

Transport Operations (Road Use Management—Road Rules) and Other Legislation Amendment Regulation 2022

Explanatory notes for SL 2022 No. 142

made under the

State Penalties Enforcement Act 1999

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport Operations (Road Use Management—Road Rules) and Other Legislation Amendment Regulation 2022

Authorising laws

Section 165 of the *State Penalties Enforcement Act 1999*

Section 171 of the *Transport Operations (Road Use Management) Act 1995*

Policy objectives and the reasons for them

A personal mobility device (PMD) is a small electric device designed to carry one person. PMDs are mainly used for commuting short distances or for recreation. Some common examples of PMDs are electric scooters (e-scooters), electric skateboards and solo wheeled devices.

PMD popularity has increased significantly since 2018 when the Queensland Road Rules (QRRs) were amended to allow a broader range of PMDs to be used on paths and roads in Queensland. Shared e-scooter service providers reported to the Brisbane City Council Transport Committee in March 2021 that daily trips on hired e-scooters numbered around 5,000 trips. Also, it is estimated that there are about 10 to 20 e-scooters sold each day to private owners by retailers. Shared e-scooter schemes and the increased use of privately-owned PMDs offer benefits to the environment and may help to ease traffic congestion.

With increasing use and popularity, the safety of PMDs has drawn significant public attention. Figures collated by the Jamieson Trauma Institute within Queensland Health in the 18 months to May 2020 found that 797 people were admitted to the Royal Brisbane and Women's Hospital, Princess Alexandra Hospital and Mater Hospital after being injured on an "electric personal mobility device". There were also at least 12 instances of injury to pedestrians, bystanders or users of other vehicles in incidents with PMDs during this same period.

As a result of these safety issues, changes are being introduced to enhance the safety of PMD riders and other members of the public that they may interact with. The changes are designed to address safety concerns while continuing to allow the use of PMDs on appropriate road and road-related infrastructure.

Speed limits applying to PMD riders

Section 244I of the QRRs currently provides that when travelling on a footpath, crossing or shared path, PMD riders must give way to pedestrians. They are also required to travel at a speed and distance away from pedestrians so they can stop safely to avoid a collision with any pedestrian.

Section 244E of the QRRs currently provides that the maximum speed that a PMD can be operated at is 25km/h. This speed limit applies to travel on paths dedicated for use by PMDs and bicycles, and on roads where PMDs are allowed. It also applies to travel on footpaths, crossings and shared paths that are also used by pedestrians.

Allowing PMD riders to travel on crowded and narrow footpaths at speeds of up to 25km/h may present a potentially dangerous situation for pedestrians, particularly those with a disability or mobility impairment. Travelling at 25km/h can also present a risk to the PMD riders themselves, as many suburban footpaths are narrow and uneven with poor lines of sight, leaving little opportunity for PMD riders to respond to obstacles.

A policy objective of the *Transport Operations (Road Use Management—Road Rules) and Other Legislation Amendment Regulation 2022* (the Amendment Regulation) is to reduce the maximum allowable speed at which PMD riders can travel on paths where a lower speed limit is more appropriate. This includes, for example, on paths where there is the potential for close interaction with pedestrians.

PMD riders will still be allowed to travel at up to 25km/h on all other types of infrastructure where they are currently allowed to travel. This includes travel along paths that have signage indicating that a 25km/h speed limit applies on the path, on dedicated bicycle infrastructure, and on roads to which PMDs are allowed access.

These changes will ensure that PMD riders are still able to access the wider active transport network efficiently, while requiring them to slow down in areas where pedestrians should have priority.

Use of on-road bicycle lanes by PMD riders

Currently, PMDs are predominately limited to use on paths (footpaths, shared paths, separated footpaths and bicycle paths). While PMDs have access to certain roads that have a speed limit of 50km/h or less, they are not currently permitted to be used on roads more generally, including in on-road bicycle lanes.

The growing popularity of PMDs together with safety concerns about their interactions with pedestrians on paths, has highlighted the need to allow some expanded road access for PMDs. A policy objective of the Amendment Regulation is to allow PMD access to some on-road bicycle lanes. This change, together with the speed limit changes outlined above, provides an appropriate balance between the safety of pedestrians and PMD riders and the utility of PMDs as a growing and efficient mode of transport.

Enforcement in relation to non-compliant PMDs

There are certain non-compliant PMDs in use within Queensland. The most common non-compliance is the maximum speed that the device can reach. Some devices are capable of significant speeds, in excess of 90km/h. This is either by default or through alteration of the device's computer speed limiter. There are obvious dangers to such powerful devices being operated in any environment, but particularly in shared environments.

