



# Transport Operations (Road Use Management) Act 1995

Reprinted as in force on 28 February 2007

Reprint No. 7F

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Queensland

# Transport Operations (Road Use Management) Act 1995

## Contents

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		Page
<b>Chapter 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	11
3	Objectives . . . . .	11
4	Achieving an appropriate balance between safety and cost . . . . .	12
5	Definitions—the dictionary . . . . .	12
6	Act binds everyone, including government entities . . . . .	13
<b>Chapter 2</b>	<b>Responsibilities for road use management strategies and programs</b>	
<b>Part 1</b>	<b>Road use management strategies</b>	
7	Development of strategies . . . . .	13
8	Contents of strategies . . . . .	14
9	Tabling of strategies . . . . .	14
<b>Part 2</b>	<b>Road use implementation programs</b>	
10	Development of programs . . . . .	15
11	Consistency with strategies . . . . .	15
12	Report on operation of programs . . . . .	16
<b>Part 3</b>	<b>Guidelines</b>	
13	Guidelines . . . . .	16
<b>Part 4</b>	<b>Objectives</b>	
14	Objectives . . . . .	17
<b>Chapter 3</b>	<b>Road user performance and compliance</b>	
<b>Part 1</b>	<b>Alternative compliance</b>	
15	Alternative ways of complying with Act. . . . .	18
<b>Part 1A</b>	<b>Approvals</b>	
17A	Definition . . . . .	19
17B	Granting, renewing or refusing approval . . . . .	19

*Transport Operations (Road Use Management) Act  
1995*

---

18	Grounds for amending, suspending or cancelling approvals . . . .	20
19	Procedure for amending, suspending or cancelling approvals . . .	22
19A	Cancelling suspended approval for failing to take remedial action . . . . .	24
<b>Part 2</b>	<b>Authorised officers and accredited persons</b>	
20	Appointment of authorised officers . . . . .	25
21	Appointment of accredited persons . . . . .	25
22	Powers . . . . .	26
23	Appointment conditions . . . . .	26
24	Identity cards . . . . .	27
25	Production or display of identity cards . . . . .	27
<b>Part 3</b>	<b>Powers of authorised officers</b>	
<b>Division 1</b>	<b>Powers for places</b>	
26	Entry to places . . . . .	28
27	Consent to entry . . . . .	29
28	Warrants to enter . . . . .	29
29	Warrants—applications made other than in person . . . . .	30
30	General powers after entering places . . . . .	32
<b>Division 2</b>	<b>Powers for vehicles</b>	
31	Power to stop private vehicles . . . . .	33
32	Power to stop heavy vehicles . . . . .	34
33	Power to require vehicles to be moved . . . . .	34
34	Power to inspect vehicles . . . . .	35
35	Power to enter vehicles etc. other than for vehicle inspection . . .	36
36	Power to require vehicle inspections . . . . .	37
37	Power to prohibit use of vehicles . . . . .	37
38	Power to prohibit persons driving . . . . .	38
39	Powers to enable effective and safe exercise of other powers . . .	39
39A	Additional power for Explosives Act 1999 for particular authorised officers . . . . .	40
<b>Division 3</b>	<b>Power to seize evidence</b>	
40	Power to seize evidence . . . . .	40
41	Powers supporting seizure . . . . .	41
42	Receipt for seized things . . . . .	42
43	Forfeiture of seized things . . . . .	42
44	Dealing with forfeited things . . . . .	43
45	Access to seized things . . . . .	44

*Transport Operations (Road Use Management) Act  
1995*

---

46	Return of seized things . . . . .	44
<b>Division 3A</b>	<b>Additional seizure powers for certain vehicles for sale</b>	
46A	Seizing certain vehicles for sale . . . . .	44
<b>Division 4</b>	<b>General powers</b>	
47	Power to set up checkpoints . . . . .	46
48	Power to require name and address . . . . .	47
49	Power to require documents to be produced . . . . .	48
50	Power to require information. . . . .	48
50AA	Power to require information. . . . .	49
<b>Division 5</b>	<b>Remedial action notices</b>	
50A	Power to give remedial action notices . . . . .	51
<b>Part 4A</b>	<b>Additional powers of authorised officers to prevent dangerous situation</b>	
51A	Application . . . . .	52
51B	Additional power to require information or produce document . . . . .	53
51C	Self incrimination no excuse. . . . .	53
51D	Power to give directions in dangerous situations . . . . .	53
51E	Preventing injury and damage—taking direct action . . . . .	54
<b>Part 5</b>	<b>Legal proceedings</b>	
<b>Division 1</b>	<b>Offences</b>	
52	False or misleading statements . . . . .	55
53	False or misleading documents . . . . .	55
53A	Proof of giving false and misleading statements and documents. . . . .	56
54	Obstructing authorised officers or accredited persons . . . . .	56
55	Impersonating authorised officers or accredited persons. . . . .	57
56	Using documents voided for non-payment . . . . .	57
57	Executive officers must ensure corporation complies with transport Act . . . . .	58
57A	Responsibility for acts or omissions of representatives . . . . .	58
57B	Further liability provisions for extended liability offences . . . . .	59
<b>Division 2</b>	<b>Evidence and procedure</b>	
58	Proof of appointments unnecessary. . . . .	62
59	Proof of signatures unnecessary . . . . .	62
60	Evidentiary aids . . . . .	63
61	Instruments. . . . .	65
62	Proceedings for offences . . . . .	66
62A	Black and white reproductions of words in colour . . . . .	66

*Transport Operations (Road Use Management) Act  
1995*

---

<b>Part 6</b>	<b>General</b>	
63	Notice of damage . . . . .	66
64	Compensation . . . . .	67
<b>Chapter 4</b>	<b>Review of and appeals against decisions</b>	
65	Review of and appeals against decisions. . . . .	68
<b>Chapter 5</b>	<b>Road use</b>	
<b>Part 1</b>	<b>Local government functions</b>	
66	Local laws etc. . . . .	69
<b>Part 2</b>	<b>Official traffic signs</b>	
67	Definitions. . . . .	72
68	Chief executive may install or remove official traffic signs . . . . .	72
69	Local government may install or remove official traffic signs . . . . .	72
70	Notice to install or remove an official traffic sign . . . . .	73
71	Installation of official traffic signs in case of danger . . . . .	73
72	Installation of official traffic signs by prescribed persons . . . . .	74
72A	Way to install official traffic sign . . . . .	75
73	Obstruction of prescribed officer and destruction of official traffic signs to be an offence . . . . .	75
74	Contravention of official traffic sign an offence . . . . .	76
75	Unlawful installation of official traffic signs . . . . .	77
76	Injury to official traffic signs . . . . .	77
<b>Part 3</b>	<b>Driving of vehicles and animals</b>	
77	Restricted release of Queensland driver licence and traffic history information . . . . .	78
78	Driving of motor vehicle without a driver licence prohibited . . . . .	79
78A	Permit to drive—recently expired driver licence . . . . .	83
79	Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood or breath. . . . .	84
79AA	Provisions applying to supervisor of a learner . . . . .	92
79A	When is a person over the limit . . . . .	93
79B	Immediate suspension or disqualification. . . . .	94
79C	When person is charged for s 79B . . . . .	96
79D	Notice to be given of suspension or disqualification. . . . .	96
79E	Court may allow particular person whose licence is suspended under s 79B to drive . . . . .	97
79F	Replacement licence if there is an order under s 79E . . . . .	98
80	Provisions with respect to breath tests and laboratory tests . . . . .	99

*Transport Operations (Road Use Management) Act  
1995*

---

80A	Obstructing the taking of a blood specimen . . . . .	122
80B	Interstate exchange of information . . . . .	122
81	Notices to offenders for certain first offences . . . . .	123
82	Offenders may be ordered to attend training programs . . . . .	127
83	Careless driving of motor vehicles . . . . .	127
84	Dangerous driving of vehicles (other than motor vehicles) etc. . .	127
85	Racing and speed trials on roads . . . . .	128
86	Disqualification of drivers of motor vehicles for certain offences .	129
87	Issue of restricted licence to disqualified person . . . . .	136
88	Variation of conditions . . . . .	143
89	Power to disqualify person from holding or obtaining Queensland driver licence though acquitted of certain indictable offences . . . . .	144
90	Power to disqualify person from holding or obtaining Queensland driver licence though complaint dismissed . . . . .	145
91	Chief executive to be advised of persons disqualified from holding Queensland driver licences etc. . . . .	145
<b>Part 4</b>	<b>Road incidents</b>	
92	Duties and liabilities of drivers involved in road incidents . . . . .	146
94	Scheme to facilitate supply of information as to road incidents . .	148
<b>Part 5</b>	<b>Powers and functions of police officers</b>	
96	Diversion of traffic . . . . .	149
100	Removal of things from roads . . . . .	150
<b>Part 6</b>	<b>Regulated parking</b>	
101	Who may regulate parking . . . . .	154
102	Parking regulation involves installing official traffic signs . . . . .	155
103	Examples of how parking may be regulated . . . . .	156
104	Off-street regulated parking areas . . . . .	157
105	Paid parking . . . . .	158
106	Paid parking offences . . . . .	159
107	Owner responsible for offence . . . . .	160
108	Local laws about minor traffic offences . . . . .	160
109	Agreement with local government on costs of administration . . .	161
110	Notice restricting parking in special circumstances . . . . .	162
111	Parking permits for people with disabilities . . . . .	162

*Transport Operations (Road Use Management) Act  
1995*

---

<b>Part 7</b>	<b>Detection devices</b>	
<b>Division 1</b>	<b>Speed detection devices</b>	
112	Use of speed detection devices . . . . .	163
<b>Division 2</b>	<b>Photographic detection devices</b>	
113	Definitions for div 2 . . . . .	163
114	Offences detected by photographic detection device . . . . .	165
115	Limitation of prosecution period extended in particular circumstances . . . . .	167
116	Notice accompanying summons . . . . .	167
117	Use of penalties collected for camera detected offences . . . . .	167
118	Photographic evidence—inspection and challenges . . . . .	168
119	Notice of dispute about traffic control device or sign . . . . .	168
120	Evidentiary provisions . . . . .	168
121	Application of the State Penalties Enforcement Act 1999 . . . . .	169
<b>Part 7A</b>	<b>Crossing supervisor scheme</b>	
<b>Division 1</b>	<b>Definitions</b>	
122	Definitions for pt 7A . . . . .	170
<b>Division 2</b>	<b>Scheme and authorisation of persons under scheme</b>	
122A	Chief executive may authorise scheme . . . . .	171
122B	Unauthorised person must not act as crossing supervisor. . . . .	172
122C	Chief executive may refuse to authorise person under scheme. . . . .	172
122D	Chief executive may impose conditions on authority . . . . .	172
122E	Notice to be given about refusal or imposition of condition . . . . .	173
<b>Division 3</b>	<b>Criminal history</b>	
122F	Criminal history to be disclosed by applicants and crossing supervisors . . . . .	173
122G	Crossing supervisor may surrender authority. . . . .	174
122H	Chief executive may ask commissioner for criminal history . . . . .	174
<b>Division 4</b>	<b>Amendment, suspension and cancellation of authorities</b>	
122I	Grounds for amending, suspending or cancelling authority . . . . .	175
122J	Show cause procedure for amending, suspending or cancelling authority . . . . .	175
122K	Amending, suspending or cancelling authority . . . . .	176
122L	Notice to be given to crossing supervisor. . . . .	177
122M	Grounds for immediate suspension of authority . . . . .	177
122N	Procedure for immediate suspension of authority . . . . .	178
122O	Further action after immediate suspension . . . . .	179

*Transport Operations (Road Use Management) Act  
1995*

---

122P	Other amendments of authorities . . . . .	180
<b>Part 8</b>	<b>Proceedings and evidence</b>	
123	Records . . . . .	180
124	Facilitation of proof . . . . .	181
125	When offences not to be dealt with summarily . . . . .	190
<b>Part 9</b>	<b>General</b>	
126	Fraud and unlawful possession of licences . . . . .	191
127	Effect of disqualification . . . . .	191
128	Effect of disqualification on subsequent issue of Queensland driver licence . . . . .	195
129A	Effect of suspension of licence under State Penalties Enforcement Act 1999 . . . . .	195
129B	Disqualification period for person driving more than 40km/h over speed limit . . . . .	196
130	Delivery of cancelled or surrendered licences, or licences for endorsement . . . . .	197
131	Appeals with respect to issue of licences etc. . . . .	199
131A	Removing absolute disqualification imposed before 13/3/2 . . . . .	202
132	Appeals against licence suspension under regulations . . . . .	203
133	Occupiers of garages etc. to keep register of repairs. . . . .	204
134	Altering, defacing or removing identifying numbers . . . . .	205
135	Unlawfully interfering with, or detaining, vehicles etc. . . . .	206
136	Agreements for detaining vehicles . . . . .	208
137	Injurious matter on roads . . . . .	208
139	Service of determinations, notices, orders, and directions of the commissioner or the chief executive. . . . .	210
140	Service if address unknown etc. . . . .	210
141	Instruments not affected by error . . . . .	211
142	Health professional's disclosure not breach of confidence. . . . .	211
143	Confidentiality. . . . .	212
144	Act does not apply to police officer in course of duty . . . . .	213
<b>Part 10</b>	<b>Fees and regulations</b>	
145	Fees for road use . . . . .	213
146	Regulating vehicle operations and road rules . . . . .	213
147	Regulating vehicles etc. in public places . . . . .	214
148	Regulating vehicle standards . . . . .	215
149	Regulating identification of vehicles . . . . .	216
150	Regulating driver management . . . . .	216

