

Queensland



Subordinate Legislation 1997 No. 486

*Transport Operations (Road Use Management) Act 1995*

**TRANSPORT OPERATIONS (ROAD USE  
MANAGEMENT) AMENDMENT  
REGULATION (No. 2) 1997**

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**Short title**

1. This regulation may be cited as the *Transport Operations (Road Use Management) Amendment Regulation (No. 2) 1997*.

**Commencement**

2. This regulation commences on 1 January 1998.

**Regulation amended**

3. This regulation amends the *Transport Operations (Road Use Management) Regulation 1995*.

**Amendment of s 3 (Definitions—the dictionary)**

4. Section 3(1), ‘5’—

*omit, insert—*

‘13’.

**Insertion of new pt 5**

5. After part 4—

*insert—*

**‘PART 5—ACCREDITING DRIVER TRAINERS*****‘Division 1—General*****‘Definitions**

‘34. In this part—

“**accredited**” means accredited under this part.

“**commission**” means the Vocational Education, Training and Employment Commission under the *Vocational Education, Training and Employment Act 1991*.

“**convicted**” includes being found guilty, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

“**driver trainer**” see section 35.

“**driver training**” see section 35.

“**driver’s licence**” see *Traffic Act 1949*, section 9.1

“**learner’s permit**” see *Traffic Act 1949*, section 9.2

“**open licence**” see *Traffic Act 1949*, section 9.3

“**pre-licence driver training**” means driver training for a person who holds a learner’s permit for the type of vehicle for which the training is being given.

“**qualifications**” includes experience.

“**reward**” includes commission, fee, salary and wage.

“**training controls**” means the following motor vehicle controls—

- (a) for a motor vehicle with automatic transmission—dual footbrake and accelerator controls;

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<sup>1</sup> Section 9 (Definitions) states—

“**driver’s licence**” means a licence, including a learner’s permit, and any renewal of that licence under part 3 authorising the licensee to drive on any road any motor vehicle to which that driver’s licence is applicable and in force at any material time, and also includes any driving licence or driving permit issued under the law of any other State or Territory or any other country which, under the regulations made under this Act, is at any time deemed to be equivalent in Queensland to and accepted in lieu of a driver’s licence for the purpose of authorising the holder thereof to drive in Queensland any vehicle of the class or description to the driving of which the said driving licence or driving permit is applicable.

<sup>2</sup> Section 9 (Definitions) states—

“**learner’s permit**” means a learner’s permit issued under section 14 or a corresponding document.’.

<sup>3</sup> Section 9 (Definitions) states—

“**open licence**” means an open licence issued under section 14 or a corresponding document.’.

- (b) for a motor vehicle with manual transmission—dual foot brake and clutch controls.

### **‘Meaning of driver trainer and driver training**

**‘35.** A **“driver trainer”** is a person who, for reward (whether as a self-employed person or as an agent or employee for somebody else), gives anyone advice, training or demonstration for driving a motor vehicle (**“driver training”**).

### *‘Division 2—Driver trainer accreditation*

#### **‘Accrediting driver trainers**

**‘36.(1)** A person may apply to the chief executive for the grant of an accreditation as a driver trainer.

**‘(2)** The chief executive may grant the accreditation only if the applicant—

- (a) holds an open licence authorising the applicant to drive the type or types of motor vehicles stated in the application as being the type or types of motor vehicles for which the applicant proposes to give training; and
- (b) has successfully completed at least 1 of the following—
- (i) a driver trainer course—
    - (A) accredited by the commission; and
    - (B) conducted by a provider registered with the commission;
  - (ii) a driver trainer competency assessment conducted by a provider registered with the commission;
  - (iii) a driver trainer course accredited by a training authority under the law of the Commonwealth or another State.

**‘(3)** Despite subsection (2)(b), the chief executive may grant an accreditation if the applicant has other qualifications as a driver trainer that

the chief executive is satisfied are equivalent to, or better than, those mentioned in paragraph (b).

‘(4) Without limiting subsections (2) and (3), the chief executive may refuse to grant the accreditation if the applicant has been convicted of a disqualifying offence.

‘(5) The chief executive may—

- (a) grant the accreditation applied for or another accreditation; or
- (b) refuse the accreditation.

#### **‘Applying for accreditation**

‘37. An application for an accreditation must be—

- (a) made to the chief executive in the approved form; and
- (b) supported by enough information to enable the chief executive to decide the application; and
- (c) accompanied by the appropriate fee.

