

**Subordinate legislation tabled
between 14 November 2018 and
12 February 2019**

Report No. 20, 56th Parliament
Transport and Public Works Committee
April 2019

Transport and Public Works Committee

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1. Introduction

1.1 Role of the committee

The Transport and Public Works Committee is a portfolio committee established by the Legislative Assembly of Queensland on 15 February 2018. The committee's primary areas of responsibility are Transport and Main Roads, Housing, Public Works, Digital Technology and Sport.¹

Pursuant to section 93(1) of the *Parliament of Queensland Act 2001*, the committee is responsible for examining each item of subordinate legislation within its portfolio areas and considering:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles (FLPs) to the legislation, and
- the lawfulness of the subordinate legislation.

Section 93(2)(a) of the *Parliament of Queensland Act 2001* confers responsibility on the committee to monitor the content of explanatory notes in its portfolio areas to ensure they comply with part 4 of the *Legislative Standards Act 1992*.

1.2 Aim of this report

This report advises on subordinate legislation examined and, where applicable, presents any concerns the committee has identified in respect of subordinate legislation tabled between 14 November 2018 and 12 February 2019.

1.3 Subordinate legislation examined

SL No	Subordinate Legislation	Tabled Date	Disallowance Date*
195	Transport Operations (Road Use Management-Road Rules) and Other Legislation Amendment Regulation 2018	12 February 2019	2 May 2019
196	Sustainable Ports Development Regulation 2018	12 February 2019	2 May 2019
197	Building (Cladding) Amendment Regulation 2018	12 February 2019	2 May 2019
205	State Penalties Enforcement (Heavy Vehicle National Law) Amendment Regulation 2018	12 February 2019	2 May 2019
206	Transport and Other Legislation Amendment and Repeal Regulation 2018	12 February 2019	2 May 2019
207	Retirement Villages Regulation 2018	12 February 2019	2 May 2019
210	Public Records Amendment Regulation 2018	12 February 2019	2 May 2019
217	Transport Operations (Road Use Management-Road Rules) (Personal Mobility Devices) Amendment Regulation 2018	12 February 2019	2 May 2019
218	Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018	12 February 2019	2 May 2019
219	Proclamation made under the <i>Building Industry Fairness (Security of Payment) Act 2017</i>	12 February 2019	2 May 2019

*Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

¹ Schedule 6 – Portfolio Committees, *Standing Rules and Orders of the Legislative Assembly* as amended on 15 Feb 2018.

2. Subordinate legislation examined

2.1 Transport Operations (Road Use Management-Road Rules) and Other Legislation Amendment Regulation 2018 (SL 195)

The policy objectives of the amendment regulation are to adopt the 12th package of Australian Road Rules amendments and to make a number of road rules related amendments. The Australian Road Rules are national model legislation designed to provide uniform road rules throughout Australia. The 12th package of Australian Road Rules amendments was approved by the Transport and Infrastructure Council. The amendment regulation will amend the Queensland Road Rules to incorporate amendments from the 12th package of Australian Road Rules amendments. A number of related amendments are also being made to the Queensland Road Rules, including increased penalties for blocking intersections, approved motorbike helmets and red light arrow offences.²

Achievement of policy objectives

The explanatory notes advise that, to maintain national consistency, the amendment regulation will amend the Queensland Road Rules to:

- *clarify that changing direction includes moving from a stationary position (as well as to a stationary position which is currently provided in the Queensland Road Rules)*
- *provide that drivers must give way to pedestrians and bicycle riders who are entering, as well as on a marked foot crossing, slip lane or pedestrian crossing. This amendment will align all related give way rules with section 80 of the Queensland Road Rules, which provides for the give way rules at a children's crossing*
- *allow large vehicles to drive as near as practicable to the left of the centre of a central traffic island if it is safe to do so. This will replace the current 'left of centre' provision*
- *include a provision that lane filtering by riders of motorbikes may be prohibited by a no filtering sign*
- *recognise new Tramway signs*
- *align the definition of heavy vehicle in section 200 of the Queensland Road Rules with the definition in the Heavy Vehicle National Law to mean a vehicle with a Gross Vehicle Mass (GVM) of more than 4.5t. This amendment also clarifies that the rule about heavy vehicles stopping in non-built-up areas applies unless a local law otherwise provides*
- *without changing the effect, shift the location of the content of section 66A of the Queensland Road Rules for national consistency of Road Rule numbering. Section 66A clarifies that if a rider of a bicycle approaches an intersection with both bicycle crossing lights and traffic lights, the rider is not required to stop for a red or yellow traffic light if the bicycle crossing light is green*
- *clarify that a person who can be exempted by a medical certificate from wearing a seatbelt due to a medical condition includes a person with a disability.³*

