

## Registration of electric bikes and scooters

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'RSA' means *Road Safety Act 1986* (Vic)

### **Offence to use or own an unregistered vehicle**

A person must not use a 'motor vehicle' on a 'highway', or own a motor vehicle is that used by someone else on a highway, unless it is registered or exempt from registration (RSA s. 7(1)).

The exemptions primarily relate to trailers and do not cover motorised/electric bicycles or scooters (see *Road Safety (Vehicles) Regulations 2009* (Vic) s. 12).

The penalty for using or owning an unregistered vehicle is 25 penalty units for a first offence and 50 penalty units for a second offence (penalties are higher for corporations). A penalty unit is currently about \$122.

### **Offence to drive while unlicensed**

A person must not drive a 'motor vehicle' on a 'highway' if they do not hold a drivers licence or permit authorising them to drive such a vehicle (or if they are in breach of any condition on that licence or permit) (RSA s. 18(1)).

The penalty for driving while unlicensed is generally up to 25 penalty units or up to three months imprisonment.

### **Where do these rules apply – what is a 'highway'?**

A 'highway' means a 'road' or 'road related area' (RSA s. 3(1)).

A 'road' means:

- “(a) an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles; or
- (b) a place that is a road by virtue of a declaration under subsection (2)(a)—but does not include a place that is not a road by virtue of a declaration under subsection (2)(a)” (RSA s. 3(1)).

A 'road related area' means:

- “(a) an area that divides a road; or
- (b) a footpath or nature strip adjacent to a road; or
- (c) an area that is open to the public and is designated for use by cyclists or animals; or
- (d) an area that is not a road and that is open to or used by the public for driving, riding or parking motor vehicles; or
- (e) a place that is a road related area by virtue of a declaration under subsection (2)(a)—but does not include a place that is not a road related area by virtue of a declaration under subsection (2)(a)” (RSA s. 3(1)).

Therefore, car parks, bike lanes, bike paths and footpaths are all 'highways' and the above rules apply in these places as well.

### **What is a 'motor vehicle'?**

A 'motor vehicle' is defined as “a 'vehicle' that is used or intended to be used on a highway and that is built to be propelled by a motor that forms part of the vehicle but does not include:

- (a) a vehicle intended to be used on a railway or tramway; or
- (b) a motorised wheel-chair capable of a speed of not more than 10 kilometres per hour which is used solely for the conveyance of an injured or disabled person; or
- (c) a vehicle that is not a motor vehicle by virtue of a declaration under subsection (2)(b)” (RSA s. 3(1)).

‘Vehicle’ is very broadly defined as ‘a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes bicycle or other pedal-powered vehicle, trailer, tram-car and air-cushion vehicle but does not include railway locomotive or railway rolling stock” (RSA s. 3(1)).

Therefore, on the face of it, a scooter or bicycle with a motor is a ‘motor vehicle’ that must be registered and requires a licence to use.

### **When is a motor vehicle not a motor vehicle?**

On 21 April 2010, the Victorian government issued a declaration under s. 3(2)(b) of the RSA that three classes of motor vehicles are not to be considered motor vehicles. This declaration was made in the Victorian Government Gazette No. S 139 and is available at <http://www.gazette.vic.gov.au/gazette/Gazettes2010/GG2010S139.pdf>

#### **1. When are bicycles not motor vehicles?**

A ‘bicycle’ is defined as a vehicle that has two or more wheels and is built to be propelled by human power through a belt, chain or gears, whether or not it also has an ‘auxiliary motor’ (*Road Safety Road Rules 2009 (Vic)* dictionary). An ‘auxiliary motor’ means a propulsion motor that provides a ‘subsidiary, supplementary or reserve means of propulsion’ for the bicycle to which it is fitted. The primary means of propulsion is still human power.

Pedicabs, penny-farthings and tricycles are considered to be bicycles but scooters, wheelchairs, ‘wheeled recreational vehicles’ and wheeled toys are not. ‘Wheeled recreational devices’ include skateboards, rollerblades, rollerskates and scooters that aren’t motor vehicles.

