

**Subordinate legislation tabled on
14 October 2014**

Report No. 1

Infrastructure, Planning and Natural Resources Committee

April 2015

Infrastructure, Planning and Natural Resources Committee

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1 Introduction

1.1 Role of the Committee

The Infrastructure, Planning and Natural Resources Committee (the committee) is a portfolio committee established by the *Parliament of Queensland Act 2001* and the Standing Orders of the Legislative Assembly on 27 March 2015.¹ It consists of government and non-government members. The committee's primary areas of responsibility are:

- transport, infrastructure, local government, planning and trade
- state development, natural resources and mines.

1.2 Aim of this report

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each item of subordinate legislation in its portfolio area to consider:

- (a) the policy to be given effect by the legislation
- (b) the application of fundamental legislative principles to the legislation
- (c) for subordinate legislation – its lawfulness.

This report contains the committee's findings with respect to subordinate legislation tabled on 14 October 2014 within its portfolio responsibilities. Unless highlighted in the table below, no issues have been identified.

1.3 Subordinate legislation examined

SL No	Subordinate Legislation	Tabled Date	Disallowance Date
209	Proclamation made under the State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014	14 October 2014	6 May 2015
210	State Development and Public Works Organisation Amendment Regulation (No. 2) 2014	14 October 2014	6 May 2015
215	Heavy Vehicle National Law Amendment Regulation (No. 1) 2014	14 October 2014	6 May 2015
216	Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation	14 October 2014	6 May 2015
217	Proclamation commencing certain provisions	14 October 2014	6 May 2015
218	Transport Operations (Passenger Transport) and Other Legislation Amendment and Repeal Regulation (No. 1) 2014	14 October 2014	6 May 2015
219	Transport Legislation and Another Regulation Amendment Regulation (No. 2) 2014	14 October 2014	6 May 2015
226	Regional Planning Interests Amendment Regulation (No. 1) 2014	14 October 2014	6 May 2015
232	Transport Legislation Amendment Regulation (No. 1) 2014	14 October 2014	6 May 2015

¹ *Parliament of Queensland Act 2001*, s 88 and Standing Order 194.

1.4 Summary of findings and recommendation

The committee did not identify any significant issues relating to policy, fundamental legislative principles or the lawfulness of the subordinate legislation examined. All explanatory notes tabled with the subordinate legislation complied with Part 4 of the *Legislative Standards Act 1992*.

Recommendation

The committee recommends the Legislative Assembly notes the contents of this report.

2 Subordinate legislation examined

2.1 Proclamation made under the State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014 (SL No. 209)

Section 2 of the *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014* (the Red Tape Reduction Act) provides the Red Tape Reduction Act is to commence on a day to be fixed by proclamation.

The proclamation (SL No. 209) fixed 1 October 2014 as the commencement date of the provisions of the *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014* that were not in force, apart from section 152.

Section 152 repeals the *Gurulmundi Secure Landfill Agreement Act 1992*. The explanatory notes state that the (now former) Department of Environment and Heritage Protection 'will progress commencement arrangements for the repeal of the *Gurulmundi Secure Landfill Agreement Act 1992* separately at a later date'.²

Committee comment

The committee is satisfied the Proclamation made under the *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014* does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with the *Legislative Standards Act 1992*.

2.2 State Development and Public Works Organisation Amendment Regulation (No. 2) 2014 (SL No. 210)

The State Development and Public Works Organisation Amendment Regulation (No. 2) 2014 amended the State Development and Public Works Organisation Regulation 2010 to:³

- take account of amendments made to the *State Development and Public Works Organisation Act 1971* (SDPWO Act) by the *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014* (Red Tape Reduction Act) and the *Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014* (SPICOLA Act)
- remove redundant provisions
- update the cost recovery fees for matters under Part 4 (Environmental coordination), Part 4A (Assessment and approval of particular coordinated projects under bilateral agreement) and Part 6 (Planned development) of the SDPWO Act.

² Proclamation made under the State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014, Explanatory notes, p 2.

³ State Development and Public Works Organisation Amendment Regulation (No. 2) 2014, Explanatory notes, pp 1-2.