*Transport Operations (Road Use Management) Act  
1995*

---

150AA	Regulating young drivers . . . . .	218
150A	Regulating form of licence . . . . .	219
<b>Chapter 5A</b>	<b>Transporting dangerous goods</b>	
151	Application of ch 5A . . . . .	219
152	Regulations about dangerous goods . . . . .	221
153	Exemptions. . . . .	223
154	Failure to hold licence etc. . . . .	224
155	Goods too dangerous to be transported. . . . .	225
156	Duties when transporting dangerous goods. . . . .	225
157	Additional evidentiary aids for transporting dangerous goods . . .	226
158	Recovery of costs from convicted person. . . . .	227
159	Recovery of costs of government action . . . . .	227
160	Prohibition from involvement in the transport of dangerous goods by road. . . . .	228
161	Forfeiting dangerous goods . . . . .	230
162	Helping in emergencies or accidents . . . . .	230
<b>Chapter 5B</b>	<b>Extreme overloading</b>	
163	Forfeiture on conviction . . . . .	231
<b>Chapter 6</b>	<b>Miscellaneous</b>	
164	Court orders for payment . . . . .	232
165	Special provision for serving documents . . . . .	232
166	Official traffic sign approvals. . . . .	233
167	Protection from liability . . . . .	233
168	Effect of failure to comply with ch 2 . . . . .	234
169	Approval of forms . . . . .	235
170	Nomination of responsible operator . . . . .	235
171	Regulation-making power. . . . .	236
<b>Chapter 7</b>	<b>Transitional provisions</b>	
<b>Part 1</b>	<b>Transitional provisions for Transport Operations (Road Use Management) Act 1995</b>	
172	Reference provisions operate only after repeal of relevant Act . .	238
173	Carriage of Dangerous Goods by Road Act 1984 references . . .	238
174	Main Roads Act 1920 references . . . . .	239
175	Motor Vehicles Control Act 1975 references . . . . .	239
176	Motor Vehicles Safety Act 1980 references . . . . .	239
177	State Transport Act 1960 references . . . . .	239
178	Transport Infrastructure (Roads) Act 1991 references . . . . .	239

*Transport Operations (Road Use Management) Act  
1995*

---

179	Transitional provisions for Motor Vehicle Driving Instruction School Act 1969 . . . . .	239
<b>Part 2</b>	<b>Transitional provisions for Transport Legislation Amendment Act 1998</b>	
182	Transitional provisions for Motor Vehicles Control Act 1975 about local laws . . . . .	240
183	Transport Infrastructure (Roads) Regulation 1991 . . . . .	240
184	Carriage of Dangerous Goods by Road Regulation 1989—transition of approvals . . . . .	241
185	Carriage of Dangerous Goods by Road Act 1984—exemptions . . . . .	241
<b>Part 3</b>	<b>Transitional provisions for Road Transport Reform Act 1999</b>	
186	Definitions for pt 3 . . . . .	242
187	Relocation of Traffic Act provisions . . . . .	242
188	Person's traffic history . . . . .	243
189	Licence references . . . . .	243
190	Traffic Regulation 1962 . . . . .	244
191	Acts or authorities under Traffic Act continue under this Act . . . . .	244
192	Fees . . . . .	244
193	Application of Acts Interpretation Act, s 20 . . . . .	245
194	Wheeled recreational devices and wheeled toys . . . . .	245
<b>Part 4</b>	<b>Transitional provisions for Transport Operations (Road Use Management) Amendment Act 2002</b>	
195	Provision for particular disqualifications . . . . .	245
196	Persons affected by amendment Act . . . . .	246
<b>Part 5</b>	<b>Transitional provisions for Transport Legislation Amendment Act (No. 2) 2002</b>	
197	What Transport Legislation Amendment Act (No. 2) 2002 applies to . . . . .	247
<b>Part 6</b>	<b>Transitional provisions for the Transport Operations (Road Use Management) And Another Act Amendment Act 2003</b>	
198	Evidentiary value of certificates preserved . . . . .	247
<b>Part 7</b>	<b>Transitional provisions for the Transport Legislation Amendment Act 2005</b>	
199	Transitional provision for offences against s 85 . . . . .	248
200	Transitional provision for evidentiary certificates under s 124 . . . . .	248
201	Transitional provision for s 129B . . . . .	248
202	Transitional regulation-making power . . . . .	249
203	Transitional power for authorised schemes and crossing supervisors . . . . .	250

*Transport Operations (Road Use Management) Act  
1995*

---

<b>Part 8</b>	<b>Transitional provisions for Maritime and Other Legislation Amendment Act 2006</b>	
204	Transitional provision for ss 79B–79D . . . . .	250
<b>Schedule 2</b>	<b>Disqualifying offences under the Criminal Code—crossing supervisors</b> . . . . .	252
<b>Schedule 3</b>	<b>Reviewable decisions</b> . . . . .	253
<b>Schedule 4</b>	<b>Dictionary</b> . . . . .	254
 <b>Endnotes</b>		
1	Index to endnotes . . . . .	273
2	Date to which amendments incorporated . . . . .	273
3	Key . . . . .	274
4	Table of reprints . . . . .	274
5	Tables in earlier reprints . . . . .	275
6	List of legislation . . . . .	275
7	List of annotations . . . . .	288
8	List of forms notified or published in the gazette . . . . .	316

# **Transport Operations (Road Use Management) Act 1995**

[as amended by all amendments that commenced on or before 28 February 2007]

**An Act about road management and other purposes related to transport**

## **Chapter 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Transport Operations (Road Use Management) Act 1995*.

### **3 Objectives**

- (1) The overall objectives of this Act are, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, to—
  - (a) provide for the effective and efficient management of road use in the State; and
  - (b) provide a scheme for managing the use of the State's roads that will—
    - (i) promote the effective and efficient movement of people, goods and services; and
    - (ii) contribute to the strategic management of road infrastructure in ways consistent with the *Transport Infrastructure Act 1994*; and
    - (iii) improve road safety and the environmental impact of road use in ways that contribute to overall transport effectiveness and efficiency; and

*Transport Operations (Road Use Management) Act  
1995*

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- (iv) support a reasonable level of community access and mobility in support of government social justice objectives; and
- (c) provide for the effective and efficient management of vehicle use in a public place.
- (2) This Act establishes a scheme to allow—
  - (a) identification of vehicles, drivers and road users; and
  - (b) establishment of performance standards for vehicles, drivers and road users; and
  - (c) establishment of rules for on-road behaviour; and
  - (d) monitoring of compliance with this Act, including by using alternative compliance schemes; and
  - (e) management of non-performing vehicles, drivers and road users; and
  - (f) control of access to the road network, or parts of the road network, for vehicles, drivers and road users; and
  - (g) management of traffic to enhance safety and transport efficiency.

**4 Achieving an appropriate balance between safety and cost**

- (1) Although it may be possible to regulate to achieve the highest level of safety, doing so would ignore the impact of the regulation on the effectiveness and efficiency of road use.
- (2) Therefore, this Act acknowledges the need to achieve an appropriate balance between safety, and the costs that regulation imposes on road users and the community.

**5 Definitions—the dictionary**

- (1) A dictionary in schedule 4 defines particular words used in this Act.
- (2) Definitions found elsewhere in the Act are signposted in the dictionary.

## **6 Act binds everyone, including government entities**

- (1) In this section—  
*government entity* includes—
  - (a) the State, the Commonwealth or another State; or
  - (b) an instrumentality or agent of the State, the Commonwealth or another State.
- (2) This Act binds everyone, including every government entity.
- (3) However, a regulation may exempt a government entity from this Act or a provision of this Act.

# **Chapter 2 Responsibilities for road use management strategies and programs**

## **Part 1 Road use management strategies**

### **7 Development of strategies**

- (1) The chief executive must, from time to time, develop for the Minister's approval a road use management strategy designed to give effect to the transport coordination plan in accordance with this Act's objectives.
- (2) In developing a road use management strategy, the chief executive must take reasonable steps to engage in public consultation.
- (3) The Minister may, at any time, direct the chief executive—
  - (a) to prepare a new road use management strategy for the Minister's approval; or
  - (b) to amend a road use management strategy.

- (4) The Minister may—
  - (a) approve a road use management strategy submitted for approval; or
  - (b) require the chief executive to amend a road use management strategy submitted for approval.

## **8 Contents of strategies**

- (1) A road use management strategy must include—
  - (a) a statement of the specific objectives to be achieved; and
  - (b) road use management initiatives; and
  - (c) criteria for deciding priorities for government spending on road use management initiatives; and
  - (d) appropriate performance indicators for deciding whether, and to what extent, the strategy's objectives have been achieved.
- (2) A road use management strategy must aim to provide an adequate framework for coordinating and integrating road use management policies as between the different transport modes and levels of government.
- (3) A road use management strategy may also take into account agreements about transport between the State and the Commonwealth, a local government or another State.
- (4) A road use management strategy for the SEQTA area under the *Transport Planning and Coordination Act 1994* must not be inconsistent with, and must give effect to any integrated regional transport plan in force for the area.

## **9 Tabling of strategies**

The Minister must table a copy of each road use management strategy, and each amendment of a road use management strategy, approved by the Minister in the Legislative Assembly within 5 sitting days after it is approved.

## **Part 2                      Road use implementation programs**

### **10            Development of programs**

- (1) Before the start of each financial year, the chief executive must develop, for the Minister's approval, a road use implementation program for the year and for 1 or more later years.
- (2) A road use implementation program must include—
  - (a) a statement of the policies, projects and financial provisions for implementing the road use management strategy; and
  - (b) a statement of the performance targets to be achieved.
- (3) A road use implementation program may include a proposal to spend an amount not directly related to road use, if the proposal would contribute to the effectiveness and efficiency of road use management.
- (4) In developing a road use implementation program, the chief executive must take reasonable steps to engage in public consultation.
- (5) A road use implementation program must be made available to the public in the way decided by the Minister.
- (6) The Minister may, at any time, direct the chief executive to amend a road use implementation program.
- (7) The Minister may—
  - (a) approve a road use implementation program submitted for approval; or
  - (b) require the chief executive to amend a road use implementation program submitted for approval.

### **11            Consistency with strategies**

- (1) Subject to the Minister's directions, a road use implementation program must be consistent with a road use management strategy.

- (2) If the Minister's directions result in a road use implementation program being inconsistent with a road use management strategy, the Minister must table a copy of the directions in the Legislative Assembly within 5 sitting days after they are given.

## **12 Report on operation of programs**

Each annual report of the department must include a report on the implementation of the road use implementation program during the year of the report.

# **Part 3 Guidelines**

## **13 Guidelines**

- (1) This section applies to the Minister and chief executive in developing and implementing policies about road use management, and in exercising powers under this Act.
- (2) The Minister and chief executive must endeavour to—
  - (a) achieve an appropriate balance between safety, and the costs that regulation imposes on road users and the community; and
  - (b) establish the benefits and costs of policy alternatives; and
  - (c) take account of national and international benchmarks and best practice; and
  - (d) promote efficiency, affordable quality and cost-effectiveness; and
  - (e) ensure competition is not unjustifiably restricted; and
  - (f) ensure accountability for, and transparency of, decisions affecting road use.

- (3) Each annual report of the department must include a report on how effect has been given to this section during the year of the report.

## **Part 4                      Objectives**

### **14            Objectives**

- (1) The following objectives are, as far as practicable, to be applied by anyone wanting to encourage a high level of road user performance and compliance with this Act—
- (a) information about their obligations under this Act should be made available to road users;
  - (b) voluntary compliance should be sought in preference to enforcement;
  - (c) enforcement should be aimed primarily at deterring noncompliance by road users;
  - (d) enforcement strategies should, accordingly, try to increase road users' perceptions of the risk of being detected if they offend;
  - (e) measures aimed at encouraging compliance should—
    - (i) target the road users who are least likely to comply with this Act; and
    - (ii) try to avoid imposing costs on the road users who are likely to comply voluntarily;
  - (f) appropriate alternative compliance schemes should be used as a way of demonstrating compliance.
- (2) Preventing the continued commission of offences and imposing appropriate penalties should be seen as objectives that support the other objectives in subsection (1).