The devices that can reach a speed of more than 25km/h on level ground do not comply with paragraph (d) of the definition of a PMD in section 15A of the QRRs. This means that the rules relating to PMDs, including rules relating to speed limits, may not be applicable to the users of these devices. This has presented enforcement challenges to members of the Queensland Police Service (QPS) who have been required to adopt more complex enforcement alternatives to counter the significant safety risks presented by these devices.

Other aspects of the current PMD definition also have the potential to create enforcement challenges. For example, devices without an effective brake or with a sharp protrusion do not fall within the definition of a PMD (see section 15A(c) and (g) of the QRRs).

A policy objective of the Amendment Regulation is to facilitate efficient enforcement against non-compliant PMDs being used on Queensland paths and roads through changes to the definition of PMD and the inclusion of new offence provisions.

Penalties for high-risk behaviours by PMD riders

Currently, under the *State Penalties Enforcement Regulation 2014*, the majority of PMD offences attract a small infringement notice fine of 1 penalty unit (\$143). This fine applies to offences such as carrying a passenger, and not wearing a helmet. The fine is consistent with the equivalent offences applying to bicycles and is an adequate reflection of the severity of the offences.

However, the same fine also applies to a variety of other PMD offences that can be classified as high risk, such as speeding. Illegal mobile phone use attracts a higher penalty, though it is still lower than the equivalent penalty for bicycle riders.

A policy objective of the Amendment Regulation is to improve road safety by increasing infringement notice fines for the offences aimed at preventing high-risk behaviours by PMD riders. The fine increases are to assist in deterring these behaviours.

Warning devices on PMDs

Warning devices on PMDs may assist in improving safety. For example, a bell could be used to alert other path users of an intention to pass when the PMD rider is approaching from behind. Warning devices are currently mandated for bicycles.

A policy objective of the Amendment Regulation is to improve the safety of interactions between path users, such as pedestrians, and PMD riders by requiring a working warning device be fitted to a PMD. However, the requirement will only be applied to a PMD that has handlebars, such as an e-scooter.

Helmets for PMD riders

PMD riders are required to wear an approved bicycle helmet which is one that complies with the relevant standard. This is because PMD riders, like bicycle riders, are very vulnerable in the event

of a crash. Research has shown that helmets can be very effective in reducing the risk of head and brain injuries, while being low cost and easy to access.

Approved motorbike helmets offer at least the same safety benefit as bicycle helmets for PMD riders. Unlike bicycle riders, the aerobic requirement to ride a PMD is low and so there is less need for significant ventilation. In recognition of this, the Amendment Regulation provides an additional option for PMD riders by allowing them to choose to wear an approved motorbike helmet. This amendment reduces the regulatory burden for those who already have access to a motorbike helmet.

Other minor amendments

A policy objective of the Amendment Regulation is to ensure that signage about PMD usage is appropriate.

Achievement of policy objectives

The Amendment Regulation achieves the policy objectives outlined above by amending the QRRs as outlined below.

Speed limits applying to PMD riders

The Amendment Regulation inserts a new section 24B into part 3 of the QRRs. The effect of this amendment is that:

- the speed limit for a PMD rider on pedestrian infrastructure such as a crossing or unsigned footpath or shared path will be 12km/h;
- the existing speed limit of 25km/h will continue to apply to a PMD rider on other infrastructure such as on footpaths or shared paths signed with a 25km/h limit, the bicycle side of a separated footpath, dedicated bicycle paths, and on roads on which PMD riders are permitted; and
- a PMD rider will be subject to any lower speed limits that apply in sections 21 to 24 of the QRRs. For example, a PMD rider will be subject to a 10km/h speed limit if an on-road shared zone is signed with that limit or a 20km/h limit if a shared path is signed with that limit.

Contravention of these limits will be dealt with under the general speeding offence within section 20 of the QRRs. While this offence is drafted to apply to a driver of a vehicle, section 19 of the QRRs makes it clear that the offence provision in section 20 also applies to riders such as riders of PMDs.

Use of on-road bicycle lanes by PMD riders

The current section dealing with PMD access to roads is section 244G. The Amendment Regulation omits section 244G and mirrors the requirements that were in that section into a new section 252B. Section 252B will also allow PMD riders to:

- access bicycle lanes on roads with a speed limit of no more than 50km/h; and
- access all bicycle lanes that are physically separated from other lanes of traffic, for example by a dividing strip, traffic island, row of bollards or separation kerb.

