate by amending the definition of ‘effective date’ in section 28(4) of the VSS Regulation.

ALVSR amendments

In May 2017, the Transport and Infrastructure Council approved amendments to the ALVSRs to, among other things, allow conspicuity markings to be fitted to a motor vehicle or trailer. Conspicuity markings increase the visibility of a vehicle through the reflection of light, and are often fitted to vehicles such as trailers to assist with the visibility of a vehicle at night. The amendment regulation adopts these amendments to the ALVSRs in Queensland by amending sections 22, 49 and 101 of Schedule 1 of the VSS Regulation.

Mopeds

Schedule 4 of the VSS Regulation currently defines a ‘moped’ to mean a motorbike or a motortrike with an engine cylinder capacity of not more than 50mL and a maximum speed of not more than 50km/h. This definition only captures mopeds with internal combustion engines and does not apply to mopeds with alternative power sources such as electric motors. By contrast, the ADR definition of a moped includes mopeds with alternative power sources as well as internal combustion engines. To ensure that the VSS Regulation covers the increasing number of electric mopeds in Queensland, the amendment regulation amends the definition of a moped in Schedule 4 of the VSS Regulation to align with the ADR definition.

Disposal of vehicles between spouses

The VSS Regulation provides that the owner of a registered vehicle must not dispose of the vehicle to another person unless the owner possesses a current inspection certificate for the vehicle and gives the other person that certificate. Currently, the disposal of certain vehicles to a person’s spouse, de facto partner or civil partner is exempt from this requirement, as it is excluded from the definition of a ‘disposal’ in Schedule 4 of the VSS Regulation. This exemption was intended to align with the corresponding exemption from the requirement to pay vehicle registration duty for that disposal under the *Duties Act 2001* and the *Family Law Act 1975* (Cwlth).

However, the exemption from the requirement to possess a current inspection certificate does not align with the corresponding vehicle registration duty exemption, as it does not include all disposals from an individual or company to a former spouse or partner through an order or instrument made under the *Family Law Act 1975* (Cwlth) or the *Property Law Act 1974*. Accordingly, the amendment regulation amends the definition of a ‘disposal’ in Schedule 4 of the VSS Regulation to align with the corresponding vehicle registration duty exemption.

Technical amendments

The amendment regulation updates section references in the TPC Regulation by clarifying in new sections 12A and 12B that the definitions of ‘prescribed authorisation Act’ and ‘prescribed authority’ have been moved to the Dictionary in Schedule 1 of the *Transport Planning and Coordination Act 1994* (TPC Act).

The amendment regulation also replaces references to the *Load Restraint Guide* in sections 13Q and 13S of the VSS Regulation which has been supplemented by the *Load Restraint Guide for Light Vehicles* published by the National Transport Commission (NTC) in 2018.

Consistency with policy objectives of authorising law

The amendments are consistent with the policy objectives of the *State Penalties Enforcement Act 1999*, the *Transport Operations (Marine Safety) Act 1994* (Marine Safety Act), the *Transport Operations (Road Use Management) Act 1995* (TORUM Act), and the TPC Act.

In particular, the amendments are consistent with the objective of the Marine Safety Act to provide a system that achieves an appropriate balance between 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 are also consistent with the objective of the TORUM Act to provide a scheme for managing the use of the State's roads that will improve road safety and the environmental impact of road use 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:

- improving customer experience, reducing regulatory burden and reducing administrative costs to TMR by removing the requirement to display registration labels and by making QRS registration certificates available online under the Marine Safety Regulation;
- improving the safety of vehicles and other road users by clarifying when special interest vehicles are exempt from the requirement to possess a current certificate of inspection under the VSS Regulation;
- improving customer service and reducing administrative burden by extending the time available to renew a certificate of inspection under the VSS Regulation;
- improving the visibility of vehicles by allowing conspicuity markings to be fitted to motor vehicles and trailers under the VSS Regulation;
- aligning the VSS Regulation with national model legislation;
- ensuring consistency in vehicle registration duty and safety certificate requirements by aligning vehicle safety certificate exemptions in the VSS Regulation with corresponding vehicle registration duty exemptions; and
- ensuring references in the TPC Regulation and VSS Regulation are up to date.

The costs of implementing the amendments are minimal and will be met from existing resources.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles.

Consultation

The amendments to the ALVSRs were developed by the NTC in consultation with all relevant stakeholders, including the National Heavy Vehicle Regulator, Heavy Vehicle Industry Australia, the Australian Trucking Association, the Australian Livestock and Rural Transporters' Association, the Federal Chamber of Automotive Industries and all State, Federal and Territory road agencies. The NTC also consulted automotive industry bodies and representatives, police and road safety experts, motoring organisations and members of the public. In addition to the national consultation undertaken by the NTC, TMR consulted key stakeholder groups including the Motor Trades Association of Queensland (MTAQ), the Heavy Vehicle Industry Association and the Royal Automobile Club of Queensland (RACQ).

TMR also consulted the RACQ and the MTAQ with respect to the remaining amendments to the VSS Regulation.

All stakeholders consulted support these amendments.

External stakeholders have not been consulted with respect to the remaining amendments in the amendment regulation, as these amendments are beneficial and administrative in nature.

The amendments to the Marine Safety Regulation will achieve significant cost savings for the Queensland Government and deliver a range of customer benefits. Since October 2014, registration labels have been systematically removed from light vehicles, trailers and heavy vehicles. With advancements in technology over recent years, enforcement officers and vessel owners now have the tools to easily check the registration status and details of vessels without relying on a registration label or certificate. Customers who do not want to use the online registration certificate service will continue to receive registration certificates by post. It is therefore expected that these amendments will have no significant 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 amendments to the TPC Regulation are technical amendments to section references that will not result in any significant impacts.

The Office of Best Practice Regulation in the Queensland Productivity Commission has advised that the Marine Safety Regulation amendments are excluded from further regulatory impact analysis under *The Queensland Government Guide to Better Regulation* (the Guidelines) based on Category K - Regulatory proposals designed to reduce the burden of regulation, or that clearly do not add to the burden, and it is reasonably clear that there are no significant adverse impacts.

In accordance with the Guidelines, TMR applied a self-assessable exclusion from undertaking further regulatory impact analysis on the remaining amendments based on Category G – Regulatory proposals that are of a machinery nature and Category F – Regulatory proposals that correct technical errors or amend legislation to take account of current Queensland drafting practice.