## Chapter 3 Road user performance and compliance

### Part 1 Alternative compliance

#### 15 Alternative ways of complying with Act

- (1) A person who operates a vehicle (an *operator*) may apply to the chief executive for approval of a scheme (an *alternative compliance scheme*) for an alternative way to comply with a provision of this Act that is prescribed under a regulation.
- (2) The regulation must prescribe the purpose of the prescribed provision.
- (3) An application for approval of an alternative compliance scheme must be in writing.
- (4) The chief executive may approve an alternative compliance scheme only if satisfied it provides an effective way of demonstrating the operator's vehicles, or drivers operating under it in Queensland, achieve the prescribed purpose.
- (5) The chief executive may approve the scheme by written notice to the operator.
- (6) The approval may be given on conditions stated in it and operates for the period stated in it.
- (7) The prescribed provision does not apply to the operator's vehicles or drivers as provided under the scheme while—
  - (a) an approval is in force for the operator; and
  - (b) the operator complies with the scheme, including the conditions of its approval.
- (8) In this section—

*interstate scheme* means a scheme approved as an alternative compliance scheme under a corresponding law to this part.

*scheme* includes an interstate scheme.

## Part 1A                      Approvals

### 17A    Definition

In this part—

**approval** includes accreditation, certificate, consent, exemption, licence, permit and registration given or granted by the chief executive under this Act but does not include the following—

- (a) an approval under section 166;<sup>1</sup>
- (b) a Queensland driver licence;
- (c) an authorised scheme under chapter 5, part 7A;
- (d) the authorisation, under chapter 5, part 7A, of a person to perform a role under an authorised scheme.

### 17B    Granting, renewing or refusing approval

- (1) A regulation may provide for the granting, issuing or renewing of, or refusing to grant or renew, an approval.
- (2) Without limiting subsection (1), a regulation may authorise the chief executive to refuse to grant or renew an approval prescribed under a regulation, other than a permit under section 111,<sup>2</sup> if the applicant or holder has been—
  - (a) convicted of a disqualifying offence; or
  - (b) charged with a disqualifying offence and the charge has not been finally disposed of.
- (3) If a regulation made under subsection (1) authorises the chief executive to grant or renew an approval, the chief executive may ask the commissioner for a written report about the criminal history of the applicant for, or holder of, the approval.

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1    Section 166 (Official traffic sign approvals)

2    Section 111 (Parking permits for people with disabilities)

*Transport Operations (Road Use Management) Act  
1995*

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- (4) If requested, the commissioner must give the chief executive a written report about the criminal history of the applicant or holder—
- (a) that is in the commissioner's possession; or
  - (b) to which the commissioner ordinarily has access through arrangements with the police service of the Commonwealth or another State.
- (5) In this section—

**approval** does not include an approval for an alternative compliance scheme under section 15.

**criminal history** of a person—

- (a) means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than a conviction for which the rehabilitation period has expired but the conviction has not been revived as prescribed by section 11 of that Act; and
- (b) despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*, includes a charge made against the person for an offence, whether made in Queensland or elsewhere, other than a charge the proceedings for which have ended without the person being convicted.

## **18 Grounds for amending, suspending or cancelling approvals**

Each of the following is a ground for amending, suspending or cancelling an approval—

- (a) the approval was issued because of a document or representation that is—
  - (i) false or misleading; or
  - (ii) obtained or made in another improper way;
- (b) the holder of the approval has contravened a condition of the approval;
- (c) the holder has been convicted of—

*Transport Operations (Road Use Management) Act  
1995*

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- (i) an offence against this Act or a corresponding law;  
or
- (ii) for the holder of an approval prescribed under a regulation—a disqualifying offence;
- (d) for the registration of a motor vehicle with a GVM of more than 4.5t—the vehicle has been used to commit an offence against this Act or a corresponding law;
- (e) for an approval of an alternative compliance scheme—
  - (i) the scheme is not, or is no longer, an effective way of demonstrating the operator’s vehicles or drivers operating under it in Queensland achieve the relevant purpose prescribed under section 15(2); or
  - (ii) for an interstate scheme—the approval under a corresponding law to this chapter is amended, suspended or cancelled;
- (f) for a permit under section 111(1)(a)<sup>3</sup>—the holder’s ability to walk is no longer impaired;
- (g) for an approval that exempts a person from complying with a provision of this Act—
  - (i) public safety has been endangered, or is likely to be endangered because of the approval; or
  - (ii) transport infrastructure within the meaning of the *Transport Infrastructure Act 1994* has been damaged, or is likely to be damaged because of the approval;
- (h) for any approval other than an approval mentioned in paragraph (g)—public safety has been endangered, or is likely to be endangered, because of the approval;
- (i) the chief executive considers it necessary in the public interest.

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3 Section 111 (Parking permits for people with disabilities)

## **19 Procedure for amending, suspending or cancelling approvals**

- (1) If the chief executive considers a ground exists to amend, suspend or cancel an approval, (the *proposed action*), the chief executive must give the holder written notice—
  - (a) stating the proposed action; and
  - (b) stating the ground for the proposed action; and
  - (c) outlining the facts and circumstances forming the basis for the ground; and
  - (d) if the proposed action is to amend the approval (including a condition of the approval)—stating the proposed amendment; and
  - (e) if the proposed action is to suspend the approval—stating the proposed suspension period; and
  - (f) inviting the holder to show (within a stated time of at least 28 days) why the proposed action should not be taken.
  
- (2) If, after considering all written representations made within the stated time, the chief executive still considers a ground exists to take the proposed action, the chief executive may—
  - (a) if the proposed action was to amend the approval—amend the approval; or
  - (b) if the proposed action was to suspend the approval—suspend the approval for no longer than the period stated in the notice; or
  - (c) if the proposed action was to cancel the approval—
    - (i) amend the approval; or
    - (ii) suspend the approval for a period, including on the condition that—
      - (A) if the grounds for taking action under this section are capable of being remedied by the holder, the holder remedy the grounds to the chief executive's reasonable satisfaction within a reasonable time before the suspension period ends; and

*Transport Operations (Road Use Management) Act  
1995*

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- (B) if the holder fails to remedy the grounds in accordance with subparagraph (A), the chief executive may cancel the approval under section 19A; or
    - (iii) cancel the approval.
- (3) The chief executive must inform the holder of the decision by written notice.
- (4) If the chief executive decides to amend, suspend or cancel the approval, the notice must state—
  - (a) the reasons for the decision; and
  - (b) if the approval is suspended on the condition mentioned in subsection (2)(c)(ii), the approval may be cancelled under section 19A if the holder fails to comply with the condition; and
  - (c) that the holder may—
    - (i) under section 65—ask for the decision to be reviewed and appeal against the reviewed decision; and
    - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.
- (5) The decision takes effect on the later of the following—
  - (a) the day the notice is given to the holder;
  - (b) the day stated in the notice.
- (6) However, despite subsection (1), if the chief executive considers it necessary in the public interest, the chief executive may, by written notice given to the holder, immediately suspend the approval until the earliest of the following—
  - (a) the chief executive informs the holder of the chief executive's decision by notice under subsection (3), given after complying with subsections (1) and (2);
  - (b) the end of 56 days after the notice is given to the holder.

*Transport Operations (Road Use Management) Act  
1995*

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- (7) If the chief executive immediately suspends the approval, the notice must state—
- (a) the reasons for the decision; and
  - (b) that the holder may—
    - (i) under section 65—ask for the decision to be reviewed and appeal against the reviewed decision; and
    - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.
- (8) Subsections (1) to (7) do not apply—
- (a) if the chief executive proposes to amend the approval only—
    - (i) for a formal or clerical reason; or
    - (ii) in another way that does not adversely affect the holder's interests; or
  - (b) if the holder asks the chief executive to amend or cancel the approval and the chief executive proposes to give effect to the request.
- (9) The chief executive may amend or cancel an approval under subsection (8) by written notice given to the holder.

**19A Cancelling suspended approval for failing to take remedial action**

- (1) This section applies if the chief executive—
- (a) suspends an approval on the condition mentioned in section 19(2)(c)(ii); and
  - (b) reasonably believes the holder has failed to comply with the condition.
- (2) The chief executive may by written notice given to the holder cancel the approval.
- (3) The notice must state—
- (a) the reasons for the chief executive's belief; and



only if satisfied the person has the necessary expertise to be an accredited person to perform the functions.

- (2) A regulation may provide for accreditation documents for accredited persons.

## 22 Powers

- (1) An authorised officer or accredited person—
  - (a) has the powers given under this or another Act; and
  - (b) is subject to the directions of the chief executive or commissioner in exercising the powers.
- (2) The powers may be limited—
  - (a) under a regulation; or
  - (b) under a condition of appointment; or
  - (c) by written notice given by the chief executive or commissioner to the authorised officer or accredited person.

## 23 Appointment conditions

- (1) An authorised officer or accredited person holds office on the conditions stated in the instrument of appointment.
- (2) An authorised officer or accredited person—
  - (a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and
  - (b) if the conditions of appointment provide—ceases holding office on ceasing to hold another office stated in the appointment conditions (the *main office*); and
  - (c) may resign by signed notice given to the chief executive or commissioner.
- (3) However, an authorised officer or accredited person may not resign from the office under this Act (the *secondary office*) if a term of employment to the main office requires the officer or person to hold the secondary office.

## **24 Identity cards**

- (1) This section does not apply to an authorised officer who is a police officer.
- (2) The chief executive must give each authorised officer an identity card.
- (3) The identity card must—
  - (a) contain a recent photo of the person; and
  - (b) be signed by the person; and
  - (c) identify the person as an authorised officer; and
  - (d) state an expiry date.
- (4) A person who stops being an authorised officer must return the person's identity card to the chief executive as soon as practicable (but within 21 days) after the person stops being an authorised officer, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

- (5) This section does not prevent the giving of a single identity card to a person for this and other Acts.

## **25 Production or display of identity cards**

- (1) This section does not apply to a police officer.
- (2) An authorised officer may exercise a power in relation to a person only if—
  - (a) the officer first produces the officer's identity card for the other person's inspection; or
  - (b) the officer has the officer's identity card displayed so it is clearly visible to the person.
- (3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the officer must produce the identity card as soon as it is practicable.

## **Part 3 Powers of authorised officers**

### **Division 1 Powers for places**

#### **26 Entry to places**

- (1) An authorised officer may enter a place if—
  - (a) its occupier consents to the entry; or
  - (b) the entry is authorised by a warrant; or
  - (c) it is mentioned in a licence or other document prescribed under a regulation as a place of business, or another place, required to be open to inspection and the entry is made when the place is—
    - (i) open for the conduct of business or otherwise open for entry; or
    - (ii) required under the licence or document to be open for inspection; or
  - (d) for a place other than in a dwelling house—
    - (i) the officer reasonably believes—
      - (A) a vehicle is for sale in the place; and
      - (B) the place is open for entry to anyone interested in purchasing the vehicle; and
    - (ii) the entry is made between sunrise and sunset; or
  - (e) the officer reasonably believes a dangerous situation exists in the place and it is necessary for the officer to enter it to take action under section 51E to prevent the danger.
- (2) An authorised officer, without the occupier's consent or a warrant, may—
  - (a) enter a public place when the place is open to the public; or
  - (b) enter the land around premises to ask its occupier for consent to enter the premises.

## **27 Consent to entry**

- (1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the officer or another officer entering the place.
- (2) Before asking for the consent, the officer must inform the occupier—
  - (a) of the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the officer may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state that—
  - (a) the occupier was informed—
    - (i) of the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the occupier gives an authorised officer consent to enter the place and exercise powers under this Act; and
  - (c) the time and date the consent was given.
- (5) If the occupier signs an acknowledgment of consent, the officer must immediately give a copy to the occupier.
- (6) Subsection (7) applies to a court if—
  - (a) a question arises, in a proceeding in or before the court, whether the occupier of a place consented to an authorised officer entering the place under this Act; and
  - (b) an acknowledgment under this section is not produced in evidence for the entry; and
  - (c) it is not proved that the occupier consented to the entry.
- (7) The court may presume that the occupier did not consent.

## **28 Warrants to enter**

- (1) An authorised officer may apply to a magistrate for a warrant to enter a place.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require additional information supporting the application to be given by statutory declaration.