Section 252B also allows PMD riders incidental access to roads such as for the purpose of crossing a road, for entering or leaving bicycle lanes to which they are allowed access and for travelling through intersections between areas of road they are allowed to access.

Section 252B does not permit PMD riders to leave a prescribed bicycle lane and travel in or across general traffic lanes to access a right turning lane. Such manoeuvres would result in an unacceptable level of exposure to motor vehicle traffic by PMD riders. In this situation, to make a right turn, a PMD rider should exit the bicycle lane and use pedestrian crossing facilities in order to access a bicycle lane on the adjacent road. This is considered an appropriate outcome in that it limits PMD riders' exposure to motor vehicle traffic in line with the current road access model.

Currently, PMDs are classified as pedestrians under section 18 of the QRRs. This means that general road rules for drivers, including giving way at intersections and obeying road signs and traffic lights, do not apply to PMD riders on roads.

In support of the expansion of PMD access to some on-road bicycle lanes, the Amendment Regulation classifies a PMD as a *vehicle* and reclassifies the user of a PMD from being a pedestrian to being a *rider*. This is dealt with through the amendments to sections 15 and 17 and the omission of section 18 of the QRRs. This reflects how bicycles are dealt with under the QRRs, as bicycles are classified as vehicles and their users are riders.

Section 19 of the QRRs provides that a reference in the regulation to a driver includes a reference to a rider. The changes in the Amendment Regulation mean that all the road rules that apply to the driver of a vehicle will also apply to PMD riders in generally the same way as they apply to bicycle riders. For example, PMD riders will be subject to rules requiring compliance with traffic lights and signs as well as give way requirements.

Additionally, the Amendment Regulation extends the protection given to bicycle riders in section 144A of the QRRs. As a result, the driver of a motor vehicle passing the rider of a PMD that is travelling in the same direction as the driver must pass the PMD at a sufficient distance from the PMD. Existing protections given to pedestrians (for example, the requirement for drivers to give way to pedestrians crossing a road they are entering) will be retained for PMDs.

As part of the Australian Road Rules (ARR) national maintenance process, amendments to the ARRs are being drafted to ensure that vehicles must give way to bicycle riders in the same way they must give way to pedestrians and PMD riders when turning at intersections. This is to ensure all vulnerable road users are similarly protected. As the Amendment Regulation is making amendments to the relevant sections to retain these protections for PMD riders, it is timely that the Amendment Regulation also extends these give way protections to riders of bicycles, as envisaged by the national maintenance process.

The Amendment Regulation consolidates the additional specific rules for PMD and bicycle riders in the QRRs. This has been achieved by omitting the PMD-specific rules in Part 14 and including them in Part 15 of the QRRs. Where the rules apply in the same manner to both PMD and bicycle riders, they have been incorporated into the same section. The current requirements applying to bicycle riders about towing a trailer with a person in it have been extended to apply to PMD riders in section 257. This is because the safety risk is the same for PMD and bicycle riders towing a trailer with a person in it.

The infringement notice fines have been streamlined so that the same fine applies to PMD and bicycle riders for the same offence. This has resulted in an increase in the infringement notice

fine that applies to PMD riders to 1 penalty unit for the following contraventions:

- PMD rider crossing a road at a crossing contrary to requirements in section 248;
- PMD rider causing a traffic hazard (section 253); and
- PMD rider obstructing other drivers or pedestrians (section 125).

Rules which have specific application to either PMD riders or bicycle riders are contained in separate sections that apply accordingly. For example, the Amendment Regulation ensures that requirements about crossing near pedestrian lights or at level crossings that currently apply to PMDs users as pedestrians, continue to apply to PMD riders, but not to bicycle riders (see new sections 252E to 252G).

The reason for the different treatment of PMD riders and bicycle riders is to reflect that PMD riders have restricted road access whereas bicycle riders have general road access. For example, the typical road environment at a level crossing is unlikely to be where PMD riders are allowed access. For this reason, it is appropriate that PMD riders are required to cross a level crossing via pedestrian infrastructure as they are currently required to do. However, as bicycle riders have general road access, it is appropriate that they continue to have the right to choose to cross a level crossing either by using the road or the pedestrian infrastructure.