The amendment regulation also proposes:

- *to increase the fine that applies if an infringement notice is issued for a range of offences that relate to motorists blocking intersections and certain crossings. This driver behaviour reduces traffic flow, increases traffic congestion and increases risk for pedestrians. The aim of the amendment is to send a clear message of deterrence to motorists.⁴*

² Explanatory notes, pp 1, 2.

³ Explanatory notes, p 2.

⁴ Explanatory notes, p 2.

- *to ensure that a motorbike helmet remains compliant with a United Nations Economic Commission for Europe (UN ECE) standard if the helmet complied with that standard at the time of manufacture, even if the standard has since been updated. This amendment will afford motorbike riders with UN ECE standard helmets the same treatment as riders with helmets complying with Australian Standards (AS) or Australian/New Zealand Standards (AS/NZS).*⁵
- *to clarify the circumstances in which it is an offence to proceed when the traffic arrow is red. This will assist in prosecuting what is already deemed an unlawful action.*⁶

Consultation

The following consultation was undertaken on the 12th package of amendments to the Australian Road Rules:

In June 2017, the National Transport Commission released a public consultation paper, including a consultation draft of the amendments, seeking feedback on the proposed legislative changes. The amendments were approved by the Transport and Infrastructure Council on 10 November 2017. The Australian Road Rules were amended on 19 March 2018. The amendments currently proposed to the Queensland Road Rules will ensure that the Queensland Road Rules are consistent with the road rules of other jurisdictions.

The Royal Automobile Club of Queensland, the Motorcycle Riders Association of Queensland and the Queensland Trucking Association have been consulted on various 12th package amendments, including in relation to changing direction, driving in a roundabout, heavy vehicles stopping in built-up areas, and motorbike helmet standards. No issues with or objections to the proposed amendments were raised.

*All Queensland local council authorities have been consulted about the proposed change to section 200 (heavy vehicles stopping in built-up areas). All councils who responded indicated their support for the proposed amendment.*⁷

Comment

No fundamental legislative principles (FLP) issues were detected and the explanatory notes tabled with the amendment regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.2 Sustainable Ports Development Regulation 2018 (SL 196)

The objective of the regulation is to enable the approval of the master planned areas for the priority Port of Gladstone.

The *Sustainable Ports Development Act 2015* declares the Ports of Abbot Point, Gladstone, Hay Point and Mackay, and Townsville as priority ports. For each priority port, the minister must make a master plan that identifies the master planned area. The Act requires the master planned area to be approved by regulation.⁸

The master plan for the priority Port of Gladstone was tabled by the minister on 21 March 2019. The regulation notes that a copy of the plan is available on the department's website.

Consultation

Consultation was undertaken with Gladstone Ports Corporation, Gladstone Regional Council, and other key stakeholders during the development of the master plan.⁹

⁵ Explanatory notes, p 3.

⁶ Explanatory notes, p 3.

⁷ Explanatory notes, p 4.

⁸ Explanatory notes, p 2.

⁹ Explanatory notes, p 2.

Comment

No FLP issues were detected and the explanatory notes tabled with the regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.3 Building (Cladding) Amendment Regulation 2018 (SL 197)

On 1 October 2018, the Building and Other Legislation (Cladding) Amendment Regulation 2018 (Cladding Regulation) amended the Building Regulation 2006 by introducing Part 4A to assist in determining the extent of the use of potentially combustible cladding on existing private buildings in Queensland and raise awareness with building owners of the risks associated with the potentially combustible cladding. This aim of Part 4A is achieved by compelling owners of buildings considered 'in-scope' to complete an online checklist to identify which buildings are affected by combustible cladding. The checklist is a three-stage process, managed through an online system, for building owners to identify whether their building has combustible cladding.¹⁰

This objectives of the amendment regulation will be achieved by:

- allowing existing agent agreements to be accepted as proof of agency for meeting obligations under Part 4A of the Building Regulation 2006
- providing for the Queensland Building and Construction Commission to issue a notice directing the building owner to complete Part 2 of the cladding checklist if it is suspected the information provided in Part 1 was misleading
- clarifying that if one co-owner has complied with provisions within Part 4A then it is taken that all owners have complied.¹¹