- (4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against a transport Act; and
  - (b) the evidence is, or may be within the next 7 days, at the place.
- (5) The warrant must state—
  - (a) that an authorised officer may, with necessary and reasonable help and force, enter the place and exercise the officer's powers under this Act; and
  - (b) the offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours when the place may be entered; and
  - (e) the date, within 7 days after the warrant's issue, the warrant ends.

## **29 Warrants—applications made other than in person**

- (1) An authorised officer may apply for a warrant by phone, fax, radio or another form of communication if the officer considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the officer's remote location.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) Before applying for the warrant, the officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The officer may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately fax a copy to the officer if it is reasonably practicable to fax a copy.
- (5) If it is not reasonably practicable to fax a copy to the officer—
  - (a) the magistrate must—
    - (i) tell the officer what the terms of the warrant are; and
    - (ii) tell the officer the date and time the warrant was issued; and
  - (b) the officer must complete a form of warrant (**warrant form**) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the warrant; and
    - (iii) the warrant's terms.
- (6) The facsimile warrant, or the warrant form properly completed by the officer, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.
- (7) The officer must, at the first reasonable opportunity, send the magistrate—
  - (a) the sworn application; and
  - (b) if the officer completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.

*Transport Operations (Road Use Management) Act  
1995*

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- (9) Subsection (10) applies to a court if—
- (a) a question arises, in a proceeding in or before the court, whether a power exercised by an authorised officer was not authorised by a warrant issued under this section; and
  - (b) the warrant is not produced in evidence.
- (10) The court must presume that the exercise of the power was not authorised by a warrant issued under this section, unless the contrary is proved.

### **30 General powers after entering places**

- (1) This section applies to an authorised officer who enters a place with the occupier's consent or a warrant.
- (2) The officer may, for monitoring or enforcing compliance with this Act—
  - (a) search any part of the place; or
  - (b) inspect, measure, test, photograph or film the place or anything in the place; or
  - (c) take samples of anything in the place; or
  - (d) copy a document in the place; or
  - (e) take the persons, equipment and materials the officer reasonably requires for exercising a power under this Act into the place; or
  - (f) require a person in the place to give the officer reasonable help to exercise the powers mentioned in paragraphs (a) to (e).
- (3) A person must comply with a requirement under subsection (2)(f), unless the person has a reasonable excuse.  
Maximum penalty—60 penalty units.
- (4) A requirement under subsection (2)(f) does not include a requirement to produce a document or give information.<sup>4</sup>

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<sup>4</sup> For the power to require documents to be produced see section 49. For the power to require information see section 50.

## **Division 2                      Powers for vehicles**

### **31            Power to stop private vehicles**

- (1) An authorised officer, who is not a police officer, may require the person in control of a private vehicle to stop the vehicle—
  - (a) at a checkpoint—only if the vehicle is a type of vehicle that the officer is stopping at the checkpoint by reference to objective criteria that are part of a program approved under section 47;<sup>5</sup> or
  - (b) if the officer reasonably believes the vehicle does not comply with a transport Act.
- (2) In addition, an authorised officer may require the person in control of a private vehicle to stop the vehicle to find out whether the vehicle is carrying explosives within the meaning of the *Explosives Act 1999* if—
  - (a) the officer is also an inspector under the *Explosives Act 1999*; and
  - (b) the officer reasonably believes the vehicle is carrying explosives within the meaning of the *Explosives Act 1999*.
- (3) A requirement may be made under subsection (1) or (2) in a way prescribed under a regulation.
- (4) A person must comply with a requirement under subsection (1) or (2), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

*Example of a reasonable excuse—*

It is a reasonable excuse for a person not to comply with a requirement if—

- (a) the person reasonably believes that to immediately comply would endanger the person or someone else; and
- (b) the person complies with the requirement at the first reasonable opportunity.

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5      Section 47 (Power to set up checkpoints)

- (5) A regulation may impose restrictions on the stopping of private vehicles by authorised officers who are not police officers, including restrictions on stopping private vehicles at night.

### **32 Power to stop heavy vehicles**

- (1) An authorised officer may require the person in control of a heavy vehicle to stop the vehicle to check whether the vehicle or person is complying with a transport Act.
- (2) In addition, an authorised officer who is also an inspector under the *Explosives Act 1999* may require the person in control of a heavy vehicle to stop the vehicle to check whether the vehicle is carrying explosives within the meaning of the *Explosives Act 1999*.
- (3) The requirement may be made in a way prescribed under a regulation.
- (4) Without limiting subsection (3), the requirement may require the person to move the vehicle in preparation for stopping it.

*Examples—*

- 1 a requirement to change lanes
  - 2 a requirement to exit a motorway at a particular exit
  - 3 a requirement to enter a heavy vehicle inspection site
- (5) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—120 penalty units.

### **33 Power to require vehicles to be moved**

- (1) This section applies to a motor vehicle that is stationary on a road or has been stopped under section 31 or 32.
- (2) To enable an authorised officer to exercise a power under a transport Act, the officer may require the person in control of the vehicle to move to a stated reasonable place.

*Transport Operations (Road Use Management) Act  
1995*

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*Example—*

The officer may require the person to move the vehicle onto a weighing or testing device.

- (3) However, the place must not be more than—
  - (a) for a private vehicle—5km from where the vehicle was stopped; or
  - (b) for a heavy vehicle—25km from where the vehicle was stopped.
- (3A) Despite subsection (3), a stated reasonable place for a heavy vehicle may be any place along the vehicle's route to its destination or within 25km of the route.
- (4) The person must comply with the requirement, unless the person has a reasonable excuse.

*Maximum penalty—*

- (a) for a private vehicle—60 penalty units; or
  - (b) for a heavy vehicle—120 penalty units.
- (5) For a heavy vehicle, if the person does not comply with the requirement, the officer may move the vehicle to the required place.

## **34 Power to inspect vehicles**

- (1) This section applies to a motor vehicle that—
  - (a) is stationary on a road; or
  - (b) has been stopped under section 31 or 32; or
  - (c) is in a place an authorised officer has entered under section 26.
- (2) To check whether the vehicle complies with a transport Act, an authorised officer may inspect or test it.
- (3) To enable the officer to inspect or test the vehicle, the officer may do anything reasonable to be done for the inspection or test.

*Transport Operations (Road Use Management) Act  
1995*

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*Examples of what may be reasonable for an inspection or test—*

The officer may—

- (a) enter the vehicle; or
  - (b) unlock, unfasten, open or remove any part of it; or
  - (c) move its load.
- (4) To avoid any doubt, the officer does not have the powers mentioned in section 35.

**35 Power to enter vehicles etc. other than for vehicle inspection**

- (1) This section applies to an authorised officer who reasonably believes—
- (a) a vehicle in a place the officer has entered under section 26 is used, or is being used, to transport dangerous goods; or
  - (b) a heavy vehicle is being, or has just been, used to transport dangerous goods; or
  - (c) a vehicle is being, or has just been, used to commit an offence against a transport Act; or
  - (d) a vehicle, or a thing in the vehicle, may provide evidence of an offence against a transport Act that is being, or has just been, committed; or
  - (e) the driver of a heavy vehicle is required under a regulation to keep a document relating to driving hours.
- (2) The officer may, for enforcing a transport Act—
- (a) enter the vehicle, using necessary and reasonable help and force;<sup>6</sup> or
  - (b) search any part of the vehicle; or
  - (c) inspect, measure, test, photograph or film the vehicle or anything in the vehicle; or

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<sup>6</sup> In addition, to enable the vehicle to be entered, the officer may stop the vehicle under section 31 (Power to stop private vehicles) or 32 (Power to stop heavy vehicles).

*Transport Operations (Road Use Management) Act  
1995*

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- (d) take samples of the vehicle or anything in the vehicle; or
  - (e) copy a document in the vehicle; or
  - (f) move the vehicle's load; or
  - (g) take the persons, equipment and materials the officer reasonably requires into the vehicle.
- (3) An authorised officer may not exercise the powers under subsection (2) in relation to the following things found in a vehicle—
- (a) a personal possession;
  - (b) for a private vehicle—a document that is not issued, or required to be kept, under a transport Act or a corresponding law.

### **36 Power to require vehicle inspections**

- (1) If an authorised officer reasonably believes a vehicle may not comply with this Act, the officer may require its owner or registered operator to have it inspected at a stated reasonable time and place.
- (2) The requirement—
- (a) must be made by notice in the approved form; or
  - (b) if for any reason it is not practicable to give the notice—may be made orally and confirmed by notice in the approved form as soon as practicable.
- (3) A person must comply with a requirement under subsection (1), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—60 penalty units.

### **37 Power to prohibit use of vehicles**

- (1) If an authorised officer reasonably believes a vehicle is unsafe, the officer may, by notice in the approved form, require the owner, registered operator or person in control of the vehicle not to use it, or permit it to be used, on a road or public place until—

*Transport Operations (Road Use Management) Act  
1995*

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- (a) it is inspected at a stated reasonable place and found to comply with this Act; or
- (b) stated reasonable action is taken in relation to the vehicle to ensure it complies with this Act.

*Examples of action that may be reasonable under paragraph (b)—*

- 1 the vehicle's load be adjusted or moved
  - 2 stated repairs be carried out to the vehicle and the vehicle be inspected at a stated place and found to comply with this Act
- (2) A person must not contravene, or attempt to contravene, a requirement under subsection (1), unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—

- (a) for a private vehicle—60 penalty units; or
  - (b) for a heavy vehicle—120 penalty units.
- (3) If the person in control of a vehicle who receives a notice is not also the owner or registered operator of the vehicle, the person must inform the owner or registered operator of the receipt of the notice as soon as it is practicable.

Maximum penalty for subsection (3)—

- (a) for a private vehicle—60 penalty units; or
- (b) for a heavy vehicle—120 penalty units.

### **38 Power to prohibit persons driving**

- (1) This section applies to the person in control of a motor vehicle that is stationary on a road or has been stopped under section 31 or 32.
- (2) If an authorised officer reasonably believes the person would contravene this Act by driving a vehicle, the officer may, by notice in the approved form, require the person not to drive a vehicle in contravention of this Act.

*Transport Operations (Road Use Management) Act  
1995*

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- (3) A person must not contravene, or attempt to contravene, a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—

- (a) for a private vehicle—60 penalty units; or  
(b) for a heavy vehicle—120 penalty units.

**39 Powers to enable effective and safe exercise of other powers**

- (1) An authorised officer may require the person in control of a vehicle to give the officer reasonable help to enable the officer to effectively exercise a power under this Act in relation to the vehicle.

*Examples of requirements for effectively exercising powers—*

- 1 requiring the vehicle to be held stationary on a weighing device to enable the vehicle to be weighed
- 2 requiring the vehicle's bonnet to be opened to enable the engine to be inspected

- (2) An authorised officer may require the person in control of a vehicle, or a person who is in or just left the vehicle, to do or not to do anything the officer reasonably believes is necessary—

- (a) to enable the officer to safely exercise a power under a transport Act in relation to the vehicle; or  
(b) to preserve the safety of the officer, the person or other persons.

*Examples of safety requirements—*

- 1 requiring the persons in a vehicle to get out of the vehicle while the officer inspects the vehicle's undercarriage
- 2 requiring a person who has just left the vehicle to stand back from the carriageway of the road
- 3 requiring a person to remain in control of a vehicle for a reasonable time

- (3) A person must comply with a requirement under subsection (1) or (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—

- (a) for a private vehicle—60 penalty units; or
- (b) for a heavy vehicle—120 penalty units.

### **39A Additional power for Explosives Act 1999 for particular authorised officers**

- (1) This section applies if an authorised officer who is also an inspector under the *Explosives Act 1999* stops a vehicle under section 31(2) or 32(2).
- (2) The authorised officer may check the vehicle to find out—
  - (a) whether the vehicle is carrying explosives within the meaning of the *Explosives Act 1999*; and
  - (b) if the vehicle is carrying explosives—whether the explosives are being carried as required under the *Explosives Act 1999*.
- (3) The authorised officer may exercise powers the person has under this Act or the *Explosives Act 1999*, or both.

## **Division 3 Power to seize evidence**

### **40 Power to seize evidence**

- (1) An authorised officer who enters a place under this part with the occupier's consent may seize a thing in the place if—
  - (a) the officer reasonably believes the thing is evidence of an offence against a transport Act; and
  - (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (2) An authorised officer who enters a place under this part with a warrant may seize the evidence for which the warrant was issued.

*Transport Operations (Road Use Management) Act  
1995*

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- (3) An authorised officer may also seize anything else in a place mentioned in subsection (1) or (2) if the officer reasonably believes—
  - (a) the thing is evidence of an offence against a transport Act; and
  - (b) the seizure is necessary to prevent the thing being hidden, lost, destroyed or used to continue or repeat the offence.
- (4) An authorised officer who enters a vehicle under this part may seize anything in the vehicle if the officer reasonably believes the thing is evidence of an offence against a transport Act.