PMD-specific rules that will continue to apply unchanged to PMD riders are in the following sections:

- section 245A – age restrictions for PMD riders (reflects existing rule that is currently in section 244D); and
- section 246A – restriction on carrying another person on a PMD (reflects existing rule that is currently in section 244J).

The intent of the existing rule in section 244H which prevents a PMD rider from travelling past a no personal mobility devices sign has been preserved in section 252A. Some minor additions clarify that the restriction may be indicated by signs or road markings applying to a stretch of road or footpath.

The Amendment Regulation also makes consequential amendments throughout the QRRs to reflect that a PMD is being classified as a *vehicle* and the user of the PMD as a *rider*.

Consequential changes have also been made to the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2021* due to this change in classification. These amendments retain the existing position that a PMD rider is not subject to the allocation of demerit points as a result of committing an offence while riding a PMD. This is consistent with the fact that bicycle riders are also not subject to the allocation of demerit points as a result of committing an offence while riding a bicycle.

Enforcement in relation to non-compliant PMDs

Currently, section 15A of the QRRs sets out a range of characteristics that a device must meet to be classified as a PMD. This includes that the device must have an effective stopping system controlled by using brakes, gears or motor control (s.15A(c)); that when propelled only by the motor, the device cannot reach a speed of more than 25km/h on level ground (s.15A(d)); and that the device has no sharp protrusions (s.15A(g)).

As a consequence, a device that does not satisfy all of the criteria in section 15A is not classified as a PMD and is therefore not subject to any of the rules within the QRRs relating to PMDs. This would include, for example, a device that resembles a PMD in all respects other than the fact that it is capable of travelling faster than 25km/hr.

To clarify this position, the characteristics listed above are being removed from the definition of a PMD and are being applied to the riders of these devices through other rules. So, for example, a device that is capable of speeds above 25km/h, which would previously have been seen as a non-compliant device, will now be classified as a PMD and its rider will be subject to the relevant speed limits.

The Amendment Regulation inserts new offence provisions for a person using a PMD:

- that does not have an effective stopping system controlled by using brakes, gears or motor control (new section 258(2)); and
- that has sharp protrusions (new section 258A).

These new provisions cover the matters previously dealt with in paragraphs (c) and (g) of section 15A and will have a penalty infringement notice fine of 1 penalty unit (\$143) and a maximum penalty of 20 penalty units (\$2,875).

The Amendment Regulation also ensures that electric bicycles are not regarded as PMDs under section 15A. This is achieved through the incorporation of new subsection (h)(iii) which provides that a vehicle with pedals is not a PMD. The use of the term 'pedals' in this context is intended to describe both the pedals attached to the drive system that propels a bicycle, and a pedal (or lever) that is pressed to activate an accelerator or brake.

Penalties for high-risk behaviours by PMD riders

The Amendment Regulation achieves the policy objective of increasing the deterrent effect of existing offences by increasing the penalties that will apply as set out below:

Offence description	Existing penalties	New penalties
Exceeding speed limit applying to PMD rider	Maximum court imposed fine – 20 penalty units (\$2,875)	Maximum court imposed fine – 40 penalty units (\$5,750)
	Infringement notice fine - 1 ^{1/3} penalty unit (\$191)	Infringement notice fine - Exceeding applicable speed limit by - less than 14km/h – 1 penalty unit (\$143) - at least 14km/h but not more than 20km/h – 1 ^{1/2} penalty units (\$215) - more than 20km/h but not more than 30km/h – 2 ^{1/2} penalty units (\$359) - more than 30 km/h – 4 penalty units (\$575)

As part of the reclassification of PMDs as vehicles, and to address high-risk behaviours, there will be a significant increase in penalties for PMD riders for illegal mobile phone use and drinking liquor while riding, as set out below:

Offence description	Existing infringement notice fine	New infringement notice fine
Using handheld mobile phone while on a PMD	3 penalty units (\$431)	7½ penalty units (\$1,078)
Must not drink liquor while riding	1 penalty unit (\$143)	3 penalty units (\$431)

These changes align the requirements and penalties for PMD riders with those that apply to bicycle riders. This reflects the similar risk profile of riding these vehicles, and that both types of vehicle can be used on paths and on-road bicycle lanes.

The mobile phone rule under section 300 of the QRRs currently applies to drivers while the vehicle is moving or is stationary but not parked. The intent of the wording "stationary but not parked" is predominantly to capture illegal mobile phone use by drivers at traffic lights, in congested traffic and in other similar situations on the road. While relatively simple to determine whether a motor vehicle is parked, there is more complexity in determining the same for PMD and bicycle riders. Further, it is acknowledged that the risks associated with mobile phone use by a stationary PMD or bicycle rider while on a path, are significantly less than while on the road.

