

Transport and Other Legislation Amendment Regulation (No. 3) 2022

Explanatory notes for SL 2022 No. 122

made under the

State Penalties Enforcement Act 1999

Transport Operations (Marine Safety) Act 1994

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport and Other Legislation Amendment Regulation (No. 3) 2022

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*

Policy objectives and the reasons for them

Move Over Slow Down Laws

Emergency response workers, including police officers, paramedics, firefighters, state emergency service officers, break-down assistance providers, transport inspectors and tow truck drivers are exposed to significant risk when working at the roadside from vehicles passing at close proximity and high speeds. These workers typically work in unplanned, unpredictable and high-risk locations where they are often unable to deploy appropriate traffic management controls to effectively slow and divert passing traffic. The consequences of an incident involving a passing vehicle are likely to be severe, including serious injury or death.

The Queensland Government made an election commitment prior to the 2020 State Election to undertake a policy review to investigate how to better protect roadside workers, including first responders and roadside assistance workers. The review found that the combination of a regulatory approach and increased education and communication was the best combination of initiatives to improve the safety of emergency response workers.

As a result of the review, new road rules generally known as *move over, slow down* (MOSLO) laws are being introduced. They establish requirements for drivers when passing parked Emergency Response Vehicles (ERV) displaying flashing warning lights and when passing emergency response workers and associated persons at the incident site. When passing an ERV, the new MOSLO laws will require a driver to pass at a safe distance and speed, moving over and slowing down if necessary. The new MOSLO laws introduce an important protection for emergency response workers.

B-triple maximum allowable speed

A B-triple is a kind of heavy vehicle road train combination that has three trailers. Like other road trains, B-triples are only allowed to operate on routes that have been assessed as suitable.

Prior to October 2018, B-triple combinations generally operated in Queensland at a maximum allowable speed limit of 100km/h under a national notice which regulates road trains including B-triples issued by the National Heavy Vehicle Regulator (NHVR). In October 2018, the NHVR made an amendment to the national notice. The amendment removed a clause that explicitly allowed B-triples to operate at 100km/h. Following this, in Queensland, the maximum allowable speed limit for a B-triple was 90km/h as applies to other kinds of road train combinations under section 24A of the *Transport Operations (Road Use Management—Road Rules) Regulation 2009* (Queensland Road Rules).

The NHVR has advised the Department of Transport and Main Roads (TMR) that a B-triple is safe operating at higher speeds compared to other kinds of road trains. This is due to the vehicle couplings exhibiting greater stability against rollover while providing improvements in high-speed performance than other coupling types. B-triple combinations are permitted to travel up to a maximum of 100km/h in the Northern Territory, South Australia, Victoria and Western Australia. It was not intended that the maximum allowable speed limit for B-triples be reduced to 90km/h in Queensland, and as they are safer operating at higher speeds than other combinations, an amendment is being made that will allow them to operate at a maximum speed of 100km/h.

Townsville compulsory pilotage area

Under section 99 of the *Transport Operations (Marine Safety) Act 1994* (Marine Safety Act), it is an offence for a person to navigate certain ships in a compulsory pilotage area unless the person uses the services of a pilot. Section 160(2) of the *Transport Operations (Marine Safety) Regulation 2016* (Marine Safety Regulation) provides that schedule 3 states the pilotage areas, or parts of pilotage areas, that are compulsory pilotage areas. A coordinate that is part of setting the boundaries of the Townsville compulsory pilotage area requires amendment to properly capture the intended area.

Achievement of policy objectives

Move Over Slow Down Laws

The *Transport and Other Legislation Amendment Regulation (No. 3) 2022* (the Amendment Regulation) amends the Queensland Road Rules to set requirements for drivers when passing an ERV parked on a road displaying a flashing blue, red, magenta, or yellow warning light (not

including direction indicators or hazard lights). An ERV includes police, ambulance, fire and state emergency service vehicles, TMR and NHVR transport compliance vehicles, motor breakdown service vehicles and tow trucks that are clearly marked and identifiable.

The Amendment Regulation requires that a driver, not including a bicycle rider, passing a parked ERV displaying flashing lights on a multilane road, must pass the ERV with a clear lane between the driver's vehicle and the ERV. It is an offence to not comply with the requirement to leave a clear lane other than in certain circumstances, such as if it is not safe or practicable, or there are roadworks.

The Amendment Regulation sets a maximum court-imposed penalty for not leaving a clear lane of 30 penalty units (\$4312) and amends the *State Penalties Enforcement Regulation 2014* (the SPE Regulation) to introduce an infringement notice fine of 3 penalty units (\$431). The *Transport Operations (Road Use Management –Driver Licensing) Regulation 2021* (Driver Licensing Regulation) is also being amended so that a person who commits the offence will have 3 demerit points recorded on their traffic history.