#### **41 Powers supporting seizure**

- (1) Having seized a thing under this division, an authorised officer may—
  - (a) move the thing from the place or vehicle where it was seized (the *place of seizure*); or
  - (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

*Examples of restricting access to a thing—*

- 1 sealing a thing and marking it to show access to it is restricted
  - 2 sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted
- (2) If an authorised officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with it without an authorised officer's approval.

Maximum penalty—60 penalty units.

- (3) To enable a thing to be seized, an authorised officer may require the person in control of it to take it to a stated reasonable place by a stated reasonable time.
- (4) The requirement—
  - (a) must be made by notice in the approved form; or

*Transport Operations (Road Use Management) Act  
1995*

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- (b) if for any reason it is not practicable to give the notice—may be made orally and confirmed by notice in the approved form as soon as practicable.
- (5) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

#### **42 Receipt for seized things**

- (1) As soon as practicable after an authorised officer seizes a thing, the officer must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the officer must leave the receipt at the place of seizure, in a reasonably secure way and in a conspicuous position.
- (3) An authorised officer need not give a receipt for a seized thing if—
  - (a) the thing is unattended when seized; and
  - (b) the officer does not know who the owner of the thing is; and
  - (c) the officer cannot find the owner after making reasonable inquiries (given the thing's value).
- (4) The receipt must generally describe each thing seized and its condition.

#### **43 Forfeiture of seized things**

- (1) A seized thing is forfeited to the State if the chief executive or commissioner—
  - (a) cannot find its owner after making reasonable inquiries (given the thing's value); or
  - (b) is unable, after making reasonable efforts, to return it to its owner; or
  - (c) reasonably believes—

*Transport Operations (Road Use Management) Act  
1995*

---

- (i) possession of the thing is an offence against a transport Act; or
  - (ii) it is necessary to keep the thing to prevent it being used to commit an offence against a transport Act; or
  - (iii) the thing does not comply with a transport Act and cannot be repaired or otherwise changed to comply with a transport Act; or
  - (iv) the thing is inherently unsafe.
- (2) If the chief executive or commissioner decides to forfeit a thing under subsection (1)(c), the chief executive or commissioner must inform the owner of the thing of the decision by written notice.
- (3) Subsection (2) does not apply if the chief executive or commissioner can not find the owner after making reasonable inquiries (given the thing's value).
- (4) The notice must state—
- (a) the reasons for the decision; and
  - (b) the owner may—
    - (i) under section 65—ask for the decision to be reviewed and appeal against the reviewed decision; and
    - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

#### **44 Dealing with forfeited things**

- (1) On the forfeiture of a thing—
- (a) it becomes the State's property; and
  - (b) it may be dealt with as the chief executive or commissioner considers appropriate.
- (2) The chief executive or commissioner must not deal with the thing until any review of, or appeal against, the decision to forfeit the thing is decided.

#### **45 Access to seized things**

Until a seized thing is forfeited or returned, an authorised officer must allow its owner—

- (a) to inspect it; or
- (b) if it is a document—to copy it.

#### **46 Return of seized things**

- (1) If a seized thing has not been forfeited, the chief executive or commissioner must return it to its owner at the end of—
  - (a) 6 months; or
  - (b) if a proceeding for an offence involving it is started within the 6 months—the proceeding and any appeal from the proceeding.
- (2) Despite subsection (1), the authorised officer must return the seized thing to its owner immediately the officer stops being satisfied its retention as evidence is necessary.

### **Division 3A Additional seizure powers for certain vehicles for sale**

#### **46A Seizing certain vehicles for sale**

- (1) This section applies if—
  - (a) an authorised officer reasonably believes a vehicle is for sale on a place that is not—
    - (i) the premises of a person licensed to conduct the business of a motor dealer under the *Property Agents and Motor Dealers Act 2000*; or
    - (ii) a private dwelling or its curtilage; and
  - (b) a document specified under a regulation for the vehicle is—
    - (i) not displayed on the vehicle in the way required under the regulation; or

*Transport Operations (Road Use Management) Act*  
1995

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- (ii) if a document is displayed on the vehicle as required under the regulation and the authorised officer has inspected the vehicle under section 34—in the reasonable opinion of the officer, false or misleading in a material particular; and
  - (c) the authorised officer reasonably believes an offence that may be constituted by anything mentioned in paragraph (b) involving the vehicle has been committed; and
  - (d) the authorised officer, after making reasonable inquiries—
    - (i) can not find the person (the *seller*) selling the vehicle, whether as owner or otherwise; or
    - (ii) if the seller is found, reasonably believes a name or address given by the seller is false; and
  - (e) while making the inquiries, the authorised officer warned any person to whom the officer has made an inquiry about the vehicle that it may be seized if the authorised officer—
    - (i) can not find the seller; or
    - (ii) reasonably believes the things mentioned in paragraph (d)(ii).
- (2) The authorised officer may seize the vehicle and move it from the place where it was seized.
- (3) A person may reclaim the vehicle by—
- (a) satisfying an authorised officer the person claiming the vehicle is the owner; and
  - (b) paying the reasonable costs of seizing, moving and storing the vehicle and the seizure notice under subsection (4).
- (4) The chief executive must, as soon as possible after a vehicle is seized under this section, give notice (a *seizure notice*) of its seizure in a newspaper circulating in the locality where the vehicle was seized.

- (5) The seizure notice must state the following—
  - (a) a description of the vehicle and any registration number displayed on it;
  - (b) where and when it was seized;
  - (c) a statement to the effect of subsection (3).
- (6) If the vehicle is not reclaimed within 1 month after the seizure notice is published, the chief executive may sell the vehicle by public auction.
- (7) The proceeds of the sale of the vehicle must be applied as follows—
  - (a) firstly, in payment of the expenses of the sale;
  - (b) secondly in payment of the costs of seizing, moving and storing the vehicle and the seizure notice;
  - (c) thirdly, in payment of the balance to the owner, or if the owner cannot be found, into the consolidated fund.
- (8) An authorised officer is taken to have made reasonable inquiries to find a person mentioned in subsection (1)(d) if the officer has not been able to find the person after making reasonable inquiries—
  - (a) at an address indicated on or near the vehicle not more than 10km from the vehicle; or
  - (b) by making a telephone call to a phone number displayed on or near the vehicle.
- (9) Sections 42 and 45 apply to a vehicle seized under this section with all necessary changes.

## **Division 4                      General powers**

### **47            Power to set up checkpoints**

- (1) The chief executive may approve a program under which authorised officers may set up checkpoints to inspect motor vehicles to ensure the vehicles comply with a transport Act.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) Also, the chief executive may approve a program under which authorised officers who are also inspectors under the *Explosives Act 1999* may set up checkpoints to inspect motor vehicles to ensure compliance with that Act.
- (3) Under an approved program, an authorised officer may set up a checkpoint on a road, or elsewhere with its occupier's consent.

#### **48 Power to require name and address**

- (1) This section applies if—
  - (a) an authorised officer finds a person committing an offence against a transport Act; or
  - (b) an authorised officer finds a person in circumstances that lead, or has information that leads, the officer to suspect, on reasonable grounds, the person has just committed an offence against a transport Act; or
  - (c) a vehicle is stationary on a road or has been stopped under section 32.
- (2) The officer may require the following person to state the person's name and address—
  - (a) for subsection (1)(a) or (b)—the person mentioned in the relevant paragraph;
  - (b) for subsection (1)(c)—the person in control of the vehicle mentioned in the paragraph.
- (3) When making the requirement, the officer must warn the person it is an offence to fail to state the person's name or address, unless the person has a reasonable excuse.
- (4) The officer may require the person to give evidence of the correctness of the stated name or address if the officer suspects, on reasonable grounds, the stated name or address is false.
- (5) A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- (6) A person does not commit an offence against subsection (5) if—
- (a) the person was required to state the person's name and address by an authorised officer who suspected the person had committed an offence against this Act; and
  - (b) the person is not proved to have committed the offence.

#### **49 Power to require documents to be produced**

- (1) An authorised officer may require a person to produce for inspection a document issued, or required to be kept, under a transport Act or a corresponding law.
- (2) The person must comply with the requirement, unless the person has a reasonable excuse.
- Maximum penalty—60 penalty units.
- (3) The officer may keep the document to make a note on it or copy it.
- (4) If the officer copies it, the officer may require the person responsible for keeping the document to certify the copy as a true copy of the document.
- (5) The person must certify the copy, unless the person has a reasonable excuse.
- Maximum penalty—60 penalty units.
- (6) The officer must return the document to the person as soon as practicable after making the note or copying it.

#### **50 Power to require information**

- (1) In this section—
- information* includes a document containing information.
- information offence* means an offence against a transport Act that—
- (a) involves—
    - (i) a heavy vehicle; or

*Transport Operations (Road Use Management) Act  
1995*

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- (ii) a contravention of a regulation made under section 148; and
  - (b) is declared under a regulation to be an information offence.
- (2) This section applies if an authorised officer reasonably believes—
  - (a) an information offence has been committed; and
  - (b) a person may be able to give information about the offence.
- (3) The officer may require the person to give information about the offence.
- (3A) The requirement may be made—
  - (a) orally; or
  - (b) by written notice requiring the person to give information about the offence to the officer at a stated reasonable time and place.
- (4) When making the requirement, the officer must warn the person it is an offence to fail to give the information, unless the person has a reasonable excuse.
- (5) The person must give the information, unless the person has a reasonable excuse.

Maximum penalty—120 penalty units.
- (6) It is a reasonable excuse for an individual to fail to give the information if giving the information might tend to incriminate the individual.

### **50AA Power to require information**

- (1) This section applies if the chief executive or commissioner has information that leads the chief executive or commissioner reasonably to suspect that—
  - (a) an information offence has been committed; and
  - (b) a person may be able to give information about the offence.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) The chief executive or commissioner may, by written notice, require the person to give information about the information offence to the chief executive or commissioner.
- (3) The written notice must—
  - (a) require the person to give information about the information offence to the chief executive or commissioner at a stated reasonable time and place; and
  - (b) warn the person it is an offence to fail to give the information, unless the person has a reasonable excuse; and
  - (c) advise the person that it is not a reasonable excuse for the person to fail to give the information because the information might tend to incriminate the person; and
  - (d) advise the person that the information, and any evidence directly or indirectly derived from the information that might tend to incriminate the person, is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.
- (4) The person must give the information, unless the person has a reasonable excuse.

Maximum penalty—120 penalty units.
- (5) It is not a reasonable excuse for the person to fail to give the information because the information might tend to incriminate the person.
- (6) However, the information, and any evidence directly or indirectly derived from the information that might tend to incriminate the person, is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.
- (6A) Subsection (6B) applies if the person is called as a witness in a proceeding against someone else for the information offence.
- (6B) The person is not entitled to refuse to answer a question in relation to the information offence because answering the question might tend to incriminate the person for an information offence (the *particular offence*).

- (6C) However, the person's answer, and any evidence directly or indirectly derived from the answer, is not admissible against the person in a civil or criminal proceeding for an information offence, whether or not the particular offence.
- (6D) Also, nothing in subsection (6B) requires the person to answer a question that might tend to incriminate the person of an offence that is not an information offence.
- (7) In a proceeding for an offence against subsection (4), it is a defence for a person to prove that the information sought was not in fact relevant to the information offence suspected to have been committed.
- (8) The dismissal of an employee because the employee gave information under this section is a harsh, unjust or unreasonable dismissal under the *Industrial Relations Act 1999*, chapter 3.
- (9) In this section—  
*information* includes a document containing information.  
*information offence* means an information offence under section 50.

## Division 5 Remedial action notices

### 50A Power to give remedial action notices

- (1) This section applies if an authorised officer reasonably believes a person—
- (a) has contravened a provision of this Act about the transport of dangerous goods in circumstances that indicate that it is likely the contravention will be repeated; or
  - (b) is contravening a provision of this Act about the transport of dangerous goods.
- (2) The authorised officer may give the person a written notice (a *remedial action notice*) requiring the person to remedy the cause of the contravention.

- (3) The notice must state the following—
- (a) the provision the officer reasonably believes the person has contravened or is contravening;
  - (b) the grounds for the belief;
  - (c) that the person must remedy the contravention within a stated reasonable time.
- (4) The notice may also state the steps the authorised officer reasonably believes are necessary to remedy the contravention, or avoid further contravention, of the provision.
- (5) If the notice relates to a vehicle, it may be given by securely attaching it to the vehicle in a conspicuous position.
- (6) The person must comply with the notice.
- Maximum penalty—the maximum penalty for the contravention of the provision about which the notice is given.
- (7) A person must not remove a remedial action notice from a vehicle before the steps stated in the notice are taken.
- Maximum penalty—135 penalty units.
- (8) However, the person to whom the notice is given does not contravene subsection (7) if the person removes the notice from the vehicle and immediately reads it and reattaches it to the vehicle.