Consultation

The explanatory notes advise the following consultation was undertaken on the amendment regulation:

The Department of Housing and Public Works consulted with industry stakeholders regarding the proposals in the Amendment Regulation. The stakeholders consulted were:

- *Strata Community Association (Qld);*
- *Property Council of Australia;*
- *Master Builders Association Queensland;*
- *Housing Industry Australia;*
- *Australian Institute of Architects;*
- *National Fire Industry Association;*
- *Engineers Australia;*
- *Building Products Innovation Council;*
- *United Fire Fighters Union;*
- *Australian Institute of Architects; and*
- *Construction, Forestry, Maritime, Mining and Energy Union.*

The Queensland Productivity Commission has confirmed that a Regulatory Impact Statement is not required for the proposal as it does not appear to result in significant adverse impacts. This is on the basis that any costs associated with the proposals will be negligible, there is stakeholder

¹⁰ Explanatory notes, p 1.

¹¹ Explanatory notes, p 2.

support, will promote consistency and there is potential reduction of administrative burden for stakeholders.

All industry stakeholders support the proposals to enhance the utility of the combustible cladding checklist reforms introduced in the Cladding Regulation.¹²

Comment

No FLP issues were detected and the explanatory notes tabled with the amendment regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.4 State Penalties Enforcement (Heavy Vehicle National Law) Amendment Regulation 2018 (SL 205)

The objective of the amendment regulation is to provide for two new infringement notices to be issued for offences committed against the Heavy Vehicle National Law (HVNL). In addition, based on an audit of HVNL penalty infringements, additional amendments are also required in order to align current HVNL penalty infringements with the State Penalties Enforcement Regulation 2014.¹³

Potential FLP issue

The explanatory notes state that the new penalty infringements under sections 324(2) and 341(5) of the State Penalties Enforcement Regulation 2014 may potentially raise an issue of fundamental legislative principle as these infringements may require the exercise of personal discretion in determining whether an offence has occurred.¹⁴

The explanatory notes state:

Under 324(2), if the driver stops using an Electronic Work Diary (EWD), the driver's record keeper must immediately give the driver, in a way that makes the information readily available to the driver, the information recorded in the work diary for each day on which the driver was using the EWD, unless the record keeper has a reasonable excuse.¹⁵

By way of justification in relation to section 324(2), the explanatory notes provide:

It is considered that the infringement penalty under section 324(2) is justified, as what constitutes 'readily available' is well understood by industry and authorised officers.¹⁶

In relation to section 341(5), the explanatory notes state:

Under 341(5), the record keeper must, unless the record keeper has a reasonable excuse, keep the records in a way that ensures it is readable, is reasonably capable of being understood, and is also capable of being used as evidence.¹⁷

The potential FLP breach is justified as follows:

It is considered that the infringement penalty under section 341(5) is justified, as keeping records in a way that ensures their future use and readability is well understood by industry participants and determining whether the method chosen is successful in providing a readable evidence-worthy copy is not subjective, but is supported by the records themselves.¹⁸

¹² Explanatory notes, p 3.

¹³ Explanatory notes, p 2.

¹⁴ Explanatory notes, p 4.

¹⁵ Explanatory notes, p 4.

¹⁶ Explanatory notes, p 4.

¹⁷ Explanatory notes, p 5.

¹⁸ Explanatory notes, p 5.

Comment

The committee is satisfied with the justifications provided in both instances. No other FLP issues were detected. The explanatory notes tabled with the amendment regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.5 Transport and Other Legislation Amendment and Repeal Regulation 2018 (SL 206)

The objective of the regulation is to enhance the operation of transport legislation by:

- updating the list of approved instruments used for roadside drug testing
- removing the explanation of the data block printed on images produced by camera systems for dangerous goods offence detention and specifying that the explanation is in the camera system coding manual
- prescribing an additional alcohol ignition interlock device that may be used in the alcohol interlock program
- clarifying that display and visibility requirements apply to all number plates attached to a vehicle, and that a person can apply to customise a number plate irrespective of whether that person is the registered operator
- allowing local governments and the Queensland Police Service to apply for the cancellation of the registration of vehicles which can be disposed of under legislation
- providing that a number plate must not be attached to a vehicle used on a road if the registration for the vehicle has been recorded in the register as cancelled
- clarifying the circumstances in which an authorised officer may remove and recover number plates attached to a vehicle
- facilitating improved administrative processes associated with PrePL, the new online learning and assessment program for those wanting to obtain a learner licence.¹⁹

The regulation will also repeal an 'obsolete maritime fee regulation as the fee is now regulated on a national basis'.²⁰

Consultation

The explanatory notes advise the following consultation was undertaken on the regulation:

The Royal Automobile Club of Queensland (RACQ) was consulted on the amendments and advised that it did not have any concerns.

