

# Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021

Explanatory notes for SL 2021 No. 113

made under the

*Environmental Protection Act 1994*

*Food Act 2006*

*Forestry Act 1959*

*Motor Accident Insurance Act 1994*

*Nature Conservation Act 1992*

*Queensland Building and Construction Commission Act 1991*

*Rural and Regional Adjustment Act 1994*

*State Penalties Enforcement Act 1999*

*Summary Offences Act 2005*

*Tow Truck Act 1973*

*Transport Operations (Passenger Transport) Act 1994*

*Transport Operations (Road Use Management) Act 1995*

## General Outline

### Short title

*Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021*

### Authorising laws

Section 580 of the *Environmental Protection Act 1994*

Section 278 of the *Food Act 2006*

Section 97 of the *Forestry Act 1959*

Section 100 of the *Motor Accident Insurance Act 1994*

Section 175 of the *Nature Conservation Act 1992*

Section 116 of the *Queensland Building and Construction Commission Act 1991*

Section 44 of the *Rural and Regional Adjustment Act 1994*

Section 165 of the *State Penalties Enforcement Act 1999*

Section 49 of the *Summary Offences Act 2005*

Section 43 of the *Tow Truck Act 1973*

Section 155 of the *Transport Operations (Passenger Transport) 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 Operations (Road Use Management—Vehicle Registration) Regulation 2021* (the proposed Regulation) is to provide a legislative framework for the administration of Queensland’s vehicle registration scheme. This framework includes prescribing vehicle registration requirements, setting registration fees, providing for fee concessions, enabling the issuance of number plates and the regulation of written-off vehicles.

The proposed Regulation also provides for the identification of vehicles and the registered operators of those vehicles by establishing a register of registered vehicles. This supports the enforcement of a range of transport-related laws via on-road enforcement and camera technology and enables certain responsibilities to be placed on a registered operator.

The proposed Regulation reduces harm to the community by ensuring vehicles used on a road comply with vehicle law requirements and are safe for on-road use. It does this by working in conjunction with other transport legislation, such as legislation regulating vehicle standards and safety. Together, they create a framework which improves road safety by regulating requirements for vehicles that access the road network and reducing the number of defective vehicles on the road network.

The proposed Regulation provides for monetary fines for driving an unregistered vehicle on a road. This is intended to deter drivers from operating unregistered vehicles which are a risk to road safety and are not covered by Compulsory Third-Party (CTP) insurance. CTP insurance coverage is required for road access, as it protects registered operators and drivers from financial liability should they injure a third party in a motor vehicle accident. The CTP insurance scheme enables injured persons, who are not at fault, to access medical treatment, rehabilitation and compensation.

The fees framework contained within the proposed Regulation provides the Queensland Government with funding to ensure roads and transport infrastructure are maintained at a high level to facilitate the safe movement of the Queensland community. The fees are set out in Schedules 2, 3 and 4 and vary by vehicle type, purpose of use and whether the registered operator is eligible for a reduced registration fee. The fees are indexed annually to ensure they reflect increases in costs within the broader economy.

In accordance with Part 7 of the *Statutory Instruments Act 1992*, the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* (the 2010 Regulation) will automatically expire on 31 August 2021. The proposed Regulation replaces the 2010 Regulation and continues to appropriately regulate the matters outlined above.

## Achievement of policy objectives

The proposed Regulation will achieve the policy objectives outlined above by continuing to regulate the matters currently regulated under the 2010 Regulation.

The provisions in the proposed Regulation reflect a restructure of the 2010 Regulation and amendments to align with contemporary drafting style. In particular, the provisions pertaining to application, renewal and cancellation of vehicle registration and dealer plates have been decoupled and are now contained in separate parts.

The proposed Regulation also incorporates a number of minor changes to clarify existing policy and to reflect current drafting practices.

An outline of the proposed Regulation is provided below, which includes a description of changes that simplify and enhance the operation of the 2010 Regulation.

### **Part 1: Preliminary**

Part 1 establishes the preliminary matters for the proposed Regulation, including the interpretation and key concepts used throughout the proposed Regulation such as the meaning of registered operator, vehicle law, registered vehicles and unregistered vehicles. Amendments have been made in Part 1 to the definition of garage address to ensure the definition covers all relevant addresses. Part 1 also makes it explicitly clear that the meaning of registered operator does not extend to persons who have a vehicle registered in another jurisdiction. This ensures the requirements in the proposed Regulation that apply to the registered operators of a Queensland registered vehicle do not apply to the registered operators of interstate vehicles. Similar arrangements apply for Queensland vehicles operating in other jurisdictions.

