

Transport Operations (Road Use Management—Driver Licensing) (Hazard Perception Test) Amendment Regulation 2021

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Mark Bailey MP, Minister for Transport and Main Roads, provide this human rights certificate with respect to the *Transport Operations (Road Use Management—Driver Licensing) (Hazard Perception Test) Amendment Regulation 2021* (the Driver Licensing Regulation) made under the *Transport Operations (Road Use Management) Act 1995*.

In my opinion, the Driver Licensing Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

Under the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*, P1 licence holders are required to pass a Hazard Perception Test (HPT) before they can progress to a P2 licence or an open licence. Currently, motorbike licence holders are not required to pass a HPT at any stage in the motorbike licence scheme.

The Driver Licensing Regulation will:

- relocate the HPT so that progression from a car-learner licence to unsupervised driving is dependent upon a person demonstrating their hazard perception ability;
- ensure that the holders of P1 licences prior to the commencement of the amended legislation must still complete the HPT before progression to a car P2 licence or an open licence; and
- introduce the requirement that a motorbike learner-licence holder must complete a motorbike specific HPT before they can upgrade their motorbike licence.

These changes will promote the safety of novice drivers and motorbike riders. Novice drivers have a much higher-crash risk than experienced drivers. Research has found that, among novice drivers, more than 40 per cent of crashes involved a failure to scan the roadway adequately. Hazard perception has been described as the only higher-order skill that can predict the likelihood of a crash.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The Driver Licensing Regulation may engage the following human rights under the *Human Rights Act 2019*:

- *Recognition and Equality before the law* – section 4 of the Driver Licensing Regulation

Consideration of reasonable limitations (section 13 of The Act)

Recognition and Equality before the law

(a) the nature of the right

Section 15 of the *Human Rights Act 2019* protects the right to recognition and equality before the law, in particular, that every person has the right to equal and effective protection against discrimination under section 15(4).

I considered whether the human right to recognition and equality before the law under section 15(4) of the *Human Rights Act 2019* is limited by the Driver Licensing Regulation, in particular, that every person has the right to equal and effective protection against discrimination. Upon analysis, this right may be engaged by the Driver Licensing Regulation, however the right is not limited as explained below.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the Driver Licensing Regulation is to enhance road safety by requiring learner licence holders to demonstrate their hazard perception competency before progressing to unsupervised driving or riding. The Driver Licensing Regulation provides for the completion of the HPT online as detailed on the Queensland Government's website. Most learner licence holders will complete the HPT online.

However, given that not all Queenslanders have access to a computer or an internet connection, the Driver Licensing Regulation also supports an offline version of the HPT which can be facilitated by Department of Transport and Main Roads' officers. This will enable the test to be delivered in regional areas and indigenous communities where internet connections may be poor. This measure will ensure that the human right under section 15(4), that every person has the right to equal and effective protection against discrimination, is not limited as the HPT will be equally available to all Queenslanders without discrimination.

The Driver Licensing Regulation also prescribes a fee that is required to be paid before a learner licence holder can attempt the HPT. This fee applies equally to all learner-licence holders and enables their access to the hazard perception test. This is directed at road safety outcomes for the benefit of the person taking the HPT and other road users.

Therefore, while the right may be engaged, it is not limited, and the Driver Licensing Regulation is consistent with a free and democratic society based on human dignity, equality and freedom.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The Driver Licensing Regulation does not limit the right to recognition and equality before the law.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

Multiple policy options were evaluated, including the option of only updating the HPT test clips and maintaining the current legislation. It was determined that these legislative changes are the least-restrictive and most-reasonable way to still enhance road safety outcomes.

The proposal to redevelop and relocate the existing car HPT, and to introduce a new motorbike specific HPT delivers upon the community's expectation that the government ensures public safety and delivers modern services. These legislative changes provide the potential to improve the road safety of novice drivers and riders, which are known road user groups with elevated crash risks, demonstrated by a strong body of research.

Queensland remains the only jurisdiction with a HPT that allows novice drivers to drive unsupervised without demonstrating that they have adequate hazard perception abilities. Moving the HPT to become a requirement to exit the learner licence stage will provide a consistent approach that aligns with other Australian jurisdictions that have a HPT.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The human right is not limited.

Conclusion

I consider that the *Transport Operations (Road Use Management—Driver Licensing) (Hazard Perception Test) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it may engage human rights issues but does not limit human rights.

Honourable Mark Bailey MP
Minister for Transport and Main Roads