The Amendment Regulation makes a separate requirement for a driver unable to leave a clear lane on a multilane road or on a single-lane road when passing a parked ERV displaying flashing lights. The driver must pass with a sufficient distance between their vehicle and the ERV, any associated parked vehicle and any associated person, to avoid a collision and to pass the ERV at a speed that does not put at risk the safety of any associated person. An associated parked vehicle includes another vehicle in the immediate vicinity of the parked ERV with flashing lights, such as a broken-down vehicle. An associated person includes drivers and passengers of the ERV and of associated vehicles, as well as another person in the immediate vicinity, such as a mechanic fixing a vehicle.

The Amendment Regulation sets a maximum court-imposed penalty for not passing with a sufficient distance or at a safe speed of 30 penalty units (\$4312) and amends the SPE Regulation to introduce an infringement notice fine of 3 penalty units (\$431). The Driver Licensing Regulation is also being amended so that a person who commits the offence will have 3 demerit points recorded on their traffic history.

In setting the requirements outlined above for drivers passing parked ERVs displaying flashing warning lights, the MOSLO laws will achieve the objective of improving the safety of emergency service workers.

B-triple maximum speed

The Amendment Regulation amends the Queensland Road Rules to increase the maximum allowable speed that a B-triple can travel at from 90km/h to 100km/h. This will achieve the objective of allowing B-triples, which are safer than other kinds of road trains, to operate at 100km/h, which will improve efficiency of the road network.

Townsville compulsory pilotage area

The Amendment Regulation amends the Marine Safety Regulation to change a coordinate that sets the boundaries of the Townsville compulsory pilotage area. This will achieve the objective of providing clear and accurate boundaries for the Townsville compulsory pilotage area.

Consistency with policy objectives of authorising laws

The amendments to the Queensland Road Rules and the Driver Licensing Regulation are consistent with the policy objective of the *Transport Operations (Road Use Management) Act 1995* 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.

The amendments to the SPE Regulation are consistent with the objective of the *State Penalties Enforcement Act 1999* to maintain the integrity of fines as a viable sentencing or punitive option for offenders.

The amendment to the Marine Safety Regulation is consistent with the objective of the Marine Safety Act regulating the maritime industry to ensure marine safety.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

As outlined above, the benefits of the Amendment Regulation are to:

- improve the safety of emergency service workers operating in high-risk road environments;
- improve the efficient operation of B-triple road trains; and
- provide clear and accurate boundaries for the Townsville compulsory pilotage area.

The MOSLO laws commence on 16 September 2022. Prior to that date, a public communications campaign will inform the community about the new requirements. Other than the costs of communicating the MOSLO changes to the public and relevant industry participants, there are no other costs associated with the implementation of the amendments.

The Livestock and Rural Transporters Association of Queensland and the Queensland Trucking Association will be informed of the amendment allowing B-triple road trains to travel at 100km/h. TMR will also inform stakeholders who are subscribed to receive email bulletins about heavy vehicle regulatory changes.

The location of the Townsville compulsory pilotage area will be published on Maritime Safety Queensland's website.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles.

Consultation

Extensive consultation was undertaken in relation to the MOSLO laws as part of the review of the safety of emergency response workers and during the development of the regulation. This included consultation with the following: the NHVR, Austroads, the Local Government Association of Queensland, the RACQ, the Safer Australian Roads and Highways Group, the Queensland Trucking Association, the Traffic Management Association of Australia, the Civil Contractors Federation Queensland, Together Queensland, the Rail Tram and Bus Union, Transurban Queensland and the United Workers Union Queensland.

Consultation was undertaken on the amendment to increase the maximum allowable speed for B-triple road trains with the Livestock and Rural Transporters Association of Queensland, the Queensland Trucking Association, the RACQ and the NHVR.

The Townsville Harbour Master was consulted in relation to the amendments to the Townsville compulsory pilotage area.

All stakeholders consulted supported the amendments.

The Office of Best Practice Regulation (OBPR) was consulted on the proposed MOSLO laws and considered the proposed changes to be excluded from further regulatory impact analysis on the basis that they appear unlikely to result in significant adverse impacts. OBPR was also consulted on the B-triple road trains amendment and considered the proposal will not add to the burden of regulation and is unlikely to result in significant adverse impacts. Therefore, no further regulatory impact analysis was required.

In accordance with the *Queensland Government Guide to Better Regulation*, TMR applied a self-assessable exclusion from undertaking further regulatory impact analysis on the compulsory pilotage area amendment based on Category G – Regulatory proposals that are of a machinery nature.