The proposed Regulation also establishes a list of vehicles that are exempt from registration requirements such as interstate motorised wheelchairs, racing vehicles used on a racing track and ride-on mowers.

### **Part 2: Requirements for using vehicles on roads**

Part 2 of the proposed Regulation establishes the foundational concept that vehicles used on a road must be registered. In addition, Part 2 also provides for the limited circumstances in which a person may apply to the chief executive for authorised use of an unregistered vehicle on a road, including for example, when a vehicle is being taken for inspection. Part 2 also contains an offence provision prohibiting the use of a conditionally-registered vehicle in contravention of the conditions that have been imposed on the vehicle under the conditional registration guideline.

### **Part 3: Vehicle registration**

Part 3, Division 1 of the proposed Regulation provides the process for a person to apply for a vehicle's registration. It also outlines the requirements for a vehicle registration application including, the requirement to pay the relevant registration and related fees, to provide a CTP insurance certificate or to pay the relevant CTP premium, and to also provide any inspection certificates required for the vehicle. Part 3, Division 1 articulates the decision-making powers of the chief executive in relation to an application for vehicle registration, including when an application must be refused. Further, Part 3, Division 1 sets out the terms of registration that are available in Queensland and the surcharges that apply to registration terms of less than twelve-months.

Part 3, Division 2 provides for the renewal of a vehicle's registration and articulates the decision-making powers of the chief executive in relation to an application for the renewal of vehicle registration. In addition, Part 3, Division 2 makes it clear that an administrative fee is applicable for any late payment of a renewal.

Part 3, Division 3 of the proposed Regulation contains the provisions for the transfer of registration in various scenarios. The Division places an obligation on the acquirer of a vehicle to apply for the transfer of a vehicle's registration within 14 days of acquisition. This Division also places an obligation on a motor dealer who acquires a vehicle to apply for the transfer of registration within 14 days of acquisition.

Part 3, Division 4 provides for the cancellation of vehicle registration, encompassing the various scenarios in which that can occur. This Division permits vehicle registration cancellation by a registered operator, a person acting under a court authority, a local government or a commissioner of police, in prescribed circumstances. This Division also provides for the cancellation of registration by the chief executive in prescribed circumstances, including following a show cause process relating to a defective or unsafe vehicle. Further, Part 3, Division 4 provides for when a cancellation of vehicle registration takes effect and establishes the formula in which a refund of the vehicle registration fee is calculated.

Part 3, Division 5 of the proposed Regulation outlines other matters that pertain to vehicle registration such as compelling a registered operator to notify the chief executive if the particulars for a vehicle change or if a vehicle has been modified. Part 3, Division 5 also allows the chief executive to require a vehicle to be inspected before it is registered or before it can be removed from the written-off vehicle register.

#### **Part 4: When vehicle registration unnecessary**

Part 4, Division 1 provides for the issuance of unregistered vehicle permits. These permits authorise the use of an unregistered vehicle on the road for a term of up to seven days. The Division also provides a clear basis in which the chief executive must refuse to grant a permit, for example, where a vehicle does not have a vehicle identification number.

Part 4, Division 2 of the proposed Regulation provides for the issuance of dealer plates. Similar to the vehicle registration provisions, this Division outlines the legislative basis of the application, renewal and cancellation of dealer plates. In addition, Part 4, Division 2 also outlines the permitted uses of a dealer plate and makes it an offence to use a dealer plate outside of these uses.

Part 4, Division 3 of the proposed Regulation provides for vehicles temporarily in Queensland and permits their use on the road, provided they are equivalently registered in another jurisdiction. In addition, Part 4, Division 3 also requires an equivalently registered interstate vehicle to carry and display number plates issued to the vehicle and to have CTP insurance. This Division also compels the owner or person in charge of a foreign or left-hand drive vehicle to provide proof of importation approval, current vehicle registration or proof of current CTP insurance if asked by an authorised officer.