## **Part 4A                      Additional powers of authorised officers to prevent dangerous situation**

### **51A    Application**

This part applies only if an authorised officer reasonably believes a dangerous situation exists.

**51B Additional power to require information or produce document**

- (1) This section applies if the authorised officer reasonably believes a person may be able to give information or produce a document that will help to prevent the dangerous situation.
- (2) The officer may require the person to give the information or produce the document.
- (3) The person must give the information or produce the document unless the person has a reasonable excuse.

Maximum penalty—

- (a) if the contravention results in death or grievous bodily harm to a person—270 penalty units; or
- (b) otherwise—135 penalty units.

**51C Self incrimination no excuse**

- (1) The fact that giving the information or providing the document might tend to incriminate the person is not a reasonable excuse for section 51B(3).
- (2) However, the information or document is not admissible in evidence against the person, other than a corporation, in criminal proceedings apart from proceedings for an offence against sections 52 or 53.

**51D Power to give directions in dangerous situations**

- (1) This section applies if the authorised officer reasonably believes a person is in a position to take steps to prevent the dangerous situation.
- (2) The authorised officer may give the person a written notice (a *dangerous situation notice*) requiring the person to take the steps reasonably necessary to prevent the dangerous situation.
- (3) The notice must state the following—
  - (a) the situation the authorised officer believes is causing the danger;
  - (b) the grounds for the belief;

*Transport Operations (Road Use Management) Act  
1995*

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- (c) the steps the person must take to prevent the danger;
  - (d) that the person must take the steps within a stated reasonable time.
- (4) If the notice relates to a vehicle, it may be given by securely attaching it to the vehicle in a conspicuous position.
- (5) The person must comply with the notice.
- Maximum penalty—
- (a) if the contravention results in death or grievous bodily harm to a person—270 penalty units; or
  - (b) otherwise—135 penalty units.
- (6) A person must not remove a dangerous situation notice from a vehicle before the steps stated in the notice are taken.
- Maximum penalty—135 penalty units.
- (7) However, the person to whom the notice is given does not contravene subsection (6) if the person removes the notice from the vehicle and immediately reads it and reattaches it to the vehicle.

**51E Preventing injury and damage—taking direct action**

- (1) This section applies if the authorised officer reasonably believes—
- (a) a person given a remedial action notice under section 50A or dangerous situation notice has not complied with the notice; or
  - (b) having regard to the nature of the dangerous situation, action under a remedial action or dangerous situation notice is inappropriate to prevent the danger.
- (2) The authorised officer may take, or cause to be taken, the action the officer reasonably believes is necessary to prevent the danger.
- (3) The action an authorised officer may take includes asking someone the officer reasonably believes has appropriate knowledge and experience to help the officer prevent the danger.

- (4) If the person agrees to help, the person is taken to have the powers of an authorised officer to the extent reasonably necessary for the person to help prevent the danger.

## **Part 5                      Legal proceedings**

### **Division 1                Offences**

#### **52        False or misleading statements**

- (1) In this section—  
*official* means the chief executive, the commissioner, an authorised officer or an accredited person.
- (2) A person must not state anything to an official for a transport Act that the person knows is false or misleading in a material particular.  
Maximum penalty—60 penalty units.
- (3) It is enough for a complaint against a person for an offence against subsection (2) to state that the statement made was false or misleading to the person's knowledge.

#### **53        False or misleading documents**

- (1) In this section—  
*official* means the chief executive, the commissioner, an authorised officer or an accredited person.
- (2) A person must not give, for a transport Act, an official a document containing information the person knows is false or misleading in a material particular.  
Maximum penalty—60 penalty units.
- (3) Subsection (2) does not apply to a person if the person, when giving the document—

- (a) informs the official, to the best of the person's ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (4) It is enough for a complaint against a person for an offence against subsection (2) to state that the information given was false or misleading to the person's knowledge.

**53A Proof of giving false and misleading statements and documents**

- (1) This section applies to a proceeding for an offence against section 52 or 53.
- (2) It is sufficient proof the statement was made, or the document was given, to the official to prove it was made or given to a person authorised to receive it.
- (3) It does not matter whether the person was an official or whether the authorisation was a delegation, agency or any other form of authorisation by which someone acts through another.

**54 Obstructing authorised officers or accredited persons**

- (1) A person must not obstruct an official in the exercise of a power, unless the person has a reasonable excuse.  
Maximum penalty—60 penalty units.
- (2) If a person has obstructed an official under subsection (1) and the official decides to exercise the power, the official must, if practicable, warn the person—
  - (a) that the official considers the person's conduct is obstructing the official; and
  - (b) that it is an offence to obstruct the official unless the person has a reasonable excuse.

(3) In this section—

***obstruct*** includes abuse, hinder, insult, intimidate, resist and threaten and attempt to obstruct.

***official*** means an authorised officer or accredited person.

## **55 Impersonating authorised officers or accredited persons**

A person must not pretend to be an authorised officer or accredited person.

Maximum penalty—60 penalty units.

## **56 Using documents voided for non-payment**

(1) This section applies to a person (the ***applicant***) who pays the fee for a licence or other document under a transport Act by cheque or other method of payment.

(1A) However, this section does not apply to a licence or other document specified under a regulation.

(2) If the cheque or payment is not honoured on presentation or is later dishonoured—

(a) the licence or document is void from the day it was issued; and

(b) the applicant must, on demand by the chief executive or commissioner, immediately give the licence or document to the department or a police officer.

(3) If, after the demand—

(a) the applicant fails to immediately give the licence or document to the department or a police officer; or

(b) uses, continues to use, or allows someone else to use, the licence or document; or

(c) a person other than the applicant (the ***other person***) uses, continues to use, or allows someone else to use, the licence or document;

the applicant and the other person commit an offence.

Maximum penalty—60 penalty units.

- (4) It is a defence for the other person to prove he or she did not know a demand had been made under subsection (2)(b).
- (5) If the State incurs expense because a cheque or payment is not honoured or is later dishonoured—
  - (a) the applicant must reimburse the expense; and
  - (b) the amount of the expense may be recovered as a debt payable by the applicant to the State.

**57 Executive officers must ensure corporation complies with transport Act**

- (1) The executive officers of a corporation must ensure the corporation complies with a transport Act.
- (2) If a corporation commits an offence against a provision of a transport Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the maximum penalty for the contravention of the provision by an individual.

- (3) Evidence that a corporation has been convicted of an offence against a provision of a transport Act is evidence each of the corporation's executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
  - (a) if the officer was in a position to influence the corporation's conduct in relation to the offence—that the officer exercised reasonable diligence and took reasonable steps to ensure the corporation complied with the provision; or
  - (b) the officer was not in a position to influence the corporation's conduct in relation to the offence.

**57A Responsibility for acts or omissions of representatives**

- (1) This section applies in a proceeding for an offence against a transport Act.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—
  - (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) An act for a person done, or omitted to be done, by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person unless the person proves—
  - (a) if the person was in a position to influence the representative's conduct in relation to the act or omission—the person exercised reasonable diligence and took reasonable steps to prevent the act or omission; or
  - (b) the person was not in a position to influence the representative's conduct in relation to the act or omission.
- (4) In this section—

***representative*** means—

  - (a) for a corporation—an executive officer, employee or agent of the corporation; or
  - (b) for an individual—an employee or agent of the individual.

**57B Further liability provisions for extended liability offences**

- (1) This section only applies—
  - (a) for an extended liability offence; and
  - (b) to an influencing person.
- (2) If the driver, or other person in control, of a heavy vehicle commits an extended liability offence, an influencing person is also taken to have committed the offence unless the influencing person proves—

*Transport Operations (Road Use Management) Act*  
1995

---

- (a) if the influencing person, or any associate of the influencing person, was in a position to influence the conduct of the driver or other person in relation to the act or omission that is the offence—the influencing person exercised reasonable diligence and took reasonable steps to prevent the act or omission that is the offence; or
  - (b) neither the influencing person, nor an associate, was in a position to influence the conduct of the driver or other person in relation to the act or omission that is the offence.
- (2A) Subsection (2) applies even if the driver or other person is not prosecuted for the offence, as long as, in the proceedings brought against the influencing person, the driver or other person is proved beyond a reasonable doubt to have committed the offence.
- (3) In this section—
- associate*, of an influencing person, means any of the following persons to whom the influencing person, whether or not for reward, has given an interest, other than a security interest, in the vehicle—
- (a) for an influencing person who is a individual—
    - (i) a spouse of the influencing person; or
    - (ii) a relative of the influencing person, whether by blood, spousal relationship or adoption; or
    - (iii) an employee of the influencing person; or
    - (iv) an employee of a corporation of which the influencing person is an executive officer; or
    - (v) a partner of the influencing person; or
    - (vi) a corporation of which the influencing person is an executive officer; or
    - (vii) a corporation in which the influencing person holds a controlling interest;
  - (b) for an influencing person that is a corporation—
    - (i) an executive officer of the corporation; or

*Transport Operations (Road Use Management) Act  
1995*

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- (ii) a spouse of an executive officer of the corporation;  
or
- (iii) a relative of an executive officer of the corporation,  
whether by blood, spousal relationship or  
adoption; or
- (iv) an employee of the corporation; or
- (v) a person who holds a controlling interest in the  
corporation; or
- (vi) a holding company of the corporation; or
- (vii) a subsidiary of the corporation; or
- (viii) a subsidiary of a holding company of the  
corporation;
- (c) a person who is accustomed or under an obligation,  
whether formal or informal, to act in accordance with  
the directions, instructions or wishes of the influencing  
person or, if the influencing person is a corporation, of  
the executive officers of the influencing person;
- (d) a person who, because of paragraph (a), (b) or (c),  
would be an associate of someone who is an associate of  
the influencing person if the associate were an  
influencing person.

*Example of an associate—*

If the influencing person, by a verbal agreement, leases the  
vehicle to a corporation that is a subsidiary of the influencing  
person, the corporation is an associate of the influencing person.

***extended liability offence*** means an offence against a  
transport Act that—

- (a) involves a heavy vehicle; and
- (b) is declared under a regulation to be an extended liability  
offence.

***holding company*** see the Corporations Act, section 9.<sup>7</sup>

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<sup>7</sup> Corporations Act, section 9 (Dictionary)

***influencing person***, in relation to a vehicle, means any or all of the following persons—

- (a) the owner of the vehicle, or for a combination, of either of the vehicles;
- (b) the registered operator of the vehicle, or for a combination, of either of the vehicles;
- (c) a person, other than the owner or registered operator, who controls or directly influences the loading or operation of the vehicle.

***security interest*** means an interest given by way of security for or in relation to a liability, whether present, contingent or future.

***subsidiary*** see the Corporations Act, section 9.

## **Division 2                    Evidence and procedure**

### **58            Proof of appointments unnecessary**

For a transport Act, it is not necessary to prove the appointment of the following persons—

- (a) the chief executive;
- (b) the commissioner;
- (c) an authorised officer;
- (d) an accredited person;
- (e) a police officer.

### **59            Proof of signatures unnecessary**

For a transport Act, a signature purporting to be the signature of 1 of the following persons is evidence of the signature it purports to be—

- (a) the chief executive;
- (b) the commissioner;
- (c) an authorised officer;

- (d) an accredited person;
- (e) a police officer.

## 60 Evidentiary aids

- (1) In this section—

*certificate* means a certificate purporting to be signed by—

- (a) for a certificate containing information under a corresponding law to a transport Act—the chief executive administering the corresponding law; or
  - (b) otherwise—the chief executive or commissioner.
- (2) A certificate stating any of the following matters is evidence of the matter—
- (a) a specified place was within a specified type of area declared under a transport Act;
  - (b) a specified licence or other document under a transport Act or a corresponding law was or was not in force in relation to a specified person or vehicle;
  - (c) a specified place was or was not a road;
  - (d) that specified information was or was not in—
    - (i) the register of vehicles; or
    - (ii) a register of vehicles established under a corresponding law to a transport Act;
  - (e) a specified thing was State or local government property;
  - (f) a specified sign—
    - (i) was or was not an official traffic sign; or
    - (ii) contained specified words; or
    - (iii) was on a specified place;
  - (g) specified particulars of a specified conviction, disqualification, suspension, cancellation or licence or other condition under a transport Act or a corresponding law;

*Transport Operations (Road Use Management) Act  
1995*

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- (h) a specified vehicle was or was not inspected;
  - (i) a specified vehicle was or was not inspected in accordance with a specified requirement of an authorised officer;
  - (j) the results of a specified vehicle inspection;
  - (k) a specified fee under a transport Act was or was not paid by a specified person;
  - (l) a specified application under a transport Act was or was not received;
  - (m) a specified vehicle was or was not of a specified type or was carrying specified goods;
  - (n) the contents of a specified substance that was tested by a specified analyst;
  - (o) that a specified copy of a licence or other document was a copy of a licence or other document issued, or required to be kept, under a transport Act or a corresponding law;
  - (p) a specified document is the manufacturer's specification for a specified type of vehicle.
- (3) A certificate—
- (a) may relate to a specified time or period; and
  - (b) if it is issued for a particular period—has the effect mentioned in subsection (1) for the entire period.
- (4) A regulation may provide for evidence of other matters to be provided by a certificate.
- (5) A document, or a copy of a document, purporting to be made or given by a person under a transport Act containing personal particulars given by the person is evidence of the particulars.
- (6) Anything recorded by a photographic, mechanical, electronic or other device under a transport Act is evidence—
- (a) that the recording was made; and
  - (b) of the accuracy of the recording; and
  - (c) of the matters stated in the recording; and
  - (d) of matters prescribed under a regulation.