The fees are intended to provide cost recovery for the Office of the Coordinator-General. Some of the fees are lower than previously but some are higher. Other fees are new.⁴ Many of the fees in the Regulation are comparable to those in the previous fees in the State Development and Public Works Organisation Regulation 2010.⁵

Between 28 February and 31 March 2014, the Office of the Coordinator-General consulted with industry, local government and key conservation groups on fees and other amendments to the SDPWO Act and Regulation consequential to the Red Tape Reduction and SPICOLA Acts. Industry 'broadly accepted' the proposed fees as part of cost recovery.⁶

Committee comment

The committee is satisfied the State Development and Public Works Organisation Amendment Regulation (No. 2) 2014 (SL No. 2010) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with the *Legislative Standards Act 1992*.

2.3 Heavy Vehicle National Law Amendment Regulation (No. 1) 2014 (SL No. 215)

The National Transport Commission (NTC), as part of its approved forward work program, has developed a heavy vehicle policy that provides for a one tonne tri-axle mass transfer allowance for all heavy vehicle combinations for regulatory adoption through amendment to the Heavy Vehicle (Mass, Dimension and Loading) National Regulation.

This will allow heavy vehicle combinations to shift up to one tonne of mass from one single axle or an axle group and transfer the mass to another tri-axle group(s) (excluding steer axles and twin-steer axle groups) within the heavy vehicle combination. While this mass transfer will not affect the overall gross vehicle mass of the combination, it will allow heavy vehicle combinations to load up to 21 tonnes on a tri-axle group (up to one tonne over the allowable regulation axle mass limits for the group).

However, Queensland has maintained a position throughout the national policy development process, that the adoption of the one tonne tri-axle mass transfer allowance could not be supported for all Queensland roads. Queensland's road network has been subject to extensive flood damage and degradation over the past few years that has left the network with a large number of vulnerable roads and structures that could not support the unrestricted adoption of the additional one tonne of mass on a tri-axle group. Queensland will initially need to limit the application of this mass transfer allowance to roads and structures that have been assessed as suitable for the additional mass on a tri-axle group. The department will work with road managers for each road (within areas or routes) to ensure an appropriate selection of roads is included for implementation of the policy.

As Queensland's position is to derogate from the national regulations, the amendment regulation allows for an incremental approach to the implementation of the heavy vehicle policy. The explanatory notes advise that the amendments commenced on 29 September 2014.

Committee comment

The committee is satisfied the Heavy Vehicle National Law Amendment Regulation (No. 1) 2014 (SL No. 215) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with the *Legislative Standards Act 1992*.

⁴ See, for example, new Schedule 1B, Table 1, Column 3, application for declaration of coordinated project under the Act, section 27AA. Prior to State Development and Public Works Organisation Amendment Regulation (No. 2) 2014 the amount was \$20,410. The regulation reduced this amount to \$16,940 but introduced a fee of \$7,421 for the Column 4 project fee, and increased the Column 5 amount of significant off-tenure project fee from \$3,520 to \$4,241.

⁵ See, for example, new Schedule 1C, Part 4, Table 1 and previous Schedule 1C, Table 2.

⁶ State Development and Public Works Organisation Amendment Regulation (No. 2) 2014, Explanatory notes, p 3.

2.4 Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation (SL No. 216)

Current mass and loading regulations require the heavy vehicle and/or combination and each axle group of the vehicle and/or combination to be loaded to no more than their (total) mass. If a heavy vehicle combination is loaded to its permissible vehicle mass limit, the load may be required to be placed with a high degree of precision which, in practice, can be difficult to achieve.

The objective of the Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation is to allow for a 'transfer' of mass by increasing the mass limit on one tri-axle group, while decreasing it on other axle group(s) by a corresponding amount with minimal additional road wear or other infrastructure damage.

The amendments commenced on 29 September 2014.

Committee comment

The committee is satisfied the Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation (SL No. 216) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with the *Legislative Standards Act 1992*.