#### **Part 5: Register of vehicles and dealer plates**

Part 5 establishes that the chief executive must keep a register of vehicles. Maintaining a register of vehicles is vital to establish the source of information that is the foundation of vehicle identification and registration. The register contains information pertaining to the identification of vehicles, and whether they are registered, unregistered or written-off. Details of the vehicle's registered operator and that of the previous registered operators are also captured. Number plates issued for the vehicle are additionally recorded. The register ensures the chief executive can identify the current or last registered operator of a vehicle where necessary, such as for enforcement activities.

Part 5 specifically requires that the register must contain information for each registered vehicle such as the registered operator's name and address, the day the registration starts and ends, the vehicle's identifying number and other identifying details along with the vehicle's purpose of use. Part 5 also provides that if notifiable information about a written-off vehicle is received, it must be recorded on the register. This information could include, for example, the type, location and severity of damage to the vehicle and whether the vehicle is a repairable or statutory write-off. The proposed Regulation also states that details for personalised number plates and unregistered vehicle permits must be kept in the register. Part 5 also clarifies that the register is not a record of title or ownership for registered vehicles.

## **Part 6: Number Plates**

Part 6, Division 1 prescribes that the chief executive must assign a registration number to a vehicle upon approving an application for registration. The registration number is displayed on a number plate which is to be attached to the vehicle. This is an important aspect of the vehicle registration scheme, given number plates assist in identifying vehicles and the registered operator of a vehicle. Identification of vehicles via a number plate is necessary for enforcement activities, the use of toll roads and the investigation of traffic incidents and other incidents that occur on a road. As a vehicle is only issued with a single number plate combination, this process prevents potential fraud and illegal activities that can occur when number plates are swapped between vehicles. Part 6, Division 1 outlines requirements for the position, visibility and legibility of number plates. Further, Part 6, Division 1 prescribes that a number plate must not be attached to a vehicle if the registration of a vehicle has been cancelled or it has been more than three months since the vehicle's registration has expired and not renewed. Part 6, Division 1 also provides for the replacement of a number plate if it has been lost, stolen, damaged, destroyed or copied. This Division provides a process for registered operators to address legibility issues caused by a number plate becoming damaged or dirty. This Division also gives the chief executive powers to require the exchange of number plates in certain circumstances and outlines that a number plate issued under the proposed Regulation remains the property of the state.

Part 6, Division 2 of the proposed Regulation provides that a special edition number plate may be issued for a vehicle and outlines the application process.

Part 6, Division 3 sets out the application process to replace number plates for a vehicle with national heavy vehicle number plates.

Part 6, Division 4 provides for personalised number plates, covering the application, use and attachment of personalised plates. Part 6, Division 4 compels a person to give the chief executive notice prior to attaching a personalised number plate to a vehicle. Part 6, Division 4 also provides for the transfer of a personalised number plate and the conversion of a number plate to a personalised number plate.

Part 6, Division 5 allows for the customisation of a number plate. Customisation allows a person to move the plate between vehicles or, alternatively, keep the plate unattached to a vehicle. Similar to personalised number plates, Part 6, Division 5 compels a person to give the chief executive notice prior to attaching a customised number plate to a vehicle.

Part 6, Division 6 of the proposed Regulation provides for accessory plates. A registered operator may apply to the chief executive for a number plate to be attached to the rear or front of an accessory that is attached to a vehicle. These are often required where, for example, a person attaches a bike rack to the rear of a vehicle to ensure the number plate combination remains visible. Accessory plates can also be issued for tow trucks to ensure vehicles under tow display a number plate.

## **Part 7: Written-off vehicles**

Part 7, Division 1 establishes the classification of written-off vehicles in Queensland. Part 7, Division 1 provides that a vehicle that is assessed as a total loss must be classified as either a statutory write-off or a repairable write-off. Further, Part 7, Division 1 makes it an offence to use a written-off vehicle on the road. Written-off vehicles may have been involved in a crash or some other incident and, as a result, may be unsuitable to ever return to on-road use (statutory write-off) or only able to return to on-road use following appropriate repair and inspection (repairable write-off).