#### **‘Deciding application for accreditation**

‘38. The chief executive must consider an application for accreditation within 28 days after it is made and either—

- (a) grant the accreditation; or
- (b) refuse to grant the accreditation.

#### **‘Granting of accreditation**

‘39.(1) If the chief executive decides to grant the accreditation applied for, the chief executive must give the accreditation in the approved form to the applicant within 14 days after making the decision.

‘(2) The accreditation must include a condition the chief executive imposes under section 42.

### **‘Refusing to grant accreditation**

**‘40.(1)** If the chief executive decides to refuse to grant the accreditation applied for, the chief executive must give written notice to the applicant of the decision within 14 days after making the decision.

**‘(2)** The notice must state—

- (a) the reasons for the refusal; and
- (b) the person may ask for the decision to be reviewed under section 52.

### **‘Statutory conditions in accreditation**

**‘41.(1)** Every accreditation is issued on the following conditions, that throughout the accreditation—

- (a) irrespective of when it is granted, the holder of the accreditation must maintain at least the same level of driver trainer competence as is required before the chief executive may accredit an applicant for accreditation as a driver trainer under section 36(2)(b);
- (b) the chief executive may—
  - (i) by random selection of the holder and on giving the holder reasonable written notice, not less than 14 days—conduct an audit to assess the holder’s competence as an accredited driver trainer; or
  - (ii) if the chief executive has received a written complaint from a person who has received driver training from the holder about the holder’s competence as an accredited driver trainer—on giving the holder not less than 7 days written notice, conduct an audit to assess the holder’s competence as an accredited driver trainer;
- (c) if given a notice under paragraph (b), the holder must—
  - (i) cooperate fully with the chief executive; and
  - (ii) give the chief executive every reasonable help requested by the chief executive;in arranging and carrying out the audit.

‘(2) However unless subsection (1)(b)(ii) applies, the chief executive may not audit the same holders’s competence as an accredited driver trainer more than once every 2 years.

‘(3) This section does not limit section 42.

#### **‘Grant of accreditation on conditions**

‘42. The chief executive may grant an accreditation on conditions the chief executive considers reasonable and relevant.

#### **‘Duration of accreditation**

‘43. An accreditation is issued for 1 year.

#### **‘Renewal of accreditation**

‘44.(1) The holder of an accreditation may apply to the chief executive for its renewal.

‘(2) The application must be—

- (a) made in the approved form; and
- (b) supported by enough information to enable the chief executive to decide the application; and
- (c) accompanied by the appropriate fee; and
- (d) made at least 14 days before the accreditation ends.

#### **‘Application of ss 37 to 42 for renewal of accreditation**

‘45.(1) Sections 37 to 42 apply to the renewal of an accreditation in the same way they apply to an accreditation.

‘(2) Also, the chief executive may refuse an application for renewal of an accreditation if the accreditation was—

- (a) issued in error or because of a document or representation that is false, misleading or omits a material particular; or
- (b) obtained or made in another improper way.



### **‘Duration of renewal of accreditation**

‘46. The duration of a renewal of an accreditation is 1 year.

### **‘Replacement of accreditation etc.**

‘47.(1) The holder of a lost, damaged or destroyed accreditation or identity card may apply to the chief executive for its replacement.

‘(2) The application must—

- (a) be made in the approved form; and
- (b) be accompanied by the appropriate fee for the application.

‘(3) If the chief executive is satisfied the accreditation or identity card has been lost, damaged or destroyed, the chief executive must replace it.

### **‘Surrender of accreditation**

‘48.(1) The holder of an accreditation may surrender it by written notice given to the chief executive.

‘(2) The notice must be accompanied by the accreditation.

‘(3) The surrender of the accreditation takes effect—

- (a) on the day on which the notice is given; or
- (b) if a later day is stated in the notice—the later day.

### **‘Accreditation dependent on driver’s licence**

‘49.(1) This section applies if—

- (a) an accredited driver trainer’s driver’s licence is suspended or cancelled; or
- (b) the driver trainer surrenders the licence.

‘(2) The driver trainer’s accreditation under this part is—

- (a) if the licence is suspended—automatically suspended and of no effect while the licence is suspended; or

- (b) if the licence is cancelled or surrendered—automatically cancelled or surrendered.

‘(3) A person whose accreditation as a driver trainer is cancelled, suspended or surrendered under subsection (2) must immediately—

- (a) notify the chief executive of the cancellation, suspension or surrender in writing; and
- (b) return the person’s accreditation to the chief executive.