2.5 Proclamation made under the Transport and Other Legislation Amendment Act 2014 (SL No. 217)

The objective of SL No. 217 is to fix commencement dates for various provisions of the *Transport and Other Legislation Amendment Act 2014* (the Act), which received assent on 5 September 2014.

The Proclamation fixes 29 September 2014 as the commencement date for the amendments to the *Transport Infrastructure Act 1994* and the *Transport Operations (Passenger Transport) Act 1994* that had not yet commenced. The Proclamation also fixes 29 September 2014 as the commencement date for part 3 of the Act, which amends the *Heavy Vehicle National Law Act 2012*.

The Proclamation fixes 1 October 2014 as the commencement date for the majority of the amendments to the *Transport Operations (Road Use Management) Act 1995* that had not yet commenced and 1 January 2015 as the commencement date for other provisions of the Act that amend the *Transport Operations (Road Use Management) Act 1995* and had not yet commenced.

Committee comment

The committee is satisfied SL No. 217 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with the *Legislative Standards Act 1992*.

2.6 Transport Operations (Passenger Transport) and Other Legislation Amendment and Repeal Regulation (No. 1) 2014 (SL No. 218)

The Transport Operations (Passenger Transport) and Other Legislation Amendment and Repeal Regulation (No. 1) 2014 (the Regulation) aims to streamline legislation in relation to busway safety officers and other authorised persons operating on the public transport network. Powers to deal with left or abandoned property on busways, and busway-related offences, are transferred to the *Transport Operations (Passenger Transport) Regulation 2005*. The *Transport Infrastructure (Busway) Regulation 2002* is repealed.

The Regulation also extends to light rail, the powers to deal with left or abandoned property and relevant nuisance and disturbance offences, such as smoking and drinking alcohol, that are being transferred to the *Transport Operations (Passenger Transport) Regulation 2005*.

The Regulation amends the *Transport Operations (Passenger Transport) Regulation 2005* to permit the use of people movers for general route services, school services, long distance scheduled

passenger services, tourist services, accommodation transfer services, tourist transfer services and unscheduled long distance passenger services in line with the department's policy.

A further objective of the Regulation is to ensure scheduled passenger services for single purpose niche markets (as opposed to services for general purposes) are not subject to market entry restrictions and unnecessary regulation. The *Transport Operations (Passenger Transport) Regulation 2005* prescribes two kinds of services that are not general route services:⁷

1. A scheduled passenger service that is restricted to use for one specific purpose is not a general route service. For example, a scheduled passenger service that is restricted to use by spectators travelling to or from a football game is not a general route service.
2. A scheduled passenger service that is provided for one specific purpose and is subject to a condition that prevents a person from using the service primarily for another purpose is not a general route service. For example, a tourist service the use of which is subject to a fare that prevents a person from using the service for a purpose other than tourism, such as going to work, is not a general route service. If a person were to use a tourist service primarily to go to work, the service would be operating in a broader market of scheduled passenger services for general purposes. The exemption from the definition of general route service would not apply to the service if a condition of service did not prevent the person from using the service primarily for another purpose.

Further objectives of the Regulation include:

- flexibility for operators to negotiate with the State the reimbursement of concessions given to infants, children, school students and persons who accompany the holder of a companion card
- reducing the regulatory burden on certain operators by removing the requirement for a taxi operating in the Bribie Island and Warwick taxi service areas to be fitted with an approved taxi security camera system
- updating the Gold Coast light rail route by replacing the schedule 7A route in the *Transport Operations (Passenger Transport) Regulation 2005* with the final route
- creating a new offence under the *Transport Operations (Passenger Transport) Regulation 2005* for spitting while on or in a public passenger vehicle, busway, busway transport infrastructure or light rail platform
- permitting the use of a taxi subsidy scheme membership card by means other than inserting the card into an approved card reader. This will be achieved by requiring that the driver simply use the card with the reader to validate the currency of the person's membership and facilitate payment under the scheme.

Committee comment

The committee is satisfied the *Transport Operations (Passenger Transport) and Other Legislation Amendment and Repeal Regulation (No. 1) 2014 (SL No. 218)* does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with the *Legislative Standards Act 1992*.