The City of the Gold Coast Council approached the Department of Transport and Main Roads with a proposal to allow the council to request the cancellation of the registration of vehicles that had been abandoned. The department agreed to this proposal and amendments to enable this process are in the amendment regulation. The City of the Gold Coast Council and Brisbane City Council were consulted on and support this amendment. As the amendment has the potential to benefit other local governments, the Local Government Association of Queensland was also consulted on and supports the amendment.

The Office of Best Practice Regulation in the Queensland Productivity Commission has advised that the amendment allowing the cancellation of the registration of vehicles that may be sold and the amendment about the removal and recovery of number plates would not benefit from further analysis under the Queensland Government Guide to Better Regulation (the Guidelines).²¹

¹⁹ Explanatory notes, pp 1-2.

²⁰ Explanatory notes, p 2.

²¹ Explanatory notes, p 10.

Potential FLP issue

The explanatory notes recognise a number of potential breaches of fundamental legislative principle, which are addressed below.

Cancellation of registration – rights and liberties of individuals

Under clause 20, representatives of local governments and the Queensland Police Service may apply to the Department of Transport and Main Roads for the cancellation of the registration of vehicles that may be sold under legislation.

This would affect an individual who owns a vehicle where the registration is cancelled. However, the explanatory notes advise:

... the amendment regulation requires that before the chief executive may cancel a vehicle's registration, a statement must be provided. In the case of an application by a local government, the statement must indicate that the local government has complied with the requirements in the Transport Operations (Road Use Management) Act 1995 [TORUM Act] or in a local law before an abandoned vehicle can be sold – for example, requirements about the need to notify the vehicle owner or requirements about the time periods that must pass prior to offering a vehicle for sale.²²

The explanatory notes recognise this breach and provide the following justification:

The requirement for the statements to be provided with the application to cancel the registration will prevent any applications to cancel registration being made where there is no lawful authority to sell the vehicle. The amendment also has sufficient regard to the rights and liberties of individuals as the registration fee attributable to the unexpired part of the registration must be refunded to the registered operator.²³

Given that the amendment regulation requires a statement to be provided to ensure the applicant has the lawful authority to sell the vehicle and that the unexpired part of registration is refunded to the registered operator, the committee is satisfied that any breach of fundamental legislative principle is justified.

Driving a vehicle with number plates when the registration is cancelled – proportionality of penalties

The regulation introduces an offence for driving a vehicle with a number plate attached to the vehicle when the registration for the vehicle has been recorded in the register as cancelled. The maximum penalty for this offence will be 16 penalty units (\$2,088) and the infringement notice penalty will be four-fifths of a penalty unit (\$104).

A penalty should be proportionate to the offence. Legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Penalties within legislation should be consistent with each other.²⁴

The explanatory notes provide the following justification:

The purpose of this offence is to deter the owner or operators of vehicles with cancelled registration displaying number plates, as the display of number plates means that vehicles are not as readily identified as unregistered. The maximum penalty and infringement notice penalty are both proportionate to the severity of the offence and to similar number plate offences.²⁵

The committee is satisfied that the penalties are proportionate.

²² Explanatory notes, p 8.

²³ Explanatory notes, p 8.

²⁴ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 120.

²⁵ Explanatory notes, p 8.

Exchange of number plates in particular circumstances – rights and liberties of individuals

Under clause 22, the chief executive can require a person to exchange a number plate if the number plate was issued in error; is contrary to the public interest; is likely to cause offence to a reasonable person; or is identical, or appears identical, to another number plate.²⁶

This could affect the rights and liberties of a vehicle owner, particularly where the number plate required to be exchanged is a personalised plate, which can no longer be used by the vehicle owner.