Part 7, Division 2 establishes the obligations to give information about written-off vehicles, such as reporting a vehicle's written-off status. These obligations are placed on insurers, self-insurers, loss adjusters, dealers, auctioneers, auto part dismantlers and on registered operators. The Division makes it an offence to provide false or misleading notifiable information about a vehicle. The Division also provides for labels for written-off vehicles, placing an obligation on a notifier or on the responsible person for a notifiable vehicle to attach a label to a written-off vehicle. An offence for removing a label is also provided for in this Division. Part 7, Division 2 outlines that the chief executive may audit those who provide notifiable information about vehicles. If a contravention is found, the notifier must pay the costs of conducting the audit and compiling the audit report. In addition, the chief executive can direct that the contravention be rectified or to ensure the contravention does not happen again.

Part 7, Division 3 of the proposed Regulation pertains to the approval of written-off vehicle inspections. A person may apply to the chief executive for an approval to perform written-off vehicle inspections or to supervise another person undertaking written-off vehicle inspections. The Division clearly outlines what the chief executive considers when approving a person to undertake or supervise written-off vehicle inspections.

Part 7, Division 4 outlines the various offences that relate to written-off vehicle inspections such as not complying with conditions of inspection approval, providing a false and misleading written-off vehicle report and performing written-off vehicle inspections at a place other than a written-off vehicle inspection site.

## **Part 8: Measures for natural disasters and droughts**

Part 8, Division 1 outlines the relief provided to registered operators during natural disasters. For a vehicle to be eligible, it must be garaged in a postcode of an area that is wholly or partly within an area that a natural disaster relief measure is activated for. This Division prescribes an eligible vehicle is exempt from paying surcharges for registration terms less than 12 months, provides access to shorter registration terms, exempts the administrative fee for late payment of registration fees, and provides for two years deferment of registration renewal under the seasonal registration scheme.

Part 8, Division 2 applies in relation to the registration or renewal of registration for an eligible vehicle in a drought-declared area or at a drought-declared property. Part 8, Division 2 prescribes an eligible vehicle can access similar relief to those available under Part 8, Division 1, if supporting material is given to state the vehicle is in a drought-declared area. The relief is available to primary producers who have a vehicle's purpose of use listed as private or farm.

Part 8, Division 3 provides for the transportation of fodder for disaster or drought-affected primary producers.

### **Part 9: Requirements for particular applications and customer communications**

Part 9, Division 1 establishes the definitions that are used in Part 9.

Part 9, Division 2 provides that the chief executive may publish a notice on the Department of Transport and Main Roads' (TMR) website to approve a way in which an application may be made or to require information to be given with an application. Further Part 9, Division 2 outlines how applications must be made and that the chief executive may ask for further information if reasonably required to decide the applicant's application.

Part 9, Division 3 outlines that the chief executive may publish a notice about particular customer communication on the TMR website and provides for how customer communications must be given or made.

### **Part 10: Use and release of information**

Part 10, Division 1 prescribes the use of information from the vehicle register for contacting registered operators about moving or removing vehicles under the powers outlined in the *Transport Operations (Road Use Management) Act 1995* (the Act). Further, this Division allows use of prescribed information for contacting a registered operator about the recovery of the cost of damage to transport infrastructure. This applies if the registered operator of the vehicle is liable under the *Transport Infrastructure Act 1994* to pay an amount as a result of the person's operation of the vehicle.

Part 10, Division 2 prescribes release of information from the vehicle register. This Division establishes the circumstances in which personal and vehicle-related information from the vehicle register can be released and to whom. Extracts may be obtained, for example, by eligible persons such as the registered operator of a vehicle, a safety recall agency, authorised statutory entities enforcing a law about vehicles or the parking of vehicles, insolvency entities, insurance entities, tolling entities and the National Exchange of Vehicle and Driver Information System. Part 10, Division 2 also creates offences if information obtained from the register is used or disclosed in contravention of the conditions imposed on the release.

## **Part 11: Offences and other matters relating to registration certificates, number plates and permits**

Part 11 of the proposed Regulation outlines various offences that pertain to registration certificates, number plates or permits, such as altering or defacing an item and using or permitting to use an altered or defaced item. Part 11 also gives an authorised officer the power to ask a person in charge of a vehicle to remove a registration item from the vehicle. To do so, the authorised officer has to reasonably believe that the use of the vehicle is prohibited, the registration item was not lawfully given, that the registration item is recorded as cancelled, lost, stolen, destroyed or damaged, or that the registration item is a number plate required to be returned to the chief executive under other provisions contained in the proposed Regulation.

## **Part 12: Review of decisions**

Part 12 prescribes the decisions made under the proposed Regulation that are reviewable. Part 12 applies in addition to the decisions that are reviewable under the Act.

