

Transport Legislation Amendment Regulation 2021

Explanatory notes for SL 2021 No. 23

made under the

Transport Operations (Road Use Management) Act 1995

Transport Planning and Coordination Act 1994

General Outline

Short title

Transport Legislation Amendment Regulation 2021

Authorising law

Section 171 of the *Transport Operations (Road Use Management) Act 1995* (TORUM Act)
Section 38 of the *Transport Planning and Coordination Act 1994* (TPC Act)

Policy objectives and the reasons for them

The policy objectives of the *Transport Legislation Amendment Regulation 2021* (Amendment Regulation) are to:

- update various transport regulations with amendments that are consequential to the Commonwealth *Road Vehicle Standards Act 2018* (RVS Act) so that Queensland legislation continues to align with national law;
- remove the requirement in the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015* (Accreditation Regulation) for an applicant for an Approved Inspection Station (AIS) to have the equipment necessary for inspecting vehicles before applying to be an AIS;
- prescribe photo identification cards, recreational marine driver licences, personal watercraft licences, and driver licences as relevant authorities under the TPC Act that can be used in an approved Digital Licence App on a smartphone;
- to facilitate information being made available electronically about adjustments to registration terms resulting from under or over-payments of vehicle registration under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* (Registration Regulation); and

- to remove redundant alcohol ignition interlocks as prescribed approved interlocks from the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* (Driver Licensing Regulation).

Achievement of policy objectives

Amendments consequential to the RVS Act

The RVS Act modernises the regulation of the initial supply of road vehicles to the Australian marketplace. It replaces the *Motor Vehicle Standards Act 1989* (MVS Act). It is planned that the RVS Act will commence in full on 1 July 2021 and the MVS Act will be repealed.

The Amendment Regulation makes consequential amendments to the Accreditation Regulation, the Registration Regulation and the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010* (Vehicle Standards Regulation) to reflect that requirements for the importation and supply of road vehicles nationally will fall under the RVS Act instead of the MVS Act.

Under the RVS Act a vehicle may be entered on the Register of Approved Vehicles (the RAV) if it satisfies the requirements of an entry pathway for the supply of vehicles in Australia. The RAV, which will be a publicly searchable electronic database, will contain details about vehicles that have been approved for road use. This will replace the requirement for a vehicle to have a compliance plate. The RAV will contain information that is typically found on a vehicle's compliance plate, such as the vehicle's make and model, Gross Vehicle Mass (GVM), Gross Combination Mass (GCM) and seating capacity. Consequential amendments are required to the Registration Regulation and the Vehicle Standards Regulation to reflect that the RAV will be used in establishing a vehicle's GVM and GCM.

The RVS Act also makes provision for the Australian Design Rules (ADRs) for vehicles as national road vehicle standards. Once a vehicle has been lawfully imported, ensuring its continued compliance with ADRs is a responsibility of state and territory governments. Consequential amendments are required to the Vehicle Standards Regulation to align references to national road vehicle standards and ADRs with the RVS Act.

Required equipment for AIS

Under the Accreditation Regulation, vehicle safety inspections are required to be undertaken through an AIS. The Amendment Regulation removes the requirement that, before an application can be granted approval as an AIS, the applicant must first have the required equipment to inspect vehicles to which the approval relates. Instead, an applicant will only need to have the required equipment once an application to operate as an AIS is approved. This means that an applicant for approval as an AIS no longer needs to invest in expensive equipment such as vehicle hoists prior to the determination of their application.

Relevant authorities for use in a Digital Licence App

The *Transport and Other Legislation (Road Safety, Technology and Other Matters) Amendment Act 2020*, amended the TPC Act and other legislation to enable the display and use of a digital version of a driver licence and other authorities through a Digital Licence App. The Digital Licence App will be voluntary and will complement physical authorities. Customers will have the choice of either using the physical card or digital authority.

For an authority issued by the Queensland Government to be stored, displayed and used in the Digital Licence App, under Part 4E, Division 1 of the TPC Act, it must be prescribed as a relevant authority, and the Act that the authority is issued under must also be prescribed as a relevant Act. The *Transport Planning and Coordination Regulation 2017* (TPC Regulation) is being amended to prescribe the following as relevant authorities, and the Acts they are issued under as relevant Acts:

- a photo identification card issued under the *Photo Identification Card Act 2008*;
- a personal watercraft licence issued under the *Transport Operations (Marine Safety) Regulation 2016* (TOMSR);
- a recreational marine driver licence issued under TOMSR; and
- a Queensland driver licence issued under the TORUM Act.

