



Queensland

# Summary Offences Regulation 2016

## Subordinate Legislation 2016 No. 124

made under the

*Summary Offences Act 2005*

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title .....	3
2	Commencement .....	3
3	Definitions .....	3
<b>Part 2</b>	<b>Driving of motorbikes on public land</b>	
4	Unlawful driving of motorbike on public land .....	3
5	Application for motorbike access authority .....	4
6	Reconsideration of application for motorbike access authority ..	5
7	Form of motorbike access authority .....	6
8	Application for land to be prescribed as motorbike control land ..	6
9	Requirements of application .....	7
10	Consultation and notification .....	8
11	Information to be included in notice .....	9
12	Publication of information about motorbike control land .....	9
13	If area stops being motorbike control land .....	10
14	Government entity to conduct review .....	10
<b>Part 3</b>	<b>Sale of spray paint to minors</b>	
15	Display of prohibition sign .....	11
16	Prescribed requirements for prohibition sign .....	11
<b>Part 4</b>	<b>Repeal provision</b>	
17	Repeal .....	12

Contents

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<b>Schedule 1</b>	<b>Dictionary</b> .....	<b>13</b>
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## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Summary Offences Regulation 2016*.

### 2 Commencement

This regulation commences on 1 September 2016.

### 3 Definitions

The dictionary in the schedule defines particular words used in this regulation.

## Part 2 Driving of motorbikes on public land

### 4 Unlawful driving of motorbike on public land

- (1) For section 11A of the Act, a person must not drive a motorbike on public land unless—
- (a) the public land is an area of public land prescribed under this regulation (*motorbike control land*) and the person is in possession of a motorbike access authority authorising the motorbike to be driven on the public land; or
  - (b) the person is a police officer performing the functions of a police officer; or
  - (c) the person is an employee, contractor or volunteer of a government entity or a local government, performing the person's functions as an employee, contractor or volunteer of the government entity or local government; or

[s 5]

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- (d) the person is an employee or volunteer of a contractor of a government entity or a local government, performing the person's functions as an employee or volunteer of the contractor; or
  - (e) the person is acting under a lease, licence or authority, issued under an Act, that requires or authorises access to the public land.
- (2) A person is in possession of a motorbike access authority for subsection (1)(a) if the motorbike access authority is—
- (a) for a motorbike access authority issued in the form of a written document—carried by the person; or
  - (b) for a motorbike access authority issued in the form of a label capable of being attached to a motorbike—attached to the motorbike being driven by the person.

## 5 Application for motorbike access authority

- (1) A person may apply to the responsible chief executive for an area of motorbike control land for an authority authorising a particular motorbike to be driven on the area of motorbike control land (*motorbike access authority*).
- (2) The chief executive must consider the application and decide—
- (a) to issue the authority, with or without conditions decided by the chief executive; or  
*Examples of conditions for paragraph (a)—*
    - a condition that the authority ends if the area stops being motorbike control land
    - a condition that the holder not enter areas designated for rehabilitation by signs or markers
    - a condition that the holder access the area only on particular days or at particular times
  - (b) to refuse to issue the authority.

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- (3) In making the decision, the chief executive must consider the following matters—
- (a) whether the applicant has given the chief executive sufficient information to decide the application;
  - (b) the nature and extent of noise that may occur if the authority is issued;
  - (c) the nature and extent of environmental damage that may occur if the authority is issued, and how the damage may be minimised;
  - (d) the number of motorbike access authorities that have been issued for the area of motorbike control land;
  - (e) any other matters relevant to the use, control or management of the area of motorbike control land.

## **6 Reconsideration of application for motorbike access authority**

- (1) This section applies if, under section 5(2), the responsible chief executive—
- (a) refuses to issue a motorbike access authority to a person;  
or
  - (b) imposes a condition on a motorbike access authority.
- (2) The responsible chief executive must give the person a written notice stating the reasons for refusing to issue the authority or imposing the condition.
- (3) The person may, within 14 days after being given the written notice, apply to the responsible chief executive for a reconsideration of the refusal to issue the authority or the imposition of the condition.
- (4) If the decision to refuse to issue the authority, or impose the condition, was made by a person (*original decision maker*) other than the responsible chief executive, the reconsideration must be conducted by someone else in a more senior office than the original decision maker.

