

# Work Health and Safety (Quad Bikes) Amendment Regulation 2024

Explanatory notes for SL 2024 No. 15

made under the  
*Work Health and Safety Act 2011*

## General Outline

### Short title

*Work Health and Safety (Quad Bikes) Amendment Regulation 2024*

### Authorising law

Section 276 of the *Work Health and Safety Act 2011*

## Policy objectives and the reasons for them

The primary policy objective of the *Work Health and Safety (Quad Bikes) Amendment Regulation 2024* (Amendment Regulation) is to improve the safety of workers and others when operating, or being a passenger on, quad bikes at a workplace.

A quad bike (sometimes referred to as an all-terrain vehicle or ATV) is a motorised off-road vehicle designed to travel on four low pressure or non-pneumatic tyres, having a seat designed to be straddled by the operator and handlebars for steering control.

In 2015, a Queensland coronial inquest examined nine deaths caused by quad bike accidents between 2012 and 2014 (the inquest). Of particular concern to the Queensland Coroner was the prevalence of unsafe behaviours around quad bikes; including relaxed attitudes towards child and passenger safety and a lack of helmet use.

The inquest recommended a number of legislative reforms, including mandating the wearing of helmets, prohibiting children from operating adult-sized quad bikes and prohibiting single-seat quad bikes from carrying passengers. Quad bike regulations have also been recommended by coroners in New South Wales and Tasmania.

In 2022, the Queensland Government published the *Quad bikes and side-by-side vehicles – Proposed work health and safety regulations* consultation paper which sought community feedback on the additional quad bike safety measures recommended by the Queensland Coroner.

Submissions were received from a broad range of stakeholders including from primary producers, peak industry bodies, government agencies and legal, medical, and health and safety experts; reflecting the diverse uses of quad bikes in Queensland. The clear themes that emerged from the submissions were that helmets were broadly viewed as improving safety outcomes, children should not operate adult-sized quad bikes and that passengers should not be carried on quad bikes, unless the quad bike is specifically designed for that purpose.

The intent of the Amendment Regulation is therefore to:

- reduce the frequency of fatalities and the frequency and severity of head injuries in quad bike accidents at workplaces by mandating the use of a helmet;

- contribute to better safety outcomes for young workers and other children who are operating a quad bike, by limiting the operator age to 16 years old or older or the minimum age as recommended by the manufacturer; and
- prevent passenger-related injuries, by prohibiting the carriage of passengers on single-seat quad bikes and by limiting the passenger age to 16 years old and older, or the minimum age as recommended by manufacturers.

Existing legislation administered by the Department of Transport and Main Roads (DTMR) and the Department of Environment, Science and Innovation (DESI) prescribes the use of ‘approved motorbike helmets’ (as defined under the *Transport Operations (Road Use Management – Road Rules) Regulation 2009*) for quad bikes operated in particular areas. These particular areas are roads or road-related areas; state forests or timber reserves; protected areas (other than nature refuges or special wildlife reserves) and recreation areas. The Amendment Regulation is complementary to the existing regulations and upholds the requirement for a quad bike helmet to be an “approved motorbike helmet” when quad bikes are operated in those particular areas.

## **Achievement of policy objectives**

The policy objectives will be achieved by amending the *Work Health and Safety Regulation 2011* to:

- mandate that a person with management or control of a quad bike at a workplace takes all reasonable steps to ensure:
  - operators and passengers of quad bikes wear helmets;
  - operators of quad bikes are at least 16 years old, or the minimum age recommended by the quad bike manufacturer;
  - a quad bike is not used for carriage of passengers, unless it is designed to carry passengers, and the minimum age of passengers is at least 16 years old, or the minimum age recommended by the quad bike manufacturer.
- impose a duty on workers who are operating or being passengers of quad bikes, that, if a helmet was provided by the person with management or control at a workplace, to wear a helmet.
- impose a duty on a person with management or control of a quad bike at a workplace to take all reasonable steps to ensure that if a quad bike is operated in particular areas, the helmet provided is an ‘approved motorbike helmet,’ as defined in the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*, schedule 5.

