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Mr Michael Hopkins
Acting Deputy Secretary, Policy and Reform
Department of Transport
Level 21/1 Spring St
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Dear Mr Hopkins *Michael*

REGULATORY IMPACT STATEMENT FOR THE ROAD SAFETY (DRIVERS) REGULATIONS 2019

I would like to thank your staff at the Department of Transport (DoT) for working with our team on the preparation of the Regulatory Impact Statement (RIS) for the proposed *Road Safety (Drivers) Regulations 2019*, which are proposed to replace the current Regulations which sunset on 26 August 2019.

The *Subordinate Legislation Act 1994* (SLA) requires the Commissioner for Better Regulation to provide independent advice on the adequacy of analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to clearly be written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 27 May 2019 meets the adequacy requirements set out in the SLA.

Background

The *Road safety (Drivers) Regulations 2019* (the proposed Regulations) are made under the *Road Safety Act 1986* (RSA). They proposed Regulations prescribe requirements for driver licensing including inducting drivers into the system, ensuring medical fitness to drive and managing driver behaviour. They also set fees for these activities. Sunsetting is an opportunity to assess the Regulations and make sure that they are still effective in delivering the Government's objectives.

The Regulations are one component of the measures the Government has in place to contribute to its Towards Zero strategy. This strategy aims to reduce the road toll by developing a safer road network, focussing on road quality, speed, and the safety of vehicles and drivers. Through the strategy, Victoria has set a 20 per cent fatality reduction target of fewer than 200 deaths per year by 2020.

Victoria is a partner and signatory to many national and international driver standards, policy frameworks and guidelines. These include the National Driver Licensing Scheme (NDLS),

National Graduated Licensing System (GLS), National Medical Standards for Assessment of Fitness-to-Drive and the United Nations Convention on Road Traffic 1949. Although Victoria is not bound to follow all these schemes, there is a general commitment to implement them. As such, significant parts of the proposed Regulations are guided by, and give effect to, these standards, policy frameworks and guidelines.

Analysis

The proposed Regulations prescribe requirements for:

1. inducting drivers into Victoria;
2. ensuring medical fitness to drive; and
3. managing driver behaviour.

In analysing these areas, the Department uses two different methods. For some areas, a multi-criteria analysis (MCA) is used to assess the relative costs and benefits of options. Criteria and relative weights of the criteria are:

- Safety (40%)
- Equity (5%)
- Effectiveness (5%)
- Cost to Government (20%)
- Cost to Community (20%)
- Complexity/Ease of Implementation (10%)

For other requirements, the Department qualitatively assesses options using the most relevant criteria to that area.

Inducting Drivers into Victoria

There are two main points of entry to the Victorian driver licensing system: through the learner–probationary–full licence graduated licensing scheme (GLS) and converting from interstate or international jurisdictions.

The Department assesses different components of the National GLS (N-GLS) against three criteria, without using a formal MCA:

- safety;
- cost to community; and
- cost to government.

The components of the GLS that are considered under the proposed Regulations and the preferred option, as well as its equivalent N-GLS stage, are presented below. Other N-GLS components that are determined under the Road Rules or the RSA are not assessed in this RIS.

Component	Preferred Option	N-GLS Stage
Minimum learner period	12 months	All stages
Testing required for probationary licence	Computer based hazards perception test and on-road drive test	All stages
Supervised driving hours (learners)	120 hours (including 20 hours at night)	Exemplar upper bound (100-120 hours including 20 at night)

Probationary period duration	4 years minimum including 1-year P1 and 3 years P2	Exemplar
Carriage of passengers (P1 drivers)	One peer passenger (aged 16-21) (excluding siblings)	Exemplar
Late night driving restrictions (P1 drivers)	No night-time driving restriction	Enhanced
Probationary prohibited vehicle (PPV) restriction	Maximum power to mass ratio of 130 kilowatts per tonne including club motor vehicles	N/A
Learner approved motorcycle Scheme (LAMS)	VicRoads considers inclusion if power to weight ratio is less than 150kw/tonne and engine capacity is less than 660cc.	Yes Motorcycle GLS

Of the proposed measures, only the Probationary prohibited vehicle (PPV) restriction is a change from the current Regulations. The proposed change is that vehicles manufactured before 2010 will be assessed by the same criteria as vehicles manufactured after this date (i.e. all probationary driver vehicles can have a maximum power to mass ratio of 130 kilowatts per tonne, regardless of vehicle manufacture date). Club permit vehicles will also now be subject to this restriction under the proposed changes.

The cost of the supervised driving hours has been estimated at being between \$16.17m and \$69.63m per year. This comprises extra professional instructor hours and the time value of learner drivers and supervising licensed drivers completing the required hours. No other elements of the GLS have been costed.

The Department assesses several options regarding the conversion of drivers' licences from interstate and international jurisdictions. Primarily, it considers what the conversion period should be after residing in Victoria. After the conversion period, a driver who has not obtained a Victorian licence is not legally permitted to drive in Victoria. For ease and relevance of analysis, the reference point used is the NDLS. The options considered are:

1. **Current regulations** — overseas (other than New Zealand) drivers have a six-month conversion period; interstate and NZ drivers have three months. Temporary residence visa holders are not required to convert.
2. **Current regulations plus temporary visa holders inclusion** — as Option 1 but temporary visa holders must convert within six months.
3. **All interstate and overseas drivers to convert within 3 months** — authorisation to drive with an interstate or overseas licence ceases after residing in Victoria for three months for citizens, as well as permanent and temporary visa holders. This largely aligns with other Australian jurisdictions except they do not require temporary visa holders to convert.