⁷ *Transport Operations (Passenger Transport) and Other Legislation Amendment and Repeal Regulation (No. 1) 2014*, Explanatory notes, p 4.

2.7 Transport Legislation and Another Regulation Amendment Regulation (No. 2) 2014 (SL No. 219)

The objective of the Transport Legislation and Another Regulation Amendment Regulation (No. 2) 2014 is to:

- remove from the Queensland Road Rules the \$2,500 threshold limit for reporting property damage traffic incidents to police. The amendments also allow for greater flexibility in crash reporting through channels such as the PoliceLink call centre or through online reporting where appropriate, by clarifying that reports may be given to the Queensland Police Service rather than to a police officer
- remove section 161 of the Traffic Regulation 1962 which deals with requirements for vehicle repairers to keep records of certain repairs. Section 161 is redundant as all the requirements have been moved into a single location in the *Transport Operations (Road Use Management) Act 1995*.

The explanatory notes advise that a majority of the amendments in the Regulation commenced on 1 October 2014, including the amendments to allow automatic number plate recognition cameras to be used to detect unregistered vehicles and vehicles without compulsory third party insurance. This is also the date that registration labels ceased to be issued for light vehicles.

The amendments to remove the \$2,500 threshold for reporting property damage traffic incidents to police and the provisions requiring postal address details to be kept up to date commenced on 1 January 2015.

Committee comment

The committee is satisfied the Transport Legislation and Another Regulation Amendment Regulation (No.2) 2014 (SL No. 219) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with the *Legislative Standards Act 1992*.

2.8 Regional Planning Interests Regulation (No. 1) 2014 (SL No. 226)

The Regional Planning Interests Regulation (No. 1) 2014 removed references to the Cape York strategic environmental area (SEA) from the Regional Planning Interests Regulation 2014. The SEA map and its environmental attributes are now referred to in the Cape York Regional Plan.⁸

An amendment to the SEA or its environmental attributes will now occur through a process provided by the *Sustainable Planning Act 2009* which includes a public notification period.

Committee comment

The committee is satisfied the Regional Planning Interests Regulation (No. 1) 2014 (SL No. 226) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with the *Legislative Standards Act 1992*.

2.9 Transport Legislation Amendment Regulation (No. 1) 2014 (SL No. 232)

The objective of the Transport Legislation Amendment Regulation (No. 1) 2014 (Amendment Regulation) 2014 is to reduce red tape in instances of natural disaster.

The Amendment Regulation amends the *Tow Truck Regulation 2009* and the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005* to allow the chief

⁸ The Cape York Regional Plan was made on 8 August 2014 and publicly notified in the Queensland Government Gazette on 15 August 2014: Department of State Development, Infrastructure and Planning, '[Cape York Regional Plan](#)', accessed 19 February 2015.

executive to waive fees payable for replacement of specified documents where the document has been lost or damaged as a result of natural disaster.

The Amendment Regulation amends the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010* to allow the chief executive to waive specified fees for replacement documents and Certificate of Inspection bookings and inspections in special circumstances.

The Amendment Regulation also amends the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* to:⁹

- remove the requirement to apply and provide evidence of disaster relief financial assistance when a person is seeking vehicle registration assistance as a result of a natural disaster
- allow the chief executive to publish a natural disaster relief notice nominating the areas and timeframes for which registration concessions will be automatically provided due to a particular natural disaster
- re-structure the provisions relating to vehicle registration assistance for natural disasters and droughts to simplify them.

The explanatory notes state that any loss in revenue as a result of the waiver of fees because of a natural disaster would be consistent with amounts expended in previous disasters.¹⁰

Committee comment

The committee is satisfied the Transport Legislation Amendment Regulation (No. 1) 2014 (Amendment Regulation) 2014 (SL No. 232) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with the *Legislative Standards Act 1992*.



Jim Pearce MP
Chair

⁹ Transport Legislation Amendment Regulation (No. 1) 2014 (Amendment Regulation) 2014, Explanatory Notes, p 2.

¹⁰ Transport Legislation Amendment Regulation (No. 1) 2014 (Amendment Regulation) 2014, Explanatory Notes, p 2.