Maximum penalty—40 penalty units.

‘(4) The chief executive must not return a suspended accreditation to the person before the suspension ends.

### ***‘Division 3—Giving pre-licence driver training***

#### **‘Driver trainer giving pre-licence driver training to be accredited**

‘50.(1) A driver trainer must not give pre-licence driver training unless the driver trainer is an accredited driver trainer.

Maximum penalty—40 penalty units.

‘(2) However subsection (1) does not apply to a driver trainer who, while engaged or employed in a business or calling, gives pre-licence driver training to another person—

- (a) so that the person may be engaged or employed in the business or calling; and
- (b) without receiving any reward from, or on behalf of, the person.

### ***‘Division 4—Driver training vehicle standards***

#### **‘Requirements for driver training vehicle**

‘51.(1) An accredited driver trainer must ensure that every vehicle the driver trainer provides to give pre-licence driver training is equipped with the following equipment when the vehicle is being used to give the training—

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- (a) training controls that are easily accessible for immediate use by a driver trainer sitting in the front passenger seat of the vehicle;
- (b) signs or plates, not less than 146 mm square, displayed conspicuously at the front and rear of the vehicle clearly depicting the letter 'L' in black on a yellow background;
- (c) a sign or plate displayed conspicuously on the vehicle showing—
  - (i) the driver trainer's name and accreditation number as a driver trainer; or
  - (ii) if the driver trainer—
    - (A) carries on the business of driver training under a registered business name—the registered business name and the address of its principal place of business; or
    - (B) gives the training as an agent or employee of another person carrying on the business of driver training—the person's name and address or if the person carries on business under a registered business name, the registered business name and the address of its principal place of business;
- (d) an internal rear view mirror for the trainer as well as the driver's rear view mirror;
- (e) an external driving mirror on each side of the vehicle.

Maximum penalty—20 penalty units.

'(2) However, subsection (1) does not apply to the following motor vehicles—

- (a) a motorcycle;
- (b) a motor vehicle for which an LR class or higher class licence is required to drive the vehicle.

### ***‘Division 5—Review of decisions***

#### **‘Review of decisions**

**‘52.(1)** A person whose interests are affected by a decision stated in schedule 11 may apply, under chapter 4<sup>4</sup> of the Act, for a review of the decision as if the decision were stated in schedule 2A<sup>5</sup> of the Act.

**‘(2)** A person who may seek a review of a decision is entitled to receive a statement of reasons for the decision.

**‘(3)** An appeal may be made against a reviewed decision to the court stated in schedule 11 for the decision.

**‘(4)** Chapter 4 of the Act applies to a review and an appeal under this section.

### ***‘Division 6—Miscellaneous***

#### **‘Accredited driver trainer’s identity card**

**‘53.(1)** The chief executive must give an identity card to a person who is an accredited driver trainer when the accreditation is granted or renewed.

**‘(2)** The identity card must—

- (a) contain a recent photograph of the person; and
- (b) identify the person as an accredited driver trainer; and
- (c) state—
  - (i) the accreditation number; and
  - (ii) an expiry date; and
- (d) otherwise be in the approved form; and
- (e) be signed by the driver trainer.

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<sup>4</sup> Chapter 4 ( Review of and appeals against decisions) of the Act

<sup>5</sup> Schedule 2A (Reviewable decisions) of the Act

‘(3) A person who stops being an accredited driver trainer must return the identity card to the chief executive immediately after the person stops being accredited, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

#### **‘Display of identity card**

‘54. When an accredited driver trainer is giving pre-licence driver training, the driver trainer must display the driver trainer’s identity card so as to be clearly visible to the person being trained—

- (a) by wearing the card on the driver trainer’s clothing; or
- (b) displaying the card in a vehicle being used to give the training.

Maximum penalty—20 penalty units.

#### **‘Records for driver training**

‘55.(1) An accredited driver trainer must make a written record of the pre-licence driver training the driver trainer gives.

Maximum penalty—20 penalty units.

‘(2) The driver trainer must—

- (a) make the record daily; and
- (b) include in it the following particulars about the training—
  - (i) the name and address of each person to whom the training is given;
  - (ii) the date, time and duration of the training;
  - (iii) the registration number of the motor vehicle in which the training is given; and
- (c) keep the record for at least 1 year; and
- (d) produce the record if asked to do so by an authorised officer.