Also, a vehicle which otherwise meets the definition of bicycle is not considered to be a bicycle if it has an auxiliary motor capable (or more than one auxiliary motors that, in combination, are capable) of generating a power output over 200 watts (whether or not the motor or motors is or are operating).

The declaration states that a vehicle which meets the definition of bicycle is *not* considered to be a motor vehicle if it is fitted with one auxiliary motor that has (or more than one auxiliary motor that have in combination) a “maximum uncontrolled and continuous rated power output of 200 watts or less”. As they are not motor vehicles, these are not required to be registered and a licence is not required to use them.

#### **Motorised bicycles which require licence and registration**

A motorised bicycle is *not* classed as a bicycle and is considered a motor vehicle if:

- the motor is the *primary* source of power (rather than auxiliary) and/or
- the motor's uncontrolled power output is capable of *exceeding* 200 watts (whether or not the motor is operating).

Therefore, the rider will be required to hold a motorcycle licence and have the vehicle registered before it can be used on the road network. They cannot be

ridden on footpaths or bicycle paths. Riders must wear an approved motorcycle helmet.

## 2. When are scooters not motor vehicles?

A 'scooter' means a vehicle (with or without a seat) that:

- has either two wheels (one in front of the other) or three wheels (one in front and two at the rear), and
- has a footboard between the front and rear wheels, and
- is steered by means of a handlebar, and
- can be propelled by one or both of the following –
  - a person pushing one foot against the ground,
  - one or more motors (*Road Safety Road Rules 2009* (Vic) r. 244A).

The declaration states that a scooter is *not* a motor vehicle if it has an electric motor that has (or more than one electric motors that have in combination) a 'maximum uncontrolled and continuous rated power output of 200 watts or less' and is not capable of being ridden by an adult on level ground at more than 10km per hour. As they are not motor vehicles, these are not required to be registered and a licence is not required to use them.

### Electric scooters which require licence and registration

An electric scooter is *not* exempt from the definition of motor vehicle if:

- the motor's uncontrolled power output is capable of *exceeding* 200 watts, and/or
- it is capable of being ridden at more than 10km per hour.

Therefore, the rider will be required to hold a motorcycle licence and have the vehicle registered before it can be used on the road network. Riders must wear an approved helmet.

## 3. When are 'self-propelled motor vehicles' not motor vehicles?

The declaration states that a self-propelled motor vehicle is *not* a motor vehicle if it is designed to be controlled by a person walking with the vehicle and has a maximum attainable speed of less than 7km per hour. As they are not motor vehicles, these are not required to be registered and a licence is not required to use them.

### Miniature motorcycles

To be registered, vehicles must meet certain standards. Miniature motorcycles do *not* meet registration standards and so must not be used on public roads, footpaths or nature strips. Even though it can't be registered, any person who rides a miniature motorcycle on a public road without a valid motorcycle licence is committing two offences – driving an unregistered vehicle and driving without a licence.

Miniature motorcycles can be used on private property but there are serious concerns about the safety of many of the models being sold. Consumer Affairs Victoria banned the sale of miniature motorcycles that do not meet safety standards from November 2005.

## **More information**

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**Call Victoria Legal Aid's free Legal Help advice line – 9269 0120**

### **Acts and regulations**

Go to [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) - click on 'Victorian law today' then select either 'Acts' or 'Statutory Rules'

- *Road Safety Act 1986* (Vic)
- *Road Safety (Vehicles) Regulations 2009* (Vic) – contains the Vehicle registration standards

### **VicRoads information**

<http://www.vicroads.vic.gov.au/Home/SafetyAndRules/RoadRules/Bicycles.htm>

<http://www.vicroads.vic.gov.au/Home/SafetyAndRules/RoadRules/ScootersAndWheeledDevices.htm>

<http://www.vicroads.vic.gov.au/Home/SafetyAndRules/RoadRules/Motorbikes.htm>

### **Bicycle Network Victoria information**

<http://www.bicyclenetwork.com.au/general/bikes-and-riding/10607/>