The Amendment Regulation therefore clarifies that the mobile phone rule under section 300 of the QRRs does not apply to a PMD or bicycle rider if they are stationary on a bicycle path, footpath, separated footpath, shared path or nature strip.

Aside from this clarification, the application of the mobile phone rule within section 300 of the QRRs to PMD riders will be consistent with how it already applies to all other drivers and riders. It will be illegal for a PMD rider to hold a mobile phone in their hand, or rest a mobile phone on any part of their body, while they are riding. This includes, for example, carrying a mobile phone that is tucked into the rider's clothing, other than in a pocket or in a pouch worn by the rider as provided under subsection (2)(a) of section 300.

Warning devices on PMDs

The Amendment Regulation inserts new subsection (3) into section 258 to provide that a person must not use a PMD that is steered by handlebars unless it has a bell or horn or similar device in working order. Failure to comply with this requirement is an offence with an infringement notice fine of 1 penalty unit (\$143) and a maximum penalty of 20 penalty units (\$2, 875).

Helmets for PMD riders

The Amendment Regulation allows a person to use an approved motorbike helmet when riding a PMD. This option is in addition to the existing option of using an approved bicycle helmet. The current section containing the requirement about helmet-wearing by PMD riders is section 244F. The Amendment Regulation omits section 244F and mirrors the requirements that were in that section into a new section 256A.

Other minor amendments

PMD riders must not travel past a no personal mobility devices sign (new section 252A, which replaces existing section 244H). The current sign depicts an upright two-wheeled device, commonly known as a Segway. This sign was introduced as part of the 2013 amendments to restrict the operation of PMDs in certain areas (usually highly pedestrianised) where it is deemed hazardous. These signs are in use across some areas of Queensland.

With the 2018 amendments enabling the legal use of a broader range of devices in Queensland, concerns have been raised that the imagery of this sign is no longer effective at signalling to PMD riders where they are precluded from using their devices.

To address this, the Amendment Regulation incorporates additional signage in section 24B and 252A of the QRRs which is reflective of an e-scooter. The existing signage will be maintained in the QRRs to ensure that the regulatory impact of signs currently installed across Queensland is retained.

Consistency with policy objectives of authorising laws

The Amendment Regulation is consistent with the policy objectives outlined in the *Transport Operations (Road Use Management) Act 1995* including the objective to improve road safety and 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

As outlined above, with the increasing popularity of PMDs, there has been a growing number of injuries to both PMD riders and other path users. Even in crashes with no fatalities, serious injuries can create life-long difficulties and a range of costs for individuals. Further, anecdotal evidence from pedestrian and disability advocacy groups suggests that even the perception of risk around PMDs travelling at high speed on footpaths is sufficient to discourage some elderly people and people with a disability from using certain footpaths.

The benefits of the amendments include:

- improving road safety outcomes by:
 - reducing the speed limit applying to PMDs used on footpaths and on other similar infrastructure used by pedestrians;
 - facilitating efficient enforcement options against users of non-compliant devices;
 - increasing penalties to deter the incidence of high-risk behaviours by PMD riders; and
 - requiring PMDs with handlebars to be fitted with a warning device;
- encouraging the continued use of pedestrian infrastructure by vulnerable path users;
- continuing to facilitate the use of PMDs as a form of transport by allowing access to on-road bicycle lanes; and
- reducing the regulatory burden by allowing PMD riders the option of wearing an approved motorbike helmet instead of an approved bicycle helmet.

It is acknowledged that there will be a cost in line with the increased fine levels incurred by PMD riders who do not comply with the relevant rules. However, these fines can be avoided by road users complying with the requirements about PMD usage. Further, if a person cannot afford to pay their fine immediately, there are options available through the State Penalties Enforcement Registry such as payment by regular instalments.

A comprehensive communications campaign will raise public awareness about the changes to the PMD rules and will provide education aimed at encouraging compliance with the rules. This will take place prior to and after the commencement of the changes on 1 November 2022.

The communications plan will aim to:

- achieve public awareness of rules related to PMDs (including rules that have changed);
- achieve a high level of awareness among Queenslanders who ride PMDs of the rules about helmets, speed limits, drink riding, mobile phone use, where to ride, mandatory warning devices and safe parking; and
- achieve a high level of self-reported compliance with the rules about helmets, speed limits, drink riding, mobile phone use, where to ride, mandatory warning devices and safe parking.