## **Part 13: Miscellaneous**

Part 13, Division 1 of the proposed Regulation enables a person to apply to the chief executive for the approval of a specific motorbike as a learner approved motorbike. Learner approved motorbikes are those that can be ridden on a class RE motorbike licence.

Part 13, Division 2 contains other provisions that support the function of the proposed Regulation. This Division enables the use of a vehicle registered in another state to a defence force member to continue to be used on the road, without the need to transfer the vehicle into Queensland. Further, Part 13 Division 2 makes it an offence for a dealer to sell an unregistered vehicle and also provides for registration certificates to be made available electronically.

## **Part 14: Fees and related matters**

Part 14, Division 1 provides guidance on the fees that are payable under the proposed Regulation. It also specifies that if a category 2 vehicle (such as a truck or prime mover) falls within two or more charging categories, the highest of the fees apply to the vehicle.

Part 14, Division 2 of the proposed Regulation outlines the exemptions or concessions that are available for vehicle registration fees for eligible persons and vehicles. The decision-making powers of the chief executive in relation to the approval or refusal of exemption applications are clearly outlined. Further, Part 14, Division 2 places obligations on registered operators of a vehicle in receipt of a concession to notify the chief executive if circumstances pertaining to their exemption from registration fees change. If the chief executive considers that the registered operator is no longer eligible for the exemption, the chief executive may, following a notification period, reassess the registration fee for the vehicle.



Part 14, Division 3 outlines the eligibility and application of concessional vehicle registration fees. The offering of concessions for farm plate vehicles is provided for in Part 14, Division 3 as is the allowable road use for this concessional type. The proposed Regulation outlines the allowable use of concessionally-registered vehicles and requires the registered operator of a concessionally-registered vehicle to notify the chief executive if particular matters pertaining to the concessional status of their vehicle changes. The chief executive also has power to reassess, following a notification period, the registration fee for a concessional registered vehicle if it considered the registered operator is no longer eligible for the concession or contravened the eligibility criteria for the vehicle. The chief executive has powers under the proposed Regulation to remove the concessional status of a vehicle, if the registered operator is no longer eligible for the concession or contravened the eligibility criteria for the vehicle.

### **Part 15: Transitional provisions**

Part 15 of the proposed Regulation contains transitional provisions. This ensures that applications or decisions made under the 2010 Regulation are preserved as though they occurred under the new Regulation. For example, an unregistered vehicle permit under the 2010 Regulation that has not expired will continue to be valid following commencement of the proposed Regulation.

### **Part 16: Amendment of other legislation**

Part 16 makes consequential amendments as a result of the new Regulation to the:

- *Environmental Protection Regulation 2019*;
- *Food Regulation 2016*;
- *Forestry Regulation 2015*;
- *Motor Accident Insurance Regulation 2018*;
- *Nature Conservation (Protected Areas Management) Regulation 2017*;
- *Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018*;
- *Rural and Regional Adjustment Regulation 2011*;
- *State Penalties Enforcement Regulation 2014*;
- *Summary Offences Regulation 2016*;
- *Tow Truck Regulation 2009*;
- *Traffic Regulation 1962*;
- *Transport Legislation (COVID-19 Emergency Response) Regulation 2020*;
- *Transport Operations (Passenger Transport) Regulation 2018*;
- *Transport Operations (Passenger Transport) Standard 2010*; and
- *Transport Operations (Road Use Management—Road Rules) Regulation 2009*.

These amendments ensure that cross references to legislation and definitions are preserved, that infringement notices can be issued for offences under the proposed Regulation and that the legislative framework continues to operate efficiently.

### **Schedule 1: Exempt Vehicles**

Schedule 1 of the proposed Regulation outlines vehicles which are exempt from registration requirements. Examples of exempt vehicles are interstate motorised wheelchairs, racing vehicles used on a racing track and ride-on mowers. Such vehicles are exempt from registration requirements as they are primarily used on private property.

### **Schedule 2: Category 1 vehicle registration fees for 1 year**

Schedule 2 of the proposed Regulation lists the applicable fees for category 1 vehicles, including concessional fees.

### **Schedule 3: Category 2 vehicle registration fees for 1 year**

Schedule 3 of the proposed Regulation lists the applicable fees for category 2 vehicles, including concessional fees.