[s 7]

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- (5) The person conducting the reconsideration may consider any relevant materials and must make a fresh decision on the merits.

## **7 Form of motorbike access authority**

- (1) A motorbike access authority must be in the form of—
- (a) a written document; or
  - (b) a label capable of being attached to a motorbike.
- (2) A motorbike access authority must state the following—
- (a) the term of the authority;
  - (b) the motorbike control land for which it applies;
  - (c) in relation to the motorbike for which it applies—
    - (i) the model of the motorbike; and
    - (ii) the engine, chassis or frame number of the motorbike; and
    - (iii) if the motorbike has a registration number under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* or a corresponding law within the meaning of the *Transport Operations (Road Use Management) Act 1995*—the registration number;
  - (d) a unique identifying number;
  - (e) any conditions of the authority.

## **8 Application for land to be prescribed as motorbike control land**

- (1) A responsible government entity for an area of public land may apply to the Minister for the area to be prescribed as motorbike control land for the purposes of section 11A of the Act.

- (2) Before the area, or a part of the area, is prescribed as motorbike control land, the Minister must ensure that the requirements of sections 9 to 11 have been complied with.

## **9 Requirements of application**

- (1) An application by a responsible government entity for an area of public land to be prescribed as motorbike control land must be—
- (a) in the approved form; and
  - (b) accompanied by—
    - (i) a plan clearly showing the location and boundaries of the area; and
    - (ii) if the responsible government entity receives a submission about the application from an interested person—a copy of the submission, a summary of the submission and any comment the entity wishes to make about the submission.
- (2) The approved form must require the responsible government entity to state the following information—
- (a) the real property description of the area;
  - (b) how the area is currently used;
  - (c) why the area should be prescribed as motorbike control land;
  - (d) when the area should be prescribed as motorbike control land;
  - (e) the results of consultation conducted under section 10(1)(a);
  - (f) whether the entity has conducted any other consultation, and the nature and results of the consultation;
  - (g) the nature and extent of noise that may occur if the area is prescribed as motorbike control land;

[s 10]

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- (h) the nature and extent of environmental damage that may occur if the area is prescribed as motorbike control land, and how the environmental damage may be minimised;
- (i) how the area will be maintained;
- (j) how the area will be accessed;
- (k) whether there is anything in the area that may create a serious risk to the health or safety of a person in the area, and how the risk may be minimised.

## 10 Consultation and notification

- (1) Before an application is made under section 8(1), the responsible government entity must—
  - (a) consult about the entity’s proposal for an area of public land to be prescribed as motorbike control land with—
    - (i) the district officer of the police district for the area; and
    - (ii) the local government for the area; and
    - (iii) a person, or a representative of a person, who is living in or adjacent to, or carrying on business in or adjacent to, the area; and
  - (b) publish a notice of the entity’s intention to make the application.
- (2) The notice mentioned in subsection (1)(b) must comply with section 11 and be published on the entity’s website and in a newspaper circulating generally in the area or, if there is no newspaper circulating generally in the area, a newspaper circulating generally in the State.
- (3) Also, the entity must take other reasonably necessary steps to ensure persons who may reasonably be expected to be affected by the proposal are notified of the proposal in a way that gives them—
  - (a) the information that must be included under section 11 in the notice; and



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- (b) an opportunity to make a written submission about the proposal within the period mentioned in section 11(f).