- 4. All interstate and overseas drivers to convert within 6 months** — authorisation to drive with an interstate or overseas licence ceases after residing in Victoria for six months for citizens, as well as permanent and temporary visa holders.

The Department's assessment of the options, using the MCA method, concludes that option 4 is the preferred option. The cost to the community of this option is estimated to be \$0.92 million per year more than the reference point, with the cost to government estimated to be \$1.19 million per year more. These costs were lower than those of options 2 and 3.

Ensuring medical fitness to drive

Under the current Regulations, Victoria does not have an age-based mandatory licence re-assessment program. Other jurisdictions require annual assessment of medical fitness to drive, including the ACT (at 75 years of age), New South Wales (75), South Australia (70) and Western Australia (80). Instead, testing in Victoria is provided for those who volunteer themselves or those who are referred by a medical professional. Medical professionals are not required to report patients who may not be safe to drive. Options considered are:

1. **Annual assessment from age 70** — similar to South Australia (annual vision and medical tests from age 70, road tests from age 85), except mandatory disclosure by medical professionals, which is required in South Australia, is not assessed as part of this option.
2. **Annual assessment from age 80** — as in Western Australia (annual vision and medical tests from age 80, road tests from age 85).
3. **Mandatory reporting of medical unfitness to drive** — mandatory reporting to VicRoads when a medical practitioner forms an opinion that a person with a permanent or long-term injury or illness, is not or may not be medically fit to drive. This would be consistent with several findings and recommendations of Victorian Coroners. This option is considered separately.

On the basis of research cited in the RIS, the Department concludes that there is no strong evidence base of safety benefits from these options. The Department believes that the costs of the options outweigh any potential safety benefits. The cost to the community of Option 1 has been estimated at \$127 million per year and the annual cost to government of this option is expected to be \$108 million. For Option 2, the annual cost to the community is estimated at \$49 million and the cost to government is \$31 million per year. The cost of option 3 has not been estimated but is expected to be less than Options 1 and 2. As such, the Department's preferred option is not to introduce mandatory age-based testing or mandatory disclosure by medical practitioner.

Managing driver behaviour

There are various compliance measures to encourage safe driver behaviour. Many of these are set through the RSA, Road Safety Rules and the Road Safety (General) Regulations. Demerit points are, however, set through the proposed Regulations.

The Victorian demerit points register (which is based on the NDLS) is designed to encourage learner permit and licence holders to drive more carefully and to discourage poor driving behaviour. The offences themselves are set under the RSA and the Road Rules, with the proposed Regulations setting the demerit points for these offences.

Under the proposed Regulations, there are 41 offences that would attract demerit points. Given the breadth of the offences, and the general community acceptance of these, the Department does not present options or complete an MCA for demerit points. Instead, it qualitatively assesses the NDLS relative to the base case of no demerit points for offences, focusing on their safety benefits and cost to the community. Where Victoria imposes higher sanctions than the NDLS, the Department compares these with the NDLS, and explains that

it considers that these are justified because the superior safety benefits outweigh the increased cost to the community. The proposed number of demerit points for each offence are the same as the current Regulations.

Fees

The RSA allows VicRoads to charge:

- administrative fees for services it provides in connection with the licensing of drivers and registration of vehicles, which must not exceed the costs of delivering the service (s. 97A(1)) (referred to in the RIS as 'services groups'); and
- fees not limited to cost recovery levels for drivers' licences, learner permits, vehicle registrations or where a third party is authorised to perform functions on behalf of VicRoads (s. 95(6)) (referred to in the RIS as 'permissions groups' and 'servicing agreements').

The RIS presents a limited analysis of fees for services groups and some permissions groups. It does not consider options for setting fees, but presents a qualitative discussion outlining why the Department considers the current fees are appropriate, given the Department's objectives and data limitations. For services groups, the objectives are:

- operational efficiency;
- equity;
- simplicity; and
- encouraging positive customer behaviour.

For permissions groups, the considerations that inform fee setting are:

- the value of the permissions or authorities to the recipient;
- the demand for those permissions or authorities; and
- that the public should share in the private value that is created through public service provision.

The RIS estimates that it costs \$69.86m per year to deliver the services groups activities. The Department proposes to recover \$43.34m of these costs per year, a cost recovery rate of 62 per cent across all activities.

The proposed Regulations remake the current fees, without change. Under both the current and proposed fees, cost recovery rates differ across different activities. Licence and learner permit administration, alcohol interlocks administration, and information extracts and reports services groups will all achieve approximately full cost recovery, while about 75 per cent of the costs of licence and learner permit testing will be recovered. There will continue to be no fee for medical fitness-to-drive reviews or sanctions administration.

As the RIS notes, an 'activity-based' review of fees was not conducted for the sunseting review due to inadequacies in VicRoads' data systems. These inadequacies are longstanding, and also prevented a complete review of fees when the Regulations were last remade in 2009. As such, the Department notes that its commitment to undertake a thorough review of fees in 2023 is 'of the greatest importance'. The RIS states that:

This review will take into account a range of factors when looking at fees, including changes in technology and customer behaviours and demand. In addition, the period selected coincides with the development and rollout of Service Victoria, which will take over the delivery of a range of high-volume customer-facing transactions currently undertaken by different government agencies. This will include a number of services currently provided by VicRoads, such as driving licence renewals. This will lead to changes in both the operations and costs of services as they move to Service Victoria during this period, and the review will look at these changes through an activity-based costing exercise when evaluating the fees.

In recognition of the importance and size of this review, my staff will make themselves available to work with the Department to help to scope it.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 9092 5800.

Yours sincerely



Anna Cronin

Commissioner for Better Regulation