### **Schedule 4: Other fees**

Schedule 4 of the proposed Regulation lists other fees that pertain to vehicle registration such as plate fees, fees for late payments, vehicle registration transfer fees and unregistered vehicle permit fees.

### **Schedule 5: Vehicles for particular concessional registration fees**

Schedule 5 of the proposed Regulation outlines the eligibility criteria necessary to obtain concessional registration in certain scenarios.

### **Schedule 6: Local government areas for schedule 5, section 10 for vehicles used solely to carry on business of prospecting**

Schedule 6 of the proposed Regulation lists the local government areas in which concessional registration may apply when vehicles are used solely to carry on the business of prospecting.

### **Schedule 7: Grounds for cancellation of vehicle's registration**

Schedule 7 of the proposed Regulation outlines the show cause process in which a vehicle's registration may be cancelled under powers of the Act or under the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*. This schedule supports Part 4, subdivision 2 of the proposed Regulation.

### **Schedule 8: Dictionary**

Schedule 8 of the proposed Regulation lists the defined terms that are used throughout the proposed Regulation.

## **Consistency with policy objectives of authorising law**

The proposed Regulation is consistent with the policy objective of the Act including, in particular, to provide for the effective and efficient management of road use in the State and to provide a scheme to allow the identification of vehicles, drivers and road users.

## Inconsistency with policy objectives of other legislation

The proposed Regulation is not inconsistent with the policy objectives of other legislation.

All other consequential amendments are consistent with the policy objectives of the relevant authorising laws.

## Benefits and costs of implementation

The benefit of remaking will be to continue to provide a robust vehicle registration framework to identify vehicles, drivers and road-users.

The proposed Regulation supports the freedom of movement to other Australian jurisdictions by enabling reciprocal registration arrangements which allow Queensland-registered vehicles to travel interstate. Not remaking the proposed Regulation will jeopardise these arrangements currently afforded to Queenslanders.

Legislation remains the most appropriate, cost-effective and transparent mechanism by which to regulate and administer vehicle registration and continues to be used in all other states and territories, and in many jurisdictions around the world, for this purpose.

The cost of remaking the proposed Regulation will be minimal and will be met from existing resources.

The fees set out in Schedule 2, 3 and 4 of the proposed Regulation related to the registration fees of various types of vehicles, fees relating to the transfer and cancellation of a vehicle registration and registration products such as plate fees. The collection of vehicle registration fees and charges provide a sustainable revenue stream for government to build and maintain the road network.

## Consistency with fundamental legislative principles

Issues relating to the fundamental legislative principles are discussed below.

### **Legislation should have sufficient regard for the institution of Parliament (Legislative Standards Act section 4(2)(b))**

#### Sub-delegation of legislative power

Some sections of the proposed Regulation may sub-delegate powers to the chief executive and other persons in relation to administrative and technical matters. Sections which provide for potential sub-delegation are made under sections 146 and 149 of the *Transport Operations (Road Use Management) Act 1995* (TORUM Act). Section 146 allows a regulation to prescribe rules about the operation of vehicles and their use of the road network. Section 149 allows a regulation to prescribe ways of identifying vehicles and for the circumstances in which details of the vehicle register's contents may be given to someone. In conjunction with section 22(1)(b) of the *Statutory Instruments Act 1992*, these regulation making powers in the TORUM Act provide an implicit authority for any sub-delegation of the powers which are described in further detail below.

*Written statements from vehicle manufacturers about a vehicle's compliance with vehicle laws*

The proposed Regulation provides that the chief executive may accept a written statement from a vehicle's manufacturer as evidence that a vehicle complies with a vehicle law requirement. This may be a sub-delegation of power to the vehicle's manufacturer, though this is mitigated as the chief executive may choose to accept the written statement from the manufacturer. The vehicle's manufacturer is well placed to know whether a vehicle complies with a vehicle law requirement related to the vehicle's construction and this is not always easily ascertainable by the chief executive. For these reasons, the potential sub-delegation of power to a vehicle manufacturer to provide a written statement to the chief executive that a vehicle is compliant with a vehicle law is considered appropriate.