The Amendment Regulation also contains minor, consequential and technical amendments to remove redundant explanatory notes to deliver consistency throughout the *Work Health and Safety Regulation 2011* and implements current legislative drafting practices.

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

The Amendment Regulation is consistent with the objectives of the authorising Act to secure the health and safety of workers and workplaces by protecting workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work or from particular types of substances or plant.

## **Inconsistency with policy objectives of other legislation**

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

The Amendment Regulation clarifies that workplaces need to provide ‘approved motorbike helmets’ to workers if quad bikes are operated on particular areas, where legislation

administered by the DTMR and DESI applies and requires the wearing of ‘approved motorbike helmets.’

The Amendment Regulation does not override any existing quad bike operator requirements under DTMR or DESI legislation. These requirements include, for example, the requirement to hold a driver licence if using the quad bike in a particular area (as defined). Quad bike users who are using quad bikes in particular areas where DTMR or DESI legislation applies should understand any additional requirements that may apply to their use in these areas.

## **Benefits and costs of implementation**

The Amendment Regulation will prevent quad bike related deaths, injuries and illness in Queensland workplaces and therefore increase the productivity of businesses where quad bikes are operated. It is also expected that the Amendment Regulation will have a broader positive societal impact in improving user behaviours on recreational quad bikes.

Helmet requirements and age and passenger restrictions are already contained in quad bike manufacturer’s directions and instructions, therefore, the regulations will not have any cost impact on workplaces that comply with those specifications.

Businesses who have not previously adhered to manufacturer recommendations for helmet use, or businesses that have not prohibited the carriage of passengers on single-seat quad bikes, may incur additional costs of purchasing helmets or quad bikes designed to carry passengers.

The Queensland Government costs of implementing the amendment regulation will be minimal and will be met from existing resources.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

As part of the Queensland Coroner’s inquiry into minimising quad bike fatalities, the coroner consulted widely with industry, farming organisations, workplace health and safety regulators and road safety experts. The coroner found that most stakeholders agreed that quad bike helmet use should be mandatory and passenger age restrictions were not contentious.

Between May and August 2022, the Office of Industrial Relations (OIR) undertook public consultation on quad bike safety measures and received feedback from farming organisations, peak industry bodies, primary, government agencies and other interested parties. The general feedback was that helmets are viewed as a safety enhancement and that there is no place for children and passengers on quad bikes that are not specifically designed to have passengers.

During July and August 2023, OIR undertook further consultation with a number of peak Queensland agricultural industry bodies and Safe Work Australia. OIR also shared the regulatory proposal with rural health research experts.

The proposed regulatory amendments were broadly supported. One peak body raised concerns that mandatory helmet use may contribute to higher levels of heatstroke in hot climates and at low speeds. To allay these concerns, OIR thoroughly investigated helmet use in hot climate and found:

- all Australian Work Health and Safety regulators already recommend the use of helmets on quad bikes regardless of heat and speed. This is consistent with manufacturers’ instructions;
- rollover head injuries can still happen when operating quad bikes at low speeds and helmets should therefore be worn at all times;

- helmets do not pose any significant heat stroke risk, particularly if breathable and lightweight alternatives (which are available in the market) are used in hot climates;
- A 2010 study by Meat and Livestock Australia Limited focusing on cattle mustering in high temperature areas of the Northern Territory found that, in very hot conditions, comparative to a felt hat, lightweight helmets do not adversely affect any of the operators' physiological, psychophysical or cognitive functions.

Consultation on the amendments was also undertaken with the Department of the Premier and Cabinet (DPC), Queensland Treasury (QT), the Department of Agriculture and Fisheries, the Department of Transport and Main Roads, the Department of Environment, Science and Innovation, the Department of Justice and Attorney-General, the Department of Tourism and Sport, the Queensland Police Service, the Local Government Association of Queensland, and the Office of Best Practice Regulation.