Advice about adjustments to terms of registration

If a person pays their vehicle registration renewal, and pays too much or too little, the Department of Transport and Main Roads (TMR) makes an adjustment to the term of registration proportionate to the payment variation. When this occurs, under the Registration Regulation, the chief executive of TMR advises the person of the action taken. An amendment is being made to facilitate this information being made available electronically.

Removal of redundant alcohol interlocks

Section 63B of the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* prescribes approved alcohol ignition interlock devices for Chapter 5, part 3B of the TORUM Act. An alcohol ignition interlock is a breath test device linked to the ignition system of a vehicle. The interlock is designed to prevent a vehicle from starting if the driver's blood/breath alcohol content exceeds zero. The ignition interlock is designed to deter and prevent convicted drink drivers from operating their vehicles under the influence of alcohol. Two approved alcohol ignition interlocks are no longer in use, so an amendment is being made to remove them from the list of approved interlocks.

Consistency with policy objectives of authorising law

The amendments to the Accreditation Regulation, the Driver Licensing Regulation, the Registration Regulation and the Vehicle Standards Regulation are consistent with the policy objectives of the TORUM Act. 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.

The amendments to the TPC Regulation are consistent with the objectives of TPC Act. In particular, the amendments are consistent with the policy objective of improving the economic, trade and regional performance of Queensland and the quality of life of Queenslanders.

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 are:

- to align Queensland regulations with the national RVS Act which modernises rules for importing vehicles;
- to reduce the regulatory and financial burden upon an applicant for approval of an AIS, by enabling the equipment required for inspecting vehicles to be purchased once approved;
- to enable digital driver licences and other credentials to be stored, displayed and used on a mobile phone through the Digital Licence App which will be convenient, private and secure;
- to facilitate notices about under or over payments for vehicle registration being provided electronically increasing convenience for customers and reducing postage costs; and
- keeping the list of approved alcohol interlocks accurate and up-to-date.

A successful trial of the Digital Licence App was undertaken in the Fraser Coast region and an evaluation of the trial is being conducted. Costs associated with the further rollout of the Digital Licence App across Queensland will be subject to normal approval processes.

There are no costs associated with the implementation of other amendments.

Consistency with fundamental legislative principles

The Amendment Regulation does not raise any fundamental legislative principle considerations.

Consultation

As part of the introduction of the RVS Act, a national public consultation process was undertaken by the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications. This involved consultation with state and territory regulators including TMR, and industry groups including the Royal Automobile Club of Queensland. Amendments related to the RVS Act are consequential and as such, no further consultation was undertaken.

Industry members involved in AIS were consulted in relation to the change related to AIS equipment requirements and supported the amendment.

Significant consultation was undertaken in relation to the Digital Licence App prior to passage of the *Transport and Other Legislation (Road Safety, Technology and Other Matters) Amendment Act 2020*. A detailed communication strategy was followed to guide community consultation, including in the lead up to the successful trial in the Fraser Coast region. During the Digital Licence App development, testing was undertaken with credential holders, police and persons with disabilities (including vision impairment). An independent Privacy Impact Assessment was undertaken in relation to the Digital Licence App and has been published on the Queensland Government website. The amendments related to the Digital Licence App are consequential to the *Transport and Other Legislation (Road Safety, Technology and Other Matters) Amendment Act 2020* and as such, no further consultation was undertaken.

The amendments facilitating electronic advice about term adjustments for vehicle registration and to remove redundant approved interlocks are administrative in nature and as such no consultation was undertaken

The Office of Best Practice Regulation in the Queensland Productivity Commission was consulted on the amendments which facilitate electronic advice for vehicle registration and the amendments to equipment requirements for AIS, and have advised the amendments are unlikely to result in significant adverse impacts and no further regulatory impact analysis is required under the *Queensland Government Guide to Better Regulation* (the Guidelines).

In accordance with the Guidelines, TMR applied self-assessable exclusions from undertaking further regulatory impact analysis on the remaining amendments based on Category A – Regulatory proposals that make consequential amendments and Category G – Regulatory proposals that are of a machinery nature.