*Authorisation to use an unregistered vehicle on a road*

The proposed Regulation gives the chief executive the power to grant an authorisation for the use of an unregistered vehicle on a road. Before granting the authorisation, the chief executive may require the applicant to pay actual or estimated costs including:

- assessing the vehicle's route and preparing the relevant plans and estimates;
- preparing, strengthening, repairing, replacing or reconstructing road transport infrastructure on the vehicle's route; and
- ensuring compliance with a condition or proposed condition of the authorisation.

As the chief executive has the power to decide whether a person must pay costs before granting an authorisation, this may be a sub-delegation of power. This discretionary power to make an applicant pay costs is limited to the reasons set out above, which relate to ensuring the movement of an unregistered vehicle on a road can take place safely without damaging road infrastructure. For these reasons, the potential sub-delegation of power to the chief executive to decide whether a person must pay costs before granting an authorisation to use an unregistered vehicle is considered appropriate.

*Approving registration terms and direct debit arrangements*

The proposed Regulation provides for the chief executive to approve non-standard periods of registration in certain circumstances, and to approve a direct debit arrangement for registration fees with terms. These discretionary powers may be a sub-delegation of power. Flexibility in deciding periods of registration is limited to where the chief executive considers it would be reasonable and appropriate in the circumstances. This may allow, for example, for the chief executive to register a vehicle for a time proportionate to an amount paid where the full registration fees have not been paid. Allowing the chief executive to approve the terms under which a person may pay registration fees through direct debit allows the chief executive to ensure direct debit arrangements are efficient. It also allows registration terms to be set that are convenient for customers and their budgeting practices. For these reasons, the potential sub-delegation of power to the chief executive to approve non-standard periods of registration and terms for direct debit arrangements is considered appropriate.

### *Special edition number plates and personalised number plates*

The proposed Regulation provides that the chief executive may decide an amount that must be paid for a special edition number plate. Additionally, the proposed Regulation provides that the fee for a personalised number plate is the fee stated on the Personalised Plates Queensland website. The powers for fees to be set by the chief executive or by the fees being stated on a website may be a sub-delegation of power. This is mitigated as special edition number plates and personalised number plates are an entirely discretionary item. The personalised plate business is run on a purely commercial basis where people wanting to display more creativity with their number plates can choose to pay for a specific design or combination from a large range of personalised plates. However, a person always has the option of simply retaining the standard number plate on their vehicle. For these reasons, the potential sub-delegation of power to the chief executive to decide an amount that must be paid for a special edition number plate or personalised number plate is considered appropriate.

### *Information extracts from the vehicle register*

The proposed Regulation gives the chief executive power to allow a client user to obtain an extract from the Register. Client users include authorised statutory entities, lawyers, insolvency entities and insurance entities who have entered into an agreement with, and are approved by, the chief executive to obtain extracts from the register about vehicles. The discretionary power to allow client users to obtain extracts from the register may be a sub-delegation of power. In recognition of the importance of personal privacy, the circumstances where a client user can obtain an extract from the register are clearly specified in the proposed Regulation and are limited to where there is a broader community benefit or a compelling case for assisting individual members of the community (such as in a legal process). Client users are subject to auditing requirements, and it is an offence for a client user to disclose information in the extract other than in accordance with any conditions imposed by the chief executive. For these reasons, the potential sub-delegation of power to the chief executive to allow a client user to obtain an extract from the register of vehicles is considered appropriate.

### *Learner approved motorbikes*

The proposed Regulation provides that the chief executive must keep a list of motorbikes that are approved for use by less-experienced motorbike riders. The proposed Regulation also provides that the chief executive may add a motorbike to the list. As the power to add a motorbike to the list of learner approved motorbikes is discretionary, this may be a sub-delegation of power. For a motorbike to be a learner approved motorbike, it must meet certain technical criteria such as having a power to weight ratio that is not more than 150kW per tonne, which limits the chief executive's discretion. Providing the chief executive with this power, allows the listing of motorbikes that, from the manufacturer's specifications, clearly satisfy the required criteria without the need for a member of the public to make application to have that model of motorbike approved. For this reason, the potential sub-delegation of power to the chief executive to add a motorbike to the learner approved motorbike list is considered appropriate.