It is also proposed to develop a range of educational resources which can be distributed by both the Department of Transport and Main Roads (TMR) and other stakeholders (such as QPS, representatives from the PMD industry, local councils and PMD share service providers) to ensure that the messaging reaches a wide audience.

TMR has commenced a range of communication activities aimed at ensuring PMD riders know and understand the rules for safe riding. This has included social media as well as the development of a specific PMD business card with a QR code linked to a webpage of the rules for PMDs. The business card has been provided to the QPS, PMD industry and other interested parties such as RACQ, Jamieson Trauma Institute, Brisbane Electric Scooter Association, and Brisbane City Council for distribution via their networks.

The cost of implementation including the cost of communication activities will be funded through existing resources.

Consistency with fundamental legislative principles

The Amendment Regulation is generally consistent with fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*. A potential breach of fundamental legislative principles is discussed below.

The Amendment Regulation makes changes to the offence provisions and penalties applying to PMD riders that may raise fundamental legislative principle (FLP) considerations under section 4(2)(a) of the *Legislative Standards Act 1992*, rights and liberties of individuals.

However, any potential FLP breach is justified for the reasons outlined below.

The Amendment Regulation increases the amount of the penalty that applies to PMD riders engaging in high-risk behaviours.

The highest of the penalty increases are for speeding and illegal mobile phone usage by PMD riders.

Speeding is often seen as the riskiest behaviour for PMD riders. However, the penalty for speeding, regardless of how fast the PMD rider is travelling, is currently only $1^{1/3}$ penalty units (\$191).

While this penalty may be appropriate for minor speeding offences, it does not reflect the risk of more serious speeding offences.

Given the Amendment Regulation classifies the user of a PMD as a *rider* rather than a *pedestrian*, it is appropriate that speeding be managed within Part 3 of the QRRs. This will see the maximum penalty for speeding increased from 20 penalty units (currently applies under section 244E) to 40 penalty units (will apply under existing section 20).

In addition, to better reflect the increased risk of higher speeds, the Amendment Regulation introduces a tiered infringement notice fine framework for PMD speeding offences as follows:

Exceeding the relevant speed limit by:	Infringement notice fine
1-13km/h	1 PU (\$143)
14-20km/h	$1^{1/2}$ PU (\$215)
21-30km/h	$2^{1/2}$ PU (\$359)
More than 30km/h	4 PU (\$575)

This proposal is similar to the current speeding offence framework that applies to other vehicles, in that it is based on the speed limit that applies to the PMD rider at the time of the offence. This approach recognises the different risk profiles of speeding depending on the infrastructure and environment. That is, using a PMD at more than 25km/h on a footpath amongst pedestrians is generally more dangerous than using a PMD at the same speed on a separated bike path or on-road bicycle lane. While both behaviours are dangerous and would result in a fine, this approach ensures that the penalty is commensurate to the risk profile.

The speed brackets and penalties proposed are different to those that apply to other vehicles. This reflects the unique speed limits that apply to PMDs, in particular, the substantially lower speed limits in most circumstances, and ensures that the penalties are proportionate to the risk profile of the offence.

The lowest penalty tier applies to PMD riders travelling up to 25km/h on a footpath and up to 38km/h on bike infrastructure. While this behaviour is deemed risky, it is comparatively lower in risk compared to higher levels of speeding. Incidents involving a collision with another road user or the PMD rider falling have the potential to result in minor to serious injuries and are less likely to result in death than if travelling at higher speeds.

The second penalty tier ensures that speeds just outside of the lowest bracket are penalised proportionately. This will apply to speeding 26-32km/h on footpaths and 38-44km/h on bike infrastructure. This level of speeding is deemed a high risk. Incidents involving a collision with another road user or the PMD rider falling have the potential to result in serious injuries. The proposed penalty is a modest increase from the current penalty.

The third penalty tier will apply to speeding 33-42km/h on footpaths and 45-54km/h on bike infrastructure. This level of speeding is a significant risk. Incidents involving a collision with another road user or the PMD rider falling are likely to result in serious injury and potentially death. The proposed penalty is a substantial but proportionate increase from the current penalty.

The highest penalty tier will apply to speeding 43km/h and more on footpaths and 55km/h and more on bike infrastructure. This level of speeding is an extreme risk. Incidents involving a

collision with another road user or the PMD rider falling are likely to result in serious injury and more likely to result in death. The proposed penalty is a substantial but proportionate increase from the current penalty. Given the extreme risk of this behaviour, and importance in setting a clear disincentive to communicate to PMD riders, the high penalty is considered justified.