*Examples of steps that may be taken under subsection (3)—*

- notifying people of the proposal by television advertisement
- arranging for a letter box drop of leaflets about the proposal
- erecting a notice at or near the area about the proposal

## **11 Information to be included in notice**

The notice of intention to apply to the Minister for an area of public land to be prescribed as motorbike control land must include the following—

- (a) a sketch or plan clearly showing the location and boundaries of the area;
- (b) a street address or description clearly identifying the area;
- (c) when the area is proposed to be prescribed as motorbike control land;
- (d) why the area should be prescribed as motorbike control land;
- (e) that interested persons may make a written submission to the responsible government entity about the proposal;
- (f) a day, at least 1 month after the first publication of the advertisement, by which a submission must be made;
- (g) how a submission may be made.

## **12 Publication of information about motorbike control land**

- (1) This section applies if a government entity makes an application to the Minister under section 8 in relation to an area of public land and the area, or part of the area, is prescribed as motorbike control land.
- (2) As soon as practicable after the area is prescribed as motorbike control land, the responsible government entity for the area must publish a notice in a newspaper circulating

[s 13]

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generally in the area or, if there is no newspaper circulating generally in the area, a newspaper circulating generally in the State, that includes the following information—

- (a) a sketch or plan clearly showing the location and boundaries of the area;
  - (b) a street address or description clearly identifying the area;
  - (c) that the area is prescribed as motorbike control land.
- (3) For the period the area is prescribed as motorbike control land, the responsible government entity must—
- (a) allow the public, during business hours, to inspect a plan that clearly shows the location and boundaries of the area; and
  - (b) display a sign, on or near each entrance to the area, that states the area is motorbike control land and clearly shows the boundaries of the area; and
  - (c) publish the information mentioned in subsection (2) on the responsible government entity's website.

### **13 If area stops being motorbike control land**

- (1) The Minister may decide that, from a stated day, an area of land is no longer motorbike control land.
- (2) If a decision is made under subsection (1), the responsible government entity for the area must give the holder of a motorbike access authority that applies to the area written notice of the decision as soon as practicable after the decision is made.

### **14 Government entity to conduct review**

- (1) This section applies if a government entity makes an application to the Minister under section 8 in relation to an area of public land and the area, or part of the area, is prescribed as motorbike control land.

- (2) At least once every 3 years after the area is prescribed, the responsible government entity for the area must conduct a review to decide whether the area should continue to be motorbike control land.
- (3) When conducting the review, the government entity must consult—
  - (a) the entities mentioned in section 10(1)(a); and
  - (b) each person who holds a motorbike access authority for the area.
- (4) At the end of the review, the responsible government entity must give the Minister a report on the outcome of the review.

## **Part 3                      Sale of spray paint to minors**

### **15            Display of prohibition sign**

For section 23D(1) of the Act, a prohibition sign must be displayed so the sign is clearly visible at the point of sale to a person purchasing spray paint.

### **16            Prescribed requirements for prohibition sign**

- (1) For section 23D(2) of the Act, definition *prohibition sign*, the prescribed requirements for a sign about the supply of spray paint to minors are that the sign must—
  - (a) be at least 210mm x 148mm; and
  - (b) display only the following words in the following order in a way that can be easily read—

‘The supply by sale of spray paint to minors is prohibited.

Penalties apply.

Acceptable evidence of age may be required.’
- (2) The words required to be displayed under subsection (1)(b) must be—

[s 17]

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- (a) at least 8mm high; and
  - (b) in black on a white background.
- (3) Subsection (1) does not prevent the sign displaying a reference to the State, the department or the Act.

## **Part 4                      Repeal provision**

### **17        Repeal**

The Summary Offences Regulation 2006, SL No. 156 is repealed.

## Schedule 1      Dictionary

### section 3

*government entity* see the *Public Service Act 2008*, section 24.

*motorbike access authority* see section 5(1).

*motorbike control land* see section 4(1)(a).

*public land* means land that is controlled or managed by the State.

*responsible chief executive*, for an area of motorbike control land, means the chief executive of the government entity that controls or manages the area.

*responsible government entity*, for an area of public land, means the government entity that controls or manages the area.

ENDNOTES

- 1 Made by the Governor in Council on 28 July 2016.
- 2 Notified on the Queensland legislation website on 29 July 2016.
- 3 The administering agency is the Queensland Police Service.

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