The explanatory notes provide the following explanation:

Section 104 of the vehicle registration regulation already provides that a number plate issued by the chief executive remains property of the State. The new provision allows the State to assert its right of ownership of the number plate in circumstances where the plate contains an error, does not effectively identify a vehicle due to its identical appearance to another plate, or where the number of the plate conveys a message that is contrary to the public interest or is otherwise offensive. The new provision has sufficient regard to the rights and liberties of individuals in that prior to the chief executive requiring the exchange of the number plate, the chief executive must first give the person a notice requiring the exchange within the time stated in the notice and stating the reason for requiring the exchange. Because the requirement is to exchange the plate, the person will receive another number plate of the same value as the one required to be exchanged.²⁷

Given the specific circumstances in which the State would require a number plate to be exchanged, that the chief executive must provide the reasons for the exchange, and that the vehicle owner will receive a new number plate of the same value, the committee is satisfied that sufficient regard has been given to the rights and liberties of individuals and any breach of fundamental legislative principle is justified.

The committee wrote to the Department of Transport and Main Roads seeking clarification on why it is necessary to exchange number plates in retrospect. In this regard, the committee requested information on the process taken at the time of issuing number plates to ensure that a number plate is not issued in error, is contrary to the public interest, is likely to cause offence to a reasonable person, or is identical, or appears identical, to another number plate.

The department provided a comprehensive response, summarised below but provided in full in Appendix A.

... the processes and procedures adopted by TMR and PPQ ensure that, as far as possible, plates are not issued where they might contain an error or be contrary to the public interest, likely to cause offence to a reasonable person or identical, or appear identical, to another number plate.

The legislative provisions which allow the chief executive of TMR to recall for exchange a number plate that has already been issued are very rarely exercised where an unsuitable plate has been inadvertently released. The provisions are an important safeguard to ensure only appropriate number plates are displayed on Queensland vehicles.

The provisions may be exercised where, for example, a personalised plate is inadvertently issued because the meaning of a combination was not immediately apparent. They may also be utilised where a combination that was inoffensive at the time of issue has, due to a change in community circumstances or expectations, subsequently become inappropriate.

For example, a combination may refer to the name of a criminal or terrorist organisation that was not in existence or had not gained prominence in the public sphere at the time the personalised number plates were issued.

²⁶ Explanatory notes, p 9.

²⁷ Explanatory notes, p 9.

*When inappropriate combinations are identified, whether by complaint or by periodic review, it is necessary to exchange the number plates in retrospect. Given the fluid and evolving nature of language, these recall provisions are an essential safeguard in Queensland's legislation.*²⁸

The committee thanks the department for its detailed response and is satisfied that the need to exchange number plates in the circumstances identified above is 'very rarely exercised' and that the legislation provides a safeguard for situations where a number plate may be 'inadvertently issued'.²⁹

Additional matters

The explanatory notes also raise two further matters as involving issues of potential fundamental legislative principle, regarding dangerous goods in tunnels³⁰ and removal and recovery of number plates in certain circumstances.³¹ The committee does not consider that either of these raise issues of fundamental legislative principle, and therefore they have not been analysed further.

Comment

The committee is satisfied with the justifications provided for the potential FLP issues raised. The explanatory notes tabled with the regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.6 Retirement Villages Regulation 2018 (SL 207)

The objectives of the regulation are to remake the *Retirement Villages Regulation 2010* and to support amendments to the *Retirement Villages Act 1999* (the RV Act) made by the *Housing Legislation (Building Better Futures) Amendment Act 2017* (HLA Act).³²

The 2010 Regulation is due to expire on 1 September 2020.

The explanatory notes state that one of the overarching objectives of the HLA Act is to amend the RV Act to ensure fairness and consumer protections for people who are either living in, leaving or considering moving into retirement villages, while enabling the continued viability of the industry.³³

This regulation will support amendments to the RV Act including:

- changes to the pre-contractual disclosure process
- resident and prospective resident access to village operational documents
- the process for reinstatement and renovation of units following a resident's departure and valuing a unit for resale.³⁴

Consultation

The explanatory notes advise the following consultation was undertaken on the regulation:

A consultative group of resident, community and industry stakeholders has been established to support implementation of the HLA Act amendments. Members of this group include the Property Council of Australia (PCA), Leading Age Services Australia (LASA), Association of Residents of Queensland Retirement Villages (ARQRV), Tenants Queensland, COTA, National Seniors Australia, the Queensland Retirement Villages and Parks Advisory Service (QRVPAS – formerly the Park and Village Information Link) and the Queensland Law Society (QLS).

²⁸ Department of Transport and Main Roads, correspondence dated 11 April 2019, p 2.