The highest penalty resulting from the Amendment Regulation applies to a PMD rider using a handheld mobile phone while riding. The infringement notice fine is 7½ penalty units (\$1,078).

The same rule and penalty currently apply for illegal mobile phone use for all drivers and riders. This includes, for example, a driver of a heavy vehicle or car, as well as a rider of a motorbike, bicycle, animal such as a horse, and a person in charge of an animal drawn vehicle.

Consistency in the application of road rules and associated penalties is critical to ensure all road users behave in a predictable and safe manner and to ensure fairness and equity across all road user types. This alignment also supports the long-standing clear message of the significant risk associated with using a mobile phone while driving or riding a vehicle. Clarity in this message is essential to drive societal change and reduce driver distraction related road trauma.

It is considered that the risks associated with using a mobile phone while riding a PMD are substantially similar to the risks posed when riding a bicycle and therefore alignment of penalties is also justified on these grounds. Bicycles and PMDs have similar speed and handling characteristics and so will be similarly negatively impacted by the illegal use of a mobile phone. They pose a similar risk to themselves and other path and road users if distracted.

In recognition of the significant penalty for illegal mobile phone use and need to ensure it is only applied where appropriate, the Amendment Regulation will clarify that a PMD and bicycle rider using a mobile phone while stationary on a path or nature strip will not be committing an offence. This behaviour is considered very low risk and does not negatively impact road efficiency in the same way using a mobile phone when stopped at traffic lights does.

The increased penalties in the Amendment Regulation take into account the significant burden on the State's health care system in the treatment of those seriously injured in a crash.

It is therefore believed that significantly increasing the penalties is justified as being the most likely approach to improve road safety outcomes and promote behavioural change. Increasing monetary fines for traffic offences has also been shown to reduce recidivism rates in Queensland. The specific deterrent effect of increased monetary penalties on rates of re-offending is evidenced by an analysis of an increase to monetary penalties for speeding offences published in 2015 which revealed a subsequent 6.3 percent reduction in recidivism.

The deterrent effect of these new penalties will be enhanced by an extensive public education campaign that will highlight the new penalties that will apply.

In summary, the penalties for speeding and illegal mobile phone use by PMD riders reflect the importance of deterring these high-risk behaviours that have the potential to severely impact the safety of PMD riders and other path and road users. The penalties are higher than other penalties in the QRRs as a reflection of the greater seriousness of the offences.

All other changes made by the Amendment Regulation to offence and penalty provisions have resulted in penalties that are proportionate to the seriousness of the offence to which the penalty applies.

Consultation

Stakeholder consultation

Extensive stakeholder consultation was undertaken to inform the development of the Amendment Regulation.

The Minister for Transport and Main Roads hosted a stakeholder roundtable forum on PMD safety in November 2021. This gathered representatives from a broad range of stakeholder groups including local councils, health organisations, the QPS, PMD riders and industry and other road safety advocates (including pedestrian, disability and bicycle advocates). The purpose of the event was to ensure all parties had a chance to share their views on key safety issues and to present opportunities to address these. The discussions revealed a broad consensus around the need for reform to improve the safety of PMDs for both users and the broader community.

A number of stakeholders were further consulted during January 2022. The Minister and representatives from TMR held focus group meetings with PMD industry and user group representatives and pedestrian and disability advocates. The following groups were represented:

Pedestrian and Disability Advocates

- Council on the Ageing Queensland
- Guide Dogs Queensland
- Queensland Walks
- Vision Australia
- Queenslanders with a Disability Network

PMD Industry and User Groups

- Neuron Mobility
- Beam Mobility
- Brisbane Electric Scooter Association
- iScoot
- Scooter Hut

Speed limits on footpaths

PMD industry and user groups highlighted concerns with a 10km/h speed limit on footpaths, citing that this would be hazardous for users due to issues balancing a device at that speed. The representative from Neuron Mobility suggested that 12km/h would be more appropriate. All groups accepted that a decreased speed limit on footpaths was important from a general community safety perspective and to improve public perception of PMDs. Vision Australia, Queenslanders with a Disability Network and Queensland Walks were all particularly supportive of a lower speed limit for PMDs on footpaths, though they expressed preference for segregated infrastructure as a better option. The representative from Council on the Ageing Queensland noted that footpaths are increasingly risky and contested spaces, with many user groups forced to coexist in a constrained space.