*Transport Operations (Road Use Management) Act  
1995*

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- (7) Evidence by an authorised officer of the contents of a document issued, required to be kept, under a transport Act or a corresponding law, that was examined by the officer while in someone else's possession, may be given by the officer without the document being produced.

*Example of subsection (7)—*

An authorised officer who examines a driver's log book may return the log book to the driver to enable the driver to continue driving. The officer may give evidence of the contents of the log book without producing it.

## 61 Instruments

- (1) In this section—
- instrument*** means an instrument declared under a regulation to be an instrument for this section, and includes—
- (a) a speedometer; and
  - (c) a weighing device.
- (2) A certificate stating that, on a specified day or at a specified time on a specified day, a specified instrument—
- (a) was in a proper condition; or
  - (b) had a specified level of accuracy;
- is evidence of those matters on the specified day or at the specified time, and for any period, prescribed under a regulation, after that day.
- (3) Evidence of the condition of the instrument, or the way in which it was operated, is not required unless evidence that the instrument was not in proper condition or was not properly operated has been given.
- (4) A defendant who intends to challenge the condition of an instrument, or the way in which it was operated, must give the complainant or arresting police officer (if any) written notice of the intention to challenge.
- (5) The notice must be given at least 14 working days before the return date of the summons or the appointed date for the hearing of the charge.

## **62 Proceedings for offences**

- (1) A proceeding for an offence against a transport Act is a summary proceeding under the *Justices Act 1886*.
- (2) The proceeding must start—
  - (a) within 1 year after the offence was committed; or
  - (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence was committed.

## **62A Black and white reproductions of words in colour**

If a word appears in colour (other than black and white) in a statutory instrument under this Act, a copy of the instrument may for all purposes be printed showing the same word in black and white.

*Example—*

A statutory instrument may show a colour drawing of an official traffic sign. An official publication or reprint of the statutory instrument may show the same drawing in black and white.

# **Part 6 General**

## **63 Notice of damage**

- (1) This section applies if—
  - (a) an authorised officer damages anything when exercising or purporting to exercise a power under a transport Act; or
  - (b) a person acting under the direction of an authorised officer damages anything.
- (2) The officer must promptly give written notice of particulars of the damage to the following person—
  - (a) if the thing is a vehicle that has a registered operator—the registered operator;

*Transport Operations (Road Use Management) Act  
1995*

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- (b) if the thing is anything else—the person who appears to be its owner.
- (3) If the officer believes the damage was caused by a latent defect in the thing or circumstances beyond the officer's control, the officer may state it in the notice.
- (4) If, for any reason, it is not practicable to comply with subsection (2), the officer must leave the notice where the damage happened, in a reasonably secure way and in a conspicuous position.
- (5) This section does not apply to damage the officer reasonably believes is trivial.

## **64 Compensation**

- (1) This section does not apply to the exercise of a power (including the making of a requirement) to which section 31(1)(a)<sup>8</sup> applies.
- (2) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under a transport Act, including, for example, in complying with a requirement made of the person.
- (3) Compensation may be claimed and ordered in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the compensation; or
  - (b) for an offence against this Act brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.
- (5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

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8 Section 31 (Power to stop private vehicles)

## Chapter 4      Review of and appeals against decisions

### 65      Review of and appeals against decisions

- (1) A person whose interests are affected by a decision (the *original decision*) described in schedule 3 may ask the chief executive or commissioner to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision of the Act under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
  - (a) applies to the review; and
  - (b) provides—
    - (i) for the procedure for applying for the review and the way it is to be carried out; and
    - (ii) that the original decision may be stayed by the person by applying to the court mentioned in subsection (4).
- (4) Also, after the chief executive or commissioner confirms or amends the original decision or substitutes another decision, the person may appeal against the confirmed, amended or substituted decision (the *reviewed decision*) to the court stated in schedule 3.
- (5) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
  - (a) applies to the appeal; and
  - (b) provides—
    - (i) for the procedure for the appeal and the way it is to be disposed of; and
    - (ii) that the reviewed decision may be stayed by the person by applying to the court mentioned in subsection (4).

## **Chapter 5      Road use**

### **Part 1              Local government functions**

#### **66      Local laws etc.**

- (1) Subject to this chapter, a local government may not—
  - (a) make a local law about anything provided in this chapter, including anything about which a regulation may be made under this chapter; or
  - (b) exercise a power conferred by this chapter on someone else.
- (2) However, a local government may exercise a power that is not inconsistent with this chapter.
- (3) Despite subsection (1), a local government may make local laws with respect to the following matters—
  - (a) the regulation of—
    - (i) the driving, leading, stopping or wheeling of vehicles or animals on a footpath, shared path, water-channel or gutter; and
    - (ii) the driving or leading of animals to cross a road; and
    - (iii) the seizure, removal, detention and disposal of a vehicle or animal mentioned in subparagraph (i) or (ii) found in circumstances constituting an offence against a local law;
  - (aa) the regulation of the use of any part of a footpath for the purpose of providing food or drink or both to members of the public;
  - (ab) the regulation of the advertising upon any road of any business including by means of the distribution of any handbill or other printed or written matter;

*Transport Operations (Road Use Management) Act  
1995*

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- (b) the regulation of the washing or cleansing, painting, repairing, alteration or maintenance of vehicles in, on or over a road;
  - (c) the regulation of the stacking, storing or exposure of goods in, on or over a road and the seizure, removal, detention and disposal of any goods so stacked, stored or exposed;
  - (d) the regulation of roadside vending;
  - (e) the regulation of lights, notices and signs—
    - (i) on a road; or
    - (ii) near a road if the lights, notices and signs endanger, or are likely to endanger, traffic;
  - (f) the regulation of the amplification or reproduction of any sound by anything—
    - (i) on a road; or
    - (ii) near a road if the sound causes, or is likely to cause, anyone to gather on the road to endanger, hinder or obstruct traffic;
  - (g) the seizure and disposal of anything used to make a sound mentioned in paragraph (f);
  - (h) the regulation of the driving of vehicles and animals on a foreshore.
- (4) Without in any way limiting the matters which are not included within the ordinary scope and meaning of the subject matter of the powers conferred by subsection (3)(a) such subject matter shall not include, in particular, any of the following matters—
- (a) the right of way of any vehicle or animal so driven, ridden, led or wheeled;
  - (b) the qualification of a person to drive a motor vehicle;
  - (c) the driving of or attempting to put in motion or occupying the driving seat of or being in charge of a motor vehicle whilst under the influence of liquor or a drug;

*Transport Operations (Road Use Management) Act  
1995*

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- (d) the driving or being in charge of a horse or other animal or the driving or being in charge of a vehicle (other than a motor vehicle) or attempting to put in motion any vehicle (other than a motor vehicle) whilst under the influence of liquor or a drug;
  - (e) the manner of driving of a vehicle or animal including the driving of the same dangerously or without due care and attention or without reasonable consideration for other persons or negligently, recklessly or at a speed in excess of the maximum speed at which the vehicle may lawfully be driven.
- (5) The local government may make a local law under subsection (3) for—
- (a) a road in its area that is not a declared road; and
  - (b) a declared road in its area, with the chief executive's written agreement.
- (6) If a local government makes a local law about a matter mentioned in subsection (3)(a) to (d), the provisions of this Act about the matter no longer apply to the whole or part of the local government's area to which the local law applies.
- (7) The provisions do not revive on the repeal of the local law.
- (8) In this section—

***shared path*** see the *Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 242(2).<sup>9</sup>

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<sup>9</sup> *Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 242 (Travelling in or on a wheeled recreational device or toy on a footpath or shared path)

## Part 2                      Official traffic signs

### 67        Definitions

In this part and in chapter 5, part 6—

*install* means construct, make, mark, place or erect, or affix to or paint on any structure, and repair, maintain, manage and control.

*on* means on, in, into, over or near.

*remove* means remove, alter, discontinue, cancel, demolish or erase.

*structure* includes any building, wall, fence, pillar, post or other structure, erection or device wheresoever situated and by whomsoever owned.

### 68        Chief executive may install or remove official traffic signs

The chief executive may, for the purposes of this or another Act—

- (a) install an official traffic sign on a road or off-street regulated parking area; and
- (b) remove an official traffic sign from a road or off-street regulated parking area.

### 69        Local government may install or remove official traffic signs

- (1) A local government may install an official traffic sign in its area—
  - (a) on a road that is not a declared road; or
  - (b) on a declared road, with the chief executive's written agreement; or
  - (c) on an off-street regulated parking area.
- (2) Under subsection (1)(b), a local government may install an official traffic sign that—
  - (a) defines a traffic area; and

- (b) indicates that parking on declared roads within the traffic area is regulated.
- (3) A local government may remove an official traffic sign installed by it.

## **70 Notice to install or remove an official traffic sign**

- (1) If, in the opinion of the chief executive, an official traffic sign should be installed on, or removed from, any road in an area which is not a declared road, the chief executive may serve notice on the local government for such area specifying the nature of the official traffic sign required to be installed or removed and the location at or from which such official traffic sign shall be installed or removed.
- (2) The notice shall specify a date not less than 14 days from the date of service of the notice on or before which the installation or removal of the official traffic sign specified shall be completed.
- (3) If the local government does not comply with the terms of the notice within the time specified, the chief executive may install or remove the official traffic sign specified in the notice and recover any cost and expense incurred by the chief executive in so doing from the local government.

## **71 Installation of official traffic signs in case of danger**

- (1) Where the chief executive, a superintendent, a holder of a prescribed office under the Crown, a chief executive officer of a local government, or a person authorised in that behalf by the chief executive, a superintendent, a holder of a prescribed office under the Crown, a local government or a chief executive officer of a local government, as the case may be, is satisfied in the circumstances of the case that a danger, hindrance or obstruction to traffic or other emergency exists or is likely to exist, or the use of a road or any part thereof or an off-street regulated parking area or any part thereof is prevented, hindered or obstructed, or likely to be prevented, hindered or obstructed, such person may install any official traffic sign which, in the person's opinion, may be necessary,

required or desirable for the purpose of regulating, guiding or warning traffic.

- (2) Any official traffic sign so installed may, unless otherwise directed by the chief executive pursuant to section 70 be maintained and continued for so long as the chief executive, superintendent, holder of a prescribed office under the Crown, chief executive officer of a local government, or person authorised as prescribed by subsection (1) is satisfied that the danger, hindrance or obstruction to traffic or other emergency exists or is likely to exist or the use of the road or the part thereof or the off-street regulated parking area or the part thereof is prevented, hindered or obstructed or likely to be prevented, hindered or obstructed.

## **72 Installation of official traffic signs by prescribed persons**

- (1) Where a person is carrying out any works on any road or off-street regulated parking area with the approval of the chief executive or a local government, the person and any employee of the person acting with the person's authority, if satisfied in the circumstances of the case that a danger, hindrance or obstruction to traffic exists or is likely to exist, or that the use of the road or parking area or any part thereof is prevented, hindered or obstructed or likely to be prevented, hindered or obstructed, by reason of the carrying out of the works, may install any official traffic sign which in the person's opinion may be necessary or desirable for the purpose of regulating, guiding or warning traffic with respect to the works.
- (1A) Any official traffic sign so installed may, subject to sections 68 and 69, be maintained and continued for so long as the person or employee is satisfied that the danger, hindrance or obstruction to traffic exists or is likely to exist or that the use of the road or off-street regulated parking area or the part thereof is prevented, hindered or obstructed or likely to be prevented, hindered or obstructed.
- (2) Any person who obstructs another person in the exercise of that other person's powers under subsection (1) shall be guilty of an offence.

Maximum penalty for subsection (2)—40 penalty units or 6 months imprisonment.