²⁹ Department of Transport and Main Roads, correspondence dated 11 April 2019, p 2.

³⁰ Explanatory notes, p 9.

³¹ Explanatory notes, p 10.

³² Explanatory notes, p 1.

³³ Explanatory notes, p 1.

³⁴ Explanatory notes, p 2.

Feedback from this group was sought in June 2018 on drafts of the new approved forms that will support implementation of the 2018 Regulation. This feedback was also used in the process of finalising the 2018 Regulation.

On 26 October 2018, the consultative group was provided with a draft 2018 Regulation for consideration and feedback by 5 November 2018. Stakeholders providing feedback included the ARQRV, LASA, PCA, QLS, and QRVPAS.

The ARQRV advised they supported the information to be provided to prospective residents and said this would assist them to understand matters that were important to know about living in a retirement village. ARQRV also suggested prospective residents be informed about whether they were covered by the operator's insurance policies for any voluntary activities around the village.

QRVPAS feedback noted that the readability of the documents would be assisted if there were restrictions on operators adding other items and requiring that the information presented should be expressed clearly and in plain English.

QLS noted that within each village, there may be a variety of contract options for each unit, and the 2018 Regulation should clarify whether the prospective costs document covers each option or reflects the choice that may have already been made by the prospective resident. QLS also provided feedback about the village comparison document, and suggested changes to improve its usefulness.

The PCA and LASA held similar concerns that the detail to be provided would make it difficult for a prospective resident to navigate the precontractual documents and that the administrative burden on operators required to update these regularly will add costs for little benefit. Both the PCA and LASA sought urgent release of the finalised forms to enable business processes and systems to change and so that training of staff occurs in time for commencement of the stage 1 amendments on 1 February 2019. PCA and LASA feedback also assisted with clarifying several provisions in the draft 2018 Regulation.

Concerns raised by stakeholders were addressed by making changes to the 2018 Regulation where this was consistent with the policy articulated during Parliamentary consideration of the HLA Bill and in the materials that accompanied the HLA Bill. Some stakeholder suggestions could not be implemented because changes would be inconsistent with these policies, or not within the scope of the regulation-making powers in the Act. Some of these stakeholder suggestions, including those of ARQRV and QRVPAS, will be accommodated through the instructions for completing the approved forms pursuant to the 2018 Regulation.³⁵

Comment

No FLP issues were detected and the explanatory notes tabled with the regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.7 Public Records Amendment Regulation 2018 (SL 210)

The objective of the amendment regulation is to prescribe the relevant and responsible public authorities for the public records of three public authorities which have ceased or will cease to exist:

- Gold Coast Commonwealth Games Corporation (GOLDOC)
- HIV Foundation of Queensland (HIVFQ)
- New Generation Rollingstock Trains Commission of Inquiry (NGRTCOI).³⁶

³⁵ Explanatory notes, pp 3-4.

³⁶ Explanatory notes, p 1.

In regard to the potential transfer of public records to the Queensland State Archives (QSA), the explanatory notes advise:

While the hard copy records of GOLDOC, HIVFQ and NGRTCOI may be transferred to the custody of Queensland State Archives (QSA) with the approval of the State Archivist, the responsible public authority for the records will retain custody of the digital records until QSA has implemented a digital archive.³⁷

Comment

No FLP issues were detected and the explanatory notes tabled with the amendment regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.8 Transport Operations (Road Use Management-Road Rules) (Personal Mobility Devices) Amendment Regulation 2018 (SL 217)

The objectives of the amendment regulation are to:

- increase the variety of personal mobility devices (PMDs) available for use in Queensland. The explanatory notes advise:

The amending regulation changes the description of vehicles that are prescribed to be a PMD for the purposes of the definition of personal mobility device in schedule 4 of the Transport Operations (Road Use Management) Act 1995. The change means that a PMD will be defined by reference to maximum dimensions, mass and speed. PMDs will also need to have good stopping ability, and have no sharp protrusions, which will provide safe device standards while also providing greater flexibility for both manufacturers and users. This will mean a broader range of PMDs will be permitted, including single wheeled, two-wheeled and three-wheeled devices...

- amend rules applying to PMDs to ensure they remain appropriate to regulate the increased variety of devices that may be available in Queensland. The explanatory notes advise:

*The maximum speed at which a PMD may travel is being increased from 12km/h to 25km/h...
PMD users will now be allowed access to local roads...*

The requirement that PMDs have a working warning device, such a bell or a horn, is being removed...