Advice from the PMD industry, including retailers and hire companies, is that most PMDs are fitted with a speedometer. This should help facilitate compliance with the relevant speed limits.

Advice from the QPS is that a 12km/h limit is enforceable using existing calibrated radar guns.

TMR is working with local governments to design a regulatory sign and guidelines to enable, path owners, predominantly local governments to sign some high-quality shared paths as appropriate for 25km/h. Local governments, including Brisbane City Council, are supportive of this approach.

The proposal to introduce a footpath speed limit was also presented to the following stakeholders at a PMD Safety Reference Group meeting held on 31 March 2022 and there was general consensus supporting the proposal.

- Brisbane City Council
- Gold Coast City Council
- Local Government Association of Queensland
- QPS
- Office of Fair Trading
- Jamieson Trauma Institute
- Royal Australasian College of Surgeons
- Royal Automobile Club of Queensland
- Bicycle Queensland
- Queenslanders with a Disability Network
- Vision Australia
- Queensland Walks
- Beam Mobility
- Neuron Mobility
- Scooter Hut
- Brisbane Electric Scooter Association.

A discussion paper on the issue was circulated to the above stakeholders on 13 April 2022 as a follow up to the discussions at the meeting in March. Feedback received from this paper conveyed broad support for the proposed policy position – implementing a 12km/h speed limit for PMDs on footpaths but maintaining a maximum speed limit of 25km/h for devices travelling on shared paths that have signage indicating 25km/h and other bicycle infrastructure.

Enforcement against non-compliant devices and increasing penalties

At the focus group session conducted in January 2022, the representative from iScoot highlighted the need for better enforcement of PMD rules to stamp out bad user behaviour. The need for better compliance was also discussed by the representative from the Brisbane Electric Scooter Association. All representatives acknowledged that high-speed devices are problematic for all path users and were broadly supportive of better enforcement, including escalating penalties. All representatives from the pedestrian and disability advocacy groups expressed support for better enforcement for high-speed devices.

User groups and industry have signalled that these changes are required to ensure PMD riders become more compliant with the rules and consequently improve community perceptions in relation to the devices. QPS has also indicated strong support for these penalty increases to assist with their compliance operations.

The proposal to amend the definition of a PMD to enable improved enforcement of PMD speed rules was also presented to stakeholders at the PMD Safety Reference Group meeting held on 31 March 2022. No objections were raised about the proposal.

Warning devices

PMD retailers reported that bells are universal on devices with handlebars sold in stores and all retailers have access to be able to sell them separately. The representative from the Brisbane Electric Scooter Association shared that not all members of the group have bells fitted to their PMDs, however, they also acknowledged that warning devices are beneficial in shared environments. The share service PMD providers confirmed that all of their devices are fitted with a bell or horn. The representatives from both Guide Dogs Australia and Queenslanders with a Disability Network expressed support for mandatory warning devices on PMDs.

There were no objections to the proposal when it was presented to the PMD Safety Reference Group meeting held on 31 March 2022.

Helmets

PMD owners expressed concern that the QRRs only prescribe a bicycle helmet as the approved type of helmet to be worn when using a PMD. They noted that a \$137 fine could be incurred for wearing a motorbike helmet which could provide greater protection in the event of a crash. Therefore, the recommendation to introduce approved motorbike helmets as an alternative to approved bicycle helmets to be worn by PMD riders was identified as an opportunity to reduce regulatory burden on PMD riders.

There were no objections to the proposal when it was presented to the PMD Safety Reference Group meeting held on 31 March 2022.

Regulatory Impact

In accordance with *The Queensland Government Guide to Better Regulation* (the Guidelines):

- TMR applied a self-assessable exclusion from undertaking further regulatory impact analysis based on category (g) for the amendment relating to additional regulatory signage for PMDs.
- The Office of Best Practice Regulation (OBPR) advised that no further regulatory impact analysis was required in relation to the proposals about setting maximum speed limits on footpaths and shared paths, and to allow PMD riders the option of wearing an approved motorbike helmet as an alternative to an approved bicycle helmet.
- All other amendments were assessed by OBPR against the Guidelines. OBPR noted that the proposed amendments seek to address identified risks and harms in the community in a proportionate manner, and to simplify the operation of existing regulatory provisions. OBPR considered the amendments will add only minimally to the burden of regulation and are unlikely to result in significant adverse impacts and that no further regulatory impact analysis was required.