



Our ref: MC79357

23 JAN 2015

Mr Chris Mearns  
President  
Motorcycle Riders Association of Queensland  
PO Box 1273  
Slacks Creek Qld 4127

Office of the  
Director-General

Department of  
Transport and Main Roads

Dear Mr Mearns

Thank you for your letter to the Honourable Scott Emerson MP, Minister for Transport and Main Roads, about the upcoming changes to the road rules for motorcycle riders. I have been requested to reply to you on the Minister's behalf.

As you are aware, a state election has been called for 31 January 2015 and the government is now in a caretaker period.

In your letter you suggest changing the wording of section 270(3)(a) of the *Queensland Road Rules* (QRR) to read: "approved motorbike helmet means a helmet that complies, *subject to fair wear and tear*, with AS 1698; or AS/NZS 1698; or the United Nations Economic Commission for Europe standard 22.05...". You suggest that unless the words "subject to fair wear and tear" are added to the definition, then the implication is that the helmet must comply wholly and for life with the standard indicated.

Under Section 5 of the QRR, if the regulation requires a person to use something that complies with an Australian standard, then the person complies with the requirement if, when the item was manufactured, it complied with the standard in force under the designation at that time. This means that, for a motorcycle helmet complying with AS 1698 or AS/NZS 1698, a person complies with the legislative requirement to wear an approved helmet if the helmet complied with the standard in force when it was manufactured.

Please note also that a reference to an Australian standard in the QRR refers to the standard as it was in force from time to time under that designation. For example, AS/NZS 1698 was approved and published in 2006 but was amended in 2007, 2009, 2011 and 2014, so a reference to AS/NZS 1698 in the QRR refers to the version of the standard that was in force at the time of the helmet's manufacture.

As you are aware, the amended legislation requires the display of a label, or similar mark, indicating compliance with one of the approved motorcycle helmet standards. This is effectively a clarification of existing requirements and does not change current enforcement practice. The intent of this requirement is to ensure that a helmet is safe because it complies with an approved standard, and the only way to ensure this for enforcement purposes is with a visible label. The Department of Transport and Main Roads (TMR) appreciates that wear and tear to a helmet happens over time. As long as a Queensland Police Service (QPS) officer can still determine that an appropriate label is on a helmet then that should be sufficient for enforcement activities.

Please note that while TMR is responsible for the development and administration of the QRR, their enforcement is the responsibility of the QPS. It is at the discretion of a police officer to decide if a breach of the road rules has occurred in relation to a motorcycle rider wearing an approved helmet.

If you require further information about the upcoming changes to the road rules for motorcycle riders, I encourage you to contact Mr Andrew Mahon, Acting Executive Director (Transport Access and Use) on 3066 7175 or by email on [andrew.w.mahon@tmr.qld.gov.au](mailto:andrew.w.mahon@tmr.qld.gov.au).

I trust this information is of assistance

Yours sincerely



**Neil Scales**  
**Director-General**  
**Department of Transport and Main Roads**