



Queensland

Transport Legislation Amendment Regulation (No. 1) 2006

Subordinate Legislation 2006 No. 28

made under the

Transport Operations (Road Use Management) Act 1995

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Transport Legislation Amendment Regulation (No. 1) 2006*.

2 Commencement

- (1) Part 3 commences on 28 February 2006.
- (2) The remaining provisions of this regulation commence on 1 March 2006.

Part 2 Amendment of Transport Operations (Road Use Management—Accreditation And Other Provisions) Regulation 2005

3 Regulation amended in pt 2

This part amends the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005*.

4 Amendment of s 122 (Expiry of ss 118, 119 and 121)

Section 122—

insert—

- ‘(2) This section expires on 1 January 2007.’.

9 Amendment of s 9 (Testing)

(1) Section 9(4), ‘licence,’—

omit, insert—

‘licence’.

(2) Section 9(4)—

insert—

‘(c) for an application for a class RE, R or C licence—held a driver licence, granted under the law of New Zealand or a country prescribed in schedule 4, that corresponds to a class RE, R or C licence.’.

(3) Section 9—

insert—

‘(4A) Also, subsection (3) does not apply if—

(a) the person—

(i) holds an Australian driver licence; and

(ii) applies for another class of licence; and

(b) the road rules test the person passed for the licence already held is the same road rules test the person would be required to pass for the class of licence applied for.’.

10 Insertion of new ss 12A and 12B

After section 12—

insert—

‘12A Eligibility if mental or physical incapacity likely to adversely affect ability to drive safely

‘(1) A person is not eligible for the grant or renewal of a Queensland driver licence if the chief executive reasonably believes the person has a mental or physical incapacity that is likely to adversely affect the person’s ability to drive safely.

‘(2) However, the person is eligible for the grant or renewal of a Queensland driver licence if the chief executive reasonably believes that, by stating conditions on the licence, the person’s

incapacity is not likely to adversely affect the person's ability to drive safely.

Example for subsection (2)—

A person with unstable night time vision has a certificate from a doctor stating the person can drive safely only during daylight. The chief executive may reasonably believe that by imposing a condition, for example, that the person may only drive during daylight, the person's incapacity is not likely to adversely affect the person's ability to drive safely.

- '(3) For this section, the chief executive may require the person to give the chief executive a certificate, in the approved form, from a specified type of health professional—
- (a) stating the person does not have a mental or physical incapacity likely to affect the person's ability to drive safely; or
 - (b) providing information about the person's mental or physical incapacity that may allow the chief executive to form a belief as mentioned in subsection (2).

'12B Responsibility to give notice of mental or physical incapacity likely to adversely affect ability to drive safely

- '(1) At the time of applying for the grant or renewal of a Queensland driver licence, the applicant must give notice in the approved form to the chief executive about any mental or physical incapacity that is likely to adversely affect the applicant's ability to drive safely.

Maximum penalty—60 penalty units.

- '(2) The holder of a Queensland driver licence must give notice in the approved form to the chief executive about either of the following that is likely to adversely affect the holder's ability to drive safely, if either happens after the grant or renewal of the licence—
- (a) any permanent or long term mental or physical incapacity;
 - (b) any permanent or long term increase in, or other aggravation of, a mental or physical incapacity, if notice

in the approved form has previously been given to the chief executive about the incapacity.

Maximum penalty—60 penalty units.

- ‘(3) It is a defence to the prosecution of a person for an offence against this section if the person establishes that, at the time of the offence, the person was unaware that—
- (a) he or she had a mental or physical incapacity; or
 - (b) the incapacity was likely to adversely affect the person’s ability to drive safely.
- ‘(4) Also, it is a defence to the prosecution of a person for an offence against subsection (2)(b) if the person establishes that, at the time of the offence, the person was unaware that—
- (a) the incapacity had increased or otherwise been aggravated; or
 - (b) the increase in, or other aggravation of, the incapacity was likely to adversely affect the person’s ability to drive safely.’.

11 Insertion of new s 33A

After section 33—

insert—

‘33A Immediate amendment or suspension of Queensland driver licence

- ‘(1) This section applies if—
- (a) the chief executive is given information by a licence holder, or about a licence holder by a health professional, whether or not the licence holder or health professional uses an approved form to give the information; and
 - (b) because of the information, the chief executive reasonably considers the licence holder may have a permanent or long term mental or physical incapacity that is likely to adversely affect the licence holder’s ability to drive safely; and

- (c) the chief executive reasonably considers—
 - (i) public safety has been endangered, or is likely to be endangered, because the licence holder’s ability to drive safely is likely to be adversely affected; or
 - (ii) immediate amendment or suspension of the licence holder’s Queensland driver licence is otherwise necessary in the public interest.
- ‘(2) The chief executive may, by written notice to the licence holder, immediately amend or suspend the licence holder’s Queensland driver licence.
- ‘(3) The notice under subsection (2) must state—
 - (a) the reasons for the chief executive’s decision; and
 - (b) the licence holder may contest the decision by—
 - (i) applying under section 38¹ for reconsideration of the decision; or
 - (ii) appealing under section 131² of the Act.
- ‘(4) Within 7 days of giving the licence holder the notice under subsection (2), the chief executive must give the licence holder a show cause notice under section 33(1).
- ‘(5) The amendment or suspension—
 - (a) takes effect immediately when the notice under subsection (2) is given to the licence holder; and
 - (b) continues to operate until the show cause notice given to the licence holder under section 33(1) is finally dealt with.
- ‘(6) In this section—
licence holder means a person who is the holder of a Queensland driver licence.’.