*Written-off vehicle inspection procedures, Statutory write-off assessment criteria and guidelines*

The proposed Regulation makes requirements which rely upon a number of technical documents which are approved by the chief executive or that have effect through publication by Austroads or on the TMR website. This includes written-off vehicle inspection procedures, documents related to damage assessment criteria for the classification of different kinds of written-off vehicles, the conditional registration guideline and the safe movement guideline. These documents are technical in nature and require regular amendment to keep up-to-date with changes in vehicle technology. The chief executive and Austroads, which is a collective of government agencies advised by technical experts, are well placed to do this. These technical documents are only updated following consultation with relevant industries and community groups. For these reasons, the potential sub-delegation of power for documents approved by the chief executive or that take effect through publication are considered appropriate.

**Legislation should have sufficient regard to rights and liberties of individuals (LSA section 4(2)(a))**

*Legislation should not adversely affect rights and liberties, or impose obligations retrospectively (LSA 4(3)(g))*

The human rights certificate for the proposed Regulation addresses a range of potential limitations on human rights in detail. Where human rights may be limited, there may also be a potential inconsistency with the fundamental legislative principle that legislation should have sufficient regard to rights and liberties of individuals. Where it has been identified that a human right may be limited, any potential limitation on the human right has been assessed and considered to be justified.

The proposed Regulation does provide for the collection, handling, use and disclosure of personal information. This occurs through the collection of applications and forms with personal information under the proposed Regulation, the keeping of the Register, the inspection of vehicles and the disclosure of information from the Register. Provisions which require or allow for the collection, use and disclosure of personal information are limited to the collection of information that is necessary for the purposes they are being collected, such as to register a vehicle. Provisions allowing the disclosure of information are constrained to particular purposes. Offences apply for the misuse or unauthorised disclosure of personal information. For these reasons, the proposed Regulation has sufficient regard to the right to privacy.

For more serious offences, the proposed Regulation contains penalties that range from 30 to 80 penalty units. The TORUM Act provides that a regulation under the Act may prescribe penalties of up to 80 penalty units. Penalties are set high as a deterrent to outweigh the potentially significant financial benefit a person might gain by avoiding registration, or by registering a vehicle incorrectly. For example, use of an unregistered heavy vehicle on a road over the period of a year would allow a person to avoid thousands of dollars in registration fees. Penalties have been reviewed as part of the process of rewriting the proposed Regulation and are considered appropriate.

The proposed Regulation also contains a number of requirements for a person to return a number plate or to give notice to the chief executive within a particular time. Where a person fails to comply with one of these requirements, the proposed Regulation places an evidential burden on them to establish that they had a reasonable excuse for that failure. While these provisions impose an evidential burden on a person to establish that they have a reasonable excuse for failing to comply with requirements in the proposed Regulation, these provisions are considered appropriate. This is because they ensure that evidence can be produced by the party best able to satisfy the requirements of the statutory protection. The basis for establishing a reasonable excuse is peculiarly within the defendant's knowledge and would be more difficult for the State to establish than it would for the defendant to establish.

*Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review (LSA section 4(3)(a))*

The proposed Regulation gives the chief executive the power to accept a registration renewal application at a time other than when normally required. While this does provide the chief executive with a discretionary administrative power, the power is limited to when the chief executive considers it reasonable and appropriate. It allows the chief executive to be flexible where, for example, a person may not have been able to renew their vehicle's registration in the normal time due to some exceptional personal circumstances. While not externally reviewable, a person is able to ask for an internal review which is appropriate for a decision of this nature.

When considering an application for a person to be a written-off vehicle examiner, the chief executive may have regard to a person's criminal history. This provides the chief executive administrative discretion to consider whether a person's criminal history should prevent a person from being a written-off vehicle examiner or not. This is considered reasonable and appropriate as written-off vehicle examiners hold a position of trust, performing a role that is essential to ensuring stolen vehicles are not sold under fabricated identities and to ensure that repaired written-off vehicles are safe for use on public roads.

## Consultation

Consultation on the proposed Regulation has been undertaken with the Queensland Law Society, Royal Automobile Club of Queensland, Queensland Trucking Association, the Motor Trader Association of Queensland, the National Heavy Vehicle Regulator and members of the Recreational Motor Vehicle and Safety Group. This group of stakeholders did not raise any concerns with the Regulation.

The Office of Best Practice Regulation (OBPR) was consulted on the proposed Regulation. OBPR noted that TMR had conducted a sunset review of the 2010 Regulation. OBPR advised that there would be no significant adverse impacts from the proposed Regulation and that no further regulatory analysis was required under the *Queensland Government Guide to Better Regulation*.