PMD users will be prohibited from being towed by another vehicle...

- protect vulnerable path and crossing users by introducing two new offence provisions, applicable when they are sharing paths and crossings with PMD users.³⁸

Consultation

The explanatory notes advise the following consultation was undertaken on the amendment regulation:

The Local Government Association of Queensland, Brisbane City Council and the City of Gold Coast Council, the Royal Automobile Club of Queensland, the Pedestrian Council of Australia, the Motor Accident Insurance Commission (MAIC) and PMD tour operators and retailers have been notified of the proposed amendments.

The Pedestrian Council of Australia (the Council) expressed concern about the potential risk to pedestrians from PMDs being on footpaths. However, PMD users are currently allowed to share paths with pedestrians under the Queensland Road Rules.

³⁷ Explanatory notes, p 3.

³⁸ Explanatory notes, pp 1, 2.

In response to the concern raised by the Council, the Department of Transport and Main Roads (TMR) advised that allowing PMD users to travel on footpaths at speeds of up to 25km/hr recognises their role in moving people efficiently from a transport hub to their destination.

TMR also highlighted that road owners will, under the existing road rules, continue to be able to restrict the use of PMDs on specified paths by use of appropriate signage. TMR also advised the Council that the amendments introduce offence provisions which are aimed at ensuring that pedestrians and wheelchair users are safe when sharing paths and crossings with PMD users. These new provisions will mean that PMD users will be required to travel at a speed and at a sufficient distance from a pedestrian or wheelchair user, so they can stop safely, if necessary to avoid a collision. Holistically, the rules provide for safe interactions on paths and crossings.

It should also be noted that an existing rule prevents bicycle riders and wheeled recreational device users travelling along a part of a separated footpath designated for use only by pedestrians. To further protect pedestrians, the current amendments will ensure that PMD users are likewise prevented from using this part of a footpath. The public will be informed of the changes through information on the Queensland Government website, Join the Drive, media releases, and social media.³⁹

Comment

No FLP issues were detected and the explanatory notes tabled with the amendment regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.9 Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018 (SL 218)

The objectives of the regulation are to:

- introduce a new Minimum Financial Requirements (MFR) framework for licensees in the Queensland building and construction industry. The explanatory notes advise:

The intent of the reforms is to introduce a strengthened reporting framework, clarify what can and cannot be included when calculating a licensee's assets and revenue, and result in improved data to allow the QBCC to more effectively monitor the financial sustainability of licensees.

The changes are to be implemented in phases, with Phase 1 commencing from 1 January 2019. A regulation is needed to outline certain matters to support implementation of Phase 1 of the MFR reforms.⁴⁰

- implement a modernised voting system for the Board of Architects of Queensland which will allow electronic voting in addition to the current paper ballots. The explanatory notes advise:

It is intended to modernise the current voting process and make it more user-friendly and convenient for architects, primarily by introducing electronic voting. It is also intended to provide the Board with greater flexibility in administering the elections and promote efficiencies by allowing them to use more modern methods of conducting an election.

However, it is also intended that any architect who prefers to vote using the current postal voting system is afforded the opportunity to do so.⁴¹

Consultation

The explanatory notes advise the following consultation was undertaken on the amendment regarding minimum financial requirements for licensing:

³⁹ Explanatory notes, p 4.

⁴⁰ Explanatory notes, p 2.

⁴¹ Explanatory notes, p 2.

A discussion paper titled 'The proposed improvements to the Minimum Financial Requirements for licensing in the building and construction industry' was released for four weeks' consultation from 12 September 2018.

The Ministerial Construction Council (which included representatives from the National Association of Women in Construction, the Master Plumbers' Association of Queensland, Master Electricians Australia, the National Fire Industry Association, Master Builders Queensland, and the Housing Industry Association) was consulted on the proposals included in the regulation.⁴²

In regard to the amendment relating to voting procedures for the Board, the explanatory notes advise:

Substantial consultation has occurred with the Board. The Board has indicated that the introduction of electronic voting will provide greater flexibility, process efficiencies and cost savings.⁴³

Comment

No FLP issues were detected and the explanatory notes tabled with the regulation comply with part 4 of the *Legislative Standards Act 1992*.