1 Section 38 (Reconsideration of decision by chief executive)

2 Section 131 (Appeals with respect to issue of licences etc.) of the Act

12 Amendment of s 35 (Non-Queensland driver licence)

Section 35(3) and (4)—

omit, insert—

- ‘(3) The chief executive may, by written notice to the holder of a non-Queensland driver licence, immediately withdraw the holder’s authority under subsection (1) if—
- (a) the chief executive is given information by the holder, or about the holder by a health professional, whether or not the holder or health professional uses an approved form to give the information; and
 - (b) because of the information, the chief executive reasonably considers the holder may have a mental or physical incapacity that is likely to adversely affect the holder’s ability to drive safely; and
 - (c) the chief executive reasonably considers—
 - (i) public safety has been endangered, or is likely to be endangered, because the holder’s ability to drive safely is likely to be adversely affected; or
 - (ii) immediate withdrawal of the authority is otherwise necessary in the public interest.
- ‘(4) A notice under subsection (3) must state—
- (a) the reasons for the chief executive’s decision; and
 - (b) the withdrawal takes effect immediately when the notice is given to the holder of the non-Queensland driver licence; and
 - (c) the holder may contest the decision by applying under section 38³ for reconsideration of the decision.’

13 Amendment of s 25 (Queensland driver licence holder)

Section 25(1)(b)(iii), ‘of another class’—

omit.

3 Section 38 (Reconsideration of decision by chief executive)

14 Amendment of s 26 (Non-Queensland driver licence holder)

Section 26(1)(b)(ii), 'of another class'—
omit.

15 Insertion of new pt 10, div 1 hdg

Part 10, before section 46—
insert—

'Division 1 Transitional provisions for Transport Operations (Road Use Management—Driver Licensing) Amendment Regulation (No. 1) 2001'.

16 Insertion of new pt 10, div 2

After section 48—
insert—

'Division 2 Transitional provisions for Transport Legislation Amendment Regulation (No. 1) 2006

'49 Chief executive given information about incapacity by use of a form that is an approved form

'(1) This section applies if—

- (a) on the commencement of this section, a person is the holder of a Queensland driver licence; and
- (b) before the commencement of this section, information was given to the chief executive about either of the following that was likely to adversely affect the person's ability to drive safely—
 - (i) any permanent or long term mental or physical incapacity;

- (ii) any permanent or long term increase in, or other aggravation of, a mental or physical incapacity about which notice had previously been given to the chief executive.

‘(2) The giving of—

- (a) information about a matter mentioned in subsection (1)(b)(i) by a doctor’s certificate, or by an approved form under section 15(1),⁴ is taken to be the giving of notice required to be given under section 12B(2)(a);⁵ or
- (b) information about a matter mentioned in subsection (1)(b)(ii) by a doctor’s certificate, or by an approved form under section 15(1), is taken to be the giving of notice required to be given under section 12B(2)(b).

‘(3) In this section—

doctor’s certificate means a document, signed by a doctor, dealing with matters required to be included in an approved form under section 13(2) as in force at any time before the commencement.

‘50 Chief executive notified about incapacity in other ways

‘(1) This section applies if—

- (a) on the commencement of this section, a person is the holder of a Queensland driver licence; and
- (b) before the commencement of this section, the person had given other notice to the chief executive about either of the following that was likely to adversely affect the person’s ability to drive safely—
 - (i) any permanent or long term mental or physical incapacity;

4 Section 15 (Applying for licences)

5 Section 12B (Responsibility to give notice of mental or physical incapacity likely to adversely affect ability to drive safely)

- (ii) any permanent or long term increase in, or other aggravation of, a mental or physical incapacity about which a doctor's certificate, approved form under section 15(1) or other notice had previously been given to the chief executive.
- '(2) It is a defence to a prosecution of the person for an offence against section 12B if the person establishes that the person gave other notice as mentioned in subsection (1)(b).

Note—

The person will need to give, before the expiry of this section, notice in the approved form about the incapacity to the chief executive under section 12B.

- '(3) This section expires on 1 April 2006.

- '(4) In this section—

doctor's certificate see section 49(3).

other notice does not include—

- (a) a doctor's certificate; or
(b) an approved form under section 15(1).'

Part 5

Amendment of Transport Operations (Road Use Management—Mass, Dimensions And Loading) Regulation 2005

17 Regulation amended in pt 5

This part amends the *Transport Operations (Road Use Management—Mass, Dimensions and Loading) Regulation 2005*.

18 Amendment of s 58 (Regulation repealed)

Section 58, ‘*Transport Operations (Road Use Management) Regulation 1995*’—

omit, insert—

‘Transport Operations (Road Use Management) Regulation 1995 SL No. 157’.

19 Amendment of sch 9 (Fees)

Schedule 9, section 1(a), at the end—

insert—

‘; or’.

20 Amendment of sch 11 (Dictionary)

Schedule 11, definition *load*, paragraph (a), ‘.’—

omit, insert—

‘; or’.

ENDNOTES

- 1 Made by the Governor in Council on 23 February 2006.
- 2 Notified in the gazette on 24 February 2006.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Transport.