DPC and QT raised no issues regarding the amendments. All other Queensland Government agencies consulted either supported, or did not oppose, the amendments. OIR also worked closely with OBPR whose feedback informed the final Summary Impact Analysis Statement.

## Notes on provisions

### Short title

Clause 1 identifies the short title of the Amendment Regulation.

### Regulation amended

Clause 2 states that the Amendment Regulation amends the *Work Health and Safety Regulation 2011*.

### Insertion of new ss 226A, 226B and 226C

#### **226A Quad bikes - duty of person with management or control of quad bike at workplace**

Clause 3 inserts section 226A which introduces a requirement for persons with management or control of a quad bike at a workplace to take all reasonable steps to:

- ensure operators and passengers of quad bikes wear crash helmets;
- prohibit children operating quad bikes that are not designed for children, by mandating that operators are at least 16 years old, or the minimum age recommended by the quad bike manufacturer;
- prohibit the carriage of passengers on quad bikes that are not designed for that purpose, by mandating that a quad bike is not used to carry passengers, unless it is designed to carry passengers and the passenger is at least 16 years old, or the minimum age recommended by the quad bike manufacturer.

Section 226A(2) creates an offence against persons with management or control of a quad bike at a workplace if they fail to prohibit operators under 16, or younger than the minimum age recommended by manufacturers, to use a quad bike.

This provision does not override existing DTMR and DESI legislative requirements including that quad bike operators must hold a driver licence to operate a quad bike in particular areas (as defined in 226C). Individual operators should make themselves aware of these additional requirements before operating quad bikes at a workplace in these areas.

This provision is not intended to extend helmet requirements and minimum age requirements to the use of equipment mounted to quad bikes when the bike is parked. This might include, for example, the use of a spray rig attached to the back of a quad bike while parked.

### **226B Quad bikes – duty of worker**

Clause 3 inserts section 226B, which introduces the requirement for workers who are operating, or are passengers of, quad bikes, to wear a helmet, if a helmet was provided to the worker by a person with management or control of a quad bike at a workplace.

Section 226B(2) creates an offence if a worker fails to wear a helmet provided to them at a workplace. The type of helmet to be provided is further detailed in 226C and will be supported by further guidance in the Work Health and Safety Queensland Rural Plant Code of Practice.

Section 226B(3) allows workers to wear an ‘approved motorbike helmet’ (as defined in the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*, schedule 5) instead of the helmet provided to them by the person with management or control of the quad bike. This means workers can use a helmet with a higher safety rating if they prefer.

### **226C Approved motorbike helmet required if quad bike operated in particular area**

Section 226C creates a duty for a person with management or control of a quad bike at a workplace to take all reasonable steps to ensure that, if a quad bike is operated in particular areas outlined under sections 226C(1)(a)-(d), the helmet provided must be an ‘approved motorbike helmet’ (as defined by the *Transport Operations (Road Use Management – Road Rules) Regulation 2009*).

Section 226C upholds the requirements of already existing regulations administered by DTMR and DESI, that, when quad bikes are operated in certain places, the helmets used must be ‘approved motorbike helmets.’ These particular areas include roads or road-related areas; state forests or timber reserves; protected areas, other than nature refuges or special wildlife reserves; and recreation areas.

### **Amendment of sch 19 (Dictionary)**

Clause 4 inserts new definitions for terms used in the Amendment Regulation.

The definition of “operate” a quad bike includes the driving or riding a quad bike but also to put in motion an apparatus, device, machinery or motor in, on or attached to the quad bike. The inclusion of (a) ensures consistency with relevant DESI legislation. This inclusion is not intended to mandate the use of helmets or minimum age requirements for workers using attachments to the quad bike when a quad bike is parked (for example, some types of spray rig equipment attached to quad bikes have hoses long enough to allow a person to turn off a quad bike and use the spray rig away from the quad bike).

### **Schedule 1 Minor Amendments**

Clauses 1 to 4 make minor, consequential and technical amendments to remove redundant explanatory notes which delivers consistency throughout the *Work Health and Safety Regulation 2011* and implements current legislative drafting practices.