2.10 Proclamation made under the *Building Industry Fairness (Security of Payment) Act 2017* (SL 219)

The objective of the proclamation is to fix a commencement date of 1 January 2019 for certain provisions of the *Building Industry Fairness (Security of Payment) Act 2017*. These sections make consequential changes to the *Queensland Building and Construction Commission Act 1991* to reflect the prescribing of the minimum financial requirements for licensing in a regulation, rather than a Queensland Building and Construction Board approved policy.⁴⁴

Comment

No FLP issues were detected and the explanatory notes tabled with the proclamation comply with part 4 of the *Legislative Standards Act 1992*.

3. Recommendation

Recommendation 1

The Transport and Public Works Committee recommends that the Legislative Assembly notes the contents of this report.



Mr Shane King MP
Chair

⁴² Explanatory notes, p 4.

⁴³ Explanatory notes, p 5.

⁴⁴ Explanatory notes, p 1.

Appendix A – Correspondence from the Department of Transport and Main Roads

Our ref: DG36620

Your ref: A431042

11 APR 2019

Mr Shane King MP
Chair
Transport and Public Works Committee
tpwc@parliament.qld.gov.au

Dear Mr King



Thank you for your letter of 2 April 2019 seeking clarification on one aspect of subordinate legislation 206 of 2018 – Transport and Other Legislation Amendment and Repeal Regulation 2018. Specifically, you have sought information on the process taken at the time of issuing number plates to ensure no inappropriate plates are issued.

There are two categories of number plates issued for use on Queensland vehicles. General issue plates are the standard maroon on white background plates that are issued by the Department of Transport and Main Roads (TMR). Personalised plates are issued by Personalised Plates Queensland (PPQ) and allow people to obtain specific combinations, colours and designs that appeal to them or have some particular significance to them.

TMR and PPQ have comprehensive policies and procedures in place for managing the general issue and personalised number plates to ensure only appropriate plates are released for use on Queensland roads.

In relation to general issue plates, all possible combinations are manually vetted by TMR staff before they are released for manufacture. This is to ensure that the three letters on the plate do not form an inappropriate or offensive combination or acronym. For example, TMR did not release the 'SEX' or 'WTF' combinations.

The process for producing general issue plates utilised by our contracted number plate manufacturer is highly automated, which significantly minimises the risk of any plate being issued in error (for example, a duplicate plate). That automated production process is supported by a manual checking process of each day's batch of plates to confirm that the plates are suitable for issue.

In relation to personalised plates, the process of ordering the specific combinations is managed by PPQ in the first instance. The majority of personalised number plates are purchased through the PPQ website, where customers enter a proposed combination to determine if it is available for purchase. PPQ has developed, and regularly maintains in consultation with TMR, lists of combinations that will be automatically blocked from issue at this stage of the process.

These lists include combinations that are offensive, that have already been sold or issued or that are otherwise unsuitable (for example, they involve a restricted combination such as RAAF). If a customer enters a proposed combination into the website for a plate that is on one of these lists, the customer will be immediately advised that the combination is not available for purchase. TMR and PPQ conduct periodic reviews to identify any additional combinations that should be added to the lists maintained by PPQ.

In addition to this first checkpoint, PPQ manually reviews every combination purchased before it proceeds to manufacture. If the combination is not suitable, the plate will not be manufactured, and the customer will be provided the opportunity to purchase another combination or obtain a refund.

As outlined above, the processes and procedures adopted by TMR and PPQ ensure that, as far as possible, plates are not issued where they might contain an error or be contrary to the public interest, likely to cause offence to a reasonable person or identical, or appear identical, to another number plate.

The legislative provisions which allow the chief executive of TMR to recall for exchange a number plate that has already been issued are very rarely exercised where an unsuitable plate has been inadvertently released. The provisions are an important safeguard to ensure only appropriate number plates are displayed on Queensland vehicles.

The provisions may be exercised where, for example, a personalised plate is inadvertently issued because the meaning of a combination was not immediately apparent. They may also be utilised where a combination that was inoffensive at the time of issue has, due to a change in community circumstances or expectations, subsequently become inappropriate. For example, a combination may refer to the name of a criminal or terrorist organisation that was not in existence or had not gained prominence in the public sphere at the time the personalised number plates were issued.

When inappropriate combinations are identified, whether by complaint or by periodic review, it is necessary to exchange the number plates in retrospect. Given the fluid and evolving nature of language, these recall provisions are an essential safeguard in Queensland's legislation.

I trust this information is of assistance.

Yours sincerely



Neil Scales
Director-General
Department of Transport and Main Roads