Maximum penalty—20 penalty units.

### **‘Fees for this part**

‘56. The fees for this part are stated in schedule 12.

### **‘Accreditation prescribed for ss 17B(2) and 18(c)(ii) of Act**

‘57. An accreditation under division 2 is prescribed for sections 17B(2) and 18(c)(ii)<sup>6</sup> of the Act.

### ***‘Division 7—Transitional***

#### **‘Definitions**

‘58. In this division—

“**licensed driving instructor**” means a person who, immediately before the commencement of this division, held a current instructor’s licence issued under the repealed Act.

“**repealed Act**” means the *Motor Vehicle Driving Instruction School Act 1969*.

#### **‘Duration of provisional accreditation of licensed driving instructors**

‘59. The term of the provisional accreditation under section 92B of the Act of a licensed driving instructor is the unexpired term of the instructor’s licence under the repealed Act.<sup>7</sup>

#### **‘Renewal of provisional accreditation for licensed driving instructors**

‘60.(1) The holder of a provisional accreditation as a driver trainer under section 92B of the Act may apply to the chief executive for its renewal.

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<sup>6</sup> Section 17B (Granting, renewing or refusing approval) of the Act  
Section 18 (Grounds for amending suspending or cancelling approvals) of the Act

<sup>7</sup> Section 92B (Transitional provisions for Motor Vehicle Driving Instruction School Act 1969).

‘(2) Sections 37 to 40 apply to the renewal of the provisional accreditation in the same way as they apply to an application for the renewal of an accreditation under division 2.

‘(3) A provisional accreditation is prescribed for section 18(c)(ii) of the Act.

### **‘Interim accreditation of new driver trainers**

‘61.(1) Despite the repeal of the repealed Act but subject to this Act, the applied provisions continue to apply for 6 months from the commencement, with all necessary changes, as if they were part of this regulation.

‘(2) If the chief executive grants an instructor’s licence (a **“licence”**) to a person under section 10 of the applied provisions, the licence is taken to be a grant of interim accreditation as a driver trainer under this division (an **“interim accreditation”**).

‘(3) Division 2, other than sections 36, 41(1)(b)(i) and 43 to 46 apply to the interim accreditation in the same way they apply to an accreditation.

‘(4) An interim accreditation may not be renewed and ends 1 year after the licence is granted unless the licence is sooner cancelled, suspended or surrendered under this Act.<sup>8</sup>

‘(5) An interim accreditation is prescribed for section 18(c)(ii) of the Act.

‘(6) In this section—

**“applied provisions”** means part 3 of the repealed Act (other than sections 12(2), 13 and 14).

### **‘Application of ss 47 to 51 and 55 for this division**

‘62. Sections 47 to 51 and 55 apply to a driver trainer with provisional or interim accreditation as if a reference in those sections to—

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<sup>8</sup> See the Act, section 18 (Grounds for amending suspending or cancelling approvals) and section 48 (Surrender of accreditation).

- (a) an accredited driver trainer included a reference to a driver trainer with provisional or interim accreditation; and
- (b) an accreditation included a reference to a provisional or interim accreditation or driving instructor's licence.

### **Renumbering of sch 11 (Dictionary)**

#### **6. Schedule 11—**

*renumber* as schedule 13.

### **Insertion of new schs 11 and 12**

#### **7. After schedule 10—**

*insert—*

## **‘SCHEDULE 11**

### **‘REVIEW OF AND APPEALS AGAINST DECISIONS**

Section	Description of decision	Court
40	Refusing to grant accreditation	Magistrates
42	Granting accreditation on conditions	Magistrates
40, 44 and 45	Refusing to renew accreditation	Magistrates
42, 44 and 45	Renewing accreditation on conditions	Magistrates
40 and 60	Refusing to renew provisional accreditation	Magistrates
40, 42 and 61	Refusing to grant interim accreditation, or granting it on conditions	Magistrates



## ‘SCHEDULE 12

### ‘FEES FOR PART 5

section 56

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1. Application for grant, or renewal of accreditation . . . . .	130.00
2. Application for replacement of accreditation or identity card	13.00
3. Application for renewal of provisional accreditation . . . . .	130.00
4. Application for grant of interim accreditation . . . . .	130.00’.

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#### ENDNOTES

1. Made by the Governor in Council on 18 December 1997.
2. Notified in the gazette on 19 December 1997.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Land Transport and Safety Division, Department of Transport.