**72A Way to install official traffic sign**

An official traffic sign must be installed in a way specified by the MUTCD.

**73 Obstruction of prescribed officer and destruction of official traffic signs to be an offence**

- (1) Any person who—
- (a) obstructs the chief executive, a superintendent, a holder of a prescribed office under the Crown, or a chief executive officer of a local government in the exercise of powers under this part or chapter 5, part 6; or
  - (b) obstructs any person acting under an authority given under section 71 in the exercise of the powers under this part or chapter 5, part 6 had by the person by virtue of such authority; or
  - (c) without lawful authority demolishes, destroys, pulls down, erases, removes, defaces or otherwise damages or interferes with an official traffic sign;

shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (2) A person guilty of an offence against any provision of subsection (1) shall also be liable to pay the amount of the expenses of making good any damage occasioned by the offence.
- (3) The court convicting the person of the offence may, whether an application or complaint is made in respect thereof or not, order the person to pay such amount or such amount may be recovered by either the chief executive or a local government or any person duly authorised by the chief executive or a local government, either generally or in the particular case, by action in any court of competent jurisdiction.

*Transport Operations (Road Use Management) Act  
1995*

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- (4) Without limit to the power of a police officer or any other person thereunto authorised by some other provision of this Act to prosecute an offence against subsection (1)—
- (a) an offence against subsection (1) committed in relation to the chief executive or the holder of a prescribed office under the Crown, or any person acting under the authority of either of them, or in relation to an official traffic sign installed on a road by the said chief executive or holder of a prescribed office under the Crown, or any person acting under the authority of either of them, may be prosecuted by the chief executive or holder or by any person thereunto authorised by the chief executive; and
  - (b) an offence against subsection (1) committed in relation to the chief executive officer of a local government or a local government or a person acting under the authority of the chief executive officer of a local government or local government, or in relation to an official traffic sign installed on a road or an off-street regulated parking area in its area by the local government may be prosecuted by the chief executive officer or by any person thereunto authorised by the chief executive officer.

**74 Contravention of official traffic sign an offence**

- (1) A person who contravenes an indication given by an official traffic sign commits an offence.
- Maximum penalty—40 penalty units or 6 months imprisonment.
- (2) A local government may take proceedings for the imposition and enforcement of a penalty under subsection (1) for a contravention relating to an official traffic sign installed by it.
- (2A) However, a local government may not act under subsection (2) if the traffic sign is about a matter mentioned in section 66(4), or for which a number of demerit points may be allocated against a person's traffic history under a regulation.
- (3) The penalty recovered by the local government for the offence must be paid to the local government.

- (4) Subsection (2) does not limit the right of another entity to take proceedings for the imposition and enforcement of a penalty under subsection (1) for a contravention relating to an official traffic sign.

## **75 Unlawful installation of official traffic signs**

- (1) Any person who without lawful authority installs on a road or an off-street regulated parking area an official traffic sign or other thing in the nature of or similar to or which is likely to be mistaken for an official traffic sign shall be guilty of an offence, and any such sign or other thing may be removed by the chief executive or the local government (whether or not any proceeding is taken for an offence with respect thereto).

Maximum penalty—40 penalty units or 6 months imprisonment.

- (2) Upon convicting a person for an offence against any of the provisions of subsection (1) the court, in addition to any penalty which it may impose, may (whether an application or complaint is made in respect thereof or not) order the person to pay the costs of the removal of the official traffic sign or other thing in question to the chief executive or the local government, as the case may be.

## **76 Injury to official traffic signs**

- (1) Where any injury is done to an official traffic sign the following persons, namely—

- (a) any person who negligently or wilfully causes such injury;
- (b) if that person is an agent or employee—the principal or employer of that person;

shall each be answerable in damages to the chief executive or the local government (according to which of them installed such sign) for the whole injury, and such damages may be—

- (c) sued for by; or
- (d) recovered in a summary way under the *Justices Act 1886*, on complaint of;

the chief executive or the local government or any person authorised by the chief executive or the local government in that behalf, either generally or in the particular case, but the chief executive or the local government shall not be entitled by virtue of the provisions of this section to recover twice for the same cause of action.

- (2) Where the owner of any vehicle pays any money in respect of any injury caused through the wilful act or negligence of the driver of that vehicle to any official traffic sign, the owner shall be entitled to recover the money so paid, with costs, from that driver.

## **Part 3                      Driving of vehicles and animals**

### **77            Restricted release of Queensland driver licence and traffic history information**

- (1) The chief executive may, and may only, release information about a person's Queensland driver licence or traffic history to—
  - (a) on receiving an application in the approved form—
    - (i) the person; or
    - (ii) with the person's written consent—another person; or
  - (b) the commissioner; or
  - (c) a person who issues driver licences under a corresponding law to this Act; or
  - (d) an entity that, under an agreement between the State and other governments, maintains a database containing information about driver licences and traffic histories.
- (2) Before releasing information to a person or entity under subsection (1)(c) or (d), the chief executive must be satisfied any release of the information by the person or entity will be

limited to circumstances similar to those mentioned in subsection (1).

## **78 Driving of motor vehicle without a driver licence prohibited**

- (1) A person must not drive a motor vehicle on a road unless the person holds a driver licence authorising the person to drive the vehicle on the road.

Maximum penalty—

- (a) if the person committed the offence while the person was disqualified, by any court order, from holding or obtaining a driver licence—60 penalty units or 18 months imprisonment; or
- (b) otherwise—40 penalty units or 1 year's imprisonment.
- (1A) An infringement notice under the *State Penalties Enforcement Act 1999* may be issued to a person for a contravention of subsection (1) only if—
- (a) the person is an unlicensed driver for the motor vehicle driven by the person; and
- (b) the person has not, in the 5 years before the contravention, been convicted of an offence against subsection (1).
- (2) If a person commits an offence against subsection (1) when the person is a disqualified driver, or is a repeat unlicensed driver for the offence, the court, in deciding what penalty to impose on the person, must consider—
- (a) all the circumstances of the case, including circumstances of aggravation or mitigation; and
- (b) the public interest; and
- (c) the person's criminal history and traffic history; and
- (d) any information before it relating to the person's medical history, or the person's mental or physical capacity, that the court considers relevant; and

*Transport Operations (Road Use Management) Act*  
1995

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- (e) whether the offence was committed in association with the commission or attempted commission of another offence and, if so, the nature of the other offence; and
  - (f) any other matters that the court considers relevant.
- (3) If the court convicts a person of an offence against subsection (1) and any of the following circumstances apply, the court, in addition to imposing a penalty, must disqualify the person from holding or obtaining a Queensland driver licence for the period mentioned in relation to the circumstance—
- (a) if the person committed the offence while the person was disqualified, by any court order, from holding or obtaining a driver licence—for a period, of at least 2 years but not more than 5 years, decided by the court;
  - (b) if the person committed the offence while the person was disqualified<sup>10</sup> from holding or obtaining a driver licence because of the allocation of demerit points—6 months;
  - (c) if the person committed the offence while the person's authority to drive on a Queensland road under a non-Queensland driver licence was suspended because of the allocation of demerit points—6 months;
  - (d) if the person committed the offence while the person was disqualified from holding or obtaining a driver licence because the person had been convicted of an offence against the *Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 20,<sup>11</sup> for driving more than 40km/h over the speed limit—6 months;
  - (e) if the person committed the offence while the person's authority to drive on a Queensland road under a non-Queensland driver licence was suspended because the person had been convicted of an offence against the

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10 See section 127(4)(b) for the effect of a suspension because of the allocation of demerit points under the *Transport Operations (Road Use Management—Driver Licensing) Regulation 1999*.

11 *Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 20 (Obeying the speed limit)

*Transport Operations (Road Use Management) Act  
1995*

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*Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 20, for driving more than 40km/h over the speed limit—6 months;

- (f) if the person committed the offence while the person's driver licence was suspended under the *State Penalties Enforcement Act 1999*—a period, of at least 1 month but not more than 6 months, decided by the court;
  - (g) if the person committed the offence while the person's authority to drive on a Queensland road under a non-Queensland driver licence was suspended under the *State Penalties Enforcement Act 1999*—a period, of at least 1 month but not more than 6 months, decided by the court;
  - (h) if the person committed the offence while the person was a repeat unlicensed driver for the offence—a period, of at least 1 month but not more than 6 months, decided by the court;
  - (i) if the person committed the offence while, under section 79B—
    - (i) the person's Queensland driver licence was suspended; or
    - (ii) the person's authority to drive on a Queensland road under a non-Queensland driver licence was suspended; or
    - (iii) the person was disqualified from holding or obtaining a Queensland driver licence;
 for a period, of at least 2 years but not more than 5 years, decided by the court.
- (3A) For subsection (3), if the circumstances mentioned in paragraph (a) and another paragraph of the subsection exist, the court must apply paragraph (a).
- (4) Subsection (3) applies whether or not a conviction is recorded for the offence.
  - (5) A person must not allow another person to drive a motor vehicle on a road if the person knows the other person does

*Transport Operations (Road Use Management) Act  
1995*

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not hold a driver licence authorising the other person to drive the vehicle on the road.

Maximum penalty—20 penalty units or 6 months imprisonment.

(6) In this section—

***any court order*** means an order of any Australian court.

***disqualified driver*** means a person—

- (a) who is disqualified from holding or obtaining a driver licence because of any court order; or
- (b) who is disqualified from holding or obtaining a driver licence because—
  - (i) of the allocation of demerit points; or
  - (ii) the person was convicted of an offence against the *Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 20, for driving more than 40km/h over the speed limit; or
  - (iii) the person's driver licence is suspended under the *State Penalties Enforcement Act 1999*; or
- (c) whose authority to drive on a Queensland road under the person's non-Queensland driver licence is suspended—
  - (i) because of the allocation of demerit points; or
  - (ii) because the person was convicted of an offence against the *Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 20, for driving more than 40km/h over the speed limit; or
  - (iii) under the *State Penalties Enforcement Act 1999*.

***repeat unlicensed driver***, for an offence, means a person who—

- (a) is an unlicensed driver for the motor vehicle driven by the person when the offence is committed; and
- (b) has, in the 5 years before committing the offence, been convicted of an offence against subsection (1).

*Transport Operations (Road Use Management) Act  
1995*

---

***unlicensed driver***, for a motor vehicle, means a person, other than a disqualified driver, who does not hold a driver licence authorising the person to drive the vehicle on the road.

**78A Permit to drive—recently expired driver licence**

- (1) This section applies if a police officer issues an infringement notice under the *State Penalties Enforcement Act 1999* to a person with a recently expired licence for a contravention of section 78(1).
- (2) The police officer may issue a permit authorising the person to drive to a stated place.
- (3) The permit must—
  - (a) be in the approved form; and
  - (b) state the number of the infringement notice; and
  - (c) state the term, not longer than 24 hours, for which it is issued; and
  - (d) state the conditions, if any, on which it is issued.
- (4) If the permit is issued on a condition, the permit is cancelled if the condition is contravened.
- (5) To remove any doubt, it is declared that a police officer issuing a permit under subsection (2) does not contravene section 78(5).
- (6) In this section—

***recently expired licence***, in relation to a person's contravention of section 78(1), means—

  - (a) a driver licence that has been expired for no more than 1 year before the contravention; or
  - (b) a non-Queensland driver licence if, within the 1 year before the contravention, the authority to drive on a Queensland road under the licence has been withdrawn, other than because—
    - (i) the person was granted a Queensland driver licence; or

- (ii) the chief executive reasonably believed the person had a mental or physical incapacity that was likely to adversely affect the person's ability to drive safely.

**79 Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood or breath**

- (1) Any person who whilst under the influence of liquor or a drug—
  - (a) drives a motor vehicle, tram, train or vessel; or
  - (b) attempts to put in motion a motor vehicle, tram, train or vessel; or
  - (c) is in charge of a motor vehicle, tram, train or vessel;is guilty of an offence and liable to a penalty not exceeding 28 penalty units or to imprisonment for a term not exceeding 9 months.
- (1A) If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted under that subsection, the person is liable in respect of that offence to a maximum penalty of 60 penalty units or 18 months imprisonment.
- (1B) If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender or has been summarily convicted of an offence against any provision of the Criminal Code, section 328A, the offender is liable in respect of the first mentioned offence to a maximum penalty of 60 penalty units or 18 months imprisonment.
- (1C) If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been twice previously convicted—
  - (a) under subsection (1); or

*Transport Operations (Road Use Management) Act  
1995*

---

- (b) upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender; or
- (c) summarily of an offence against any provision of the Criminal Code, section 328A;

or has been previously convicted—

- (d) under subsection (1) and upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender; or
- (e) under subsection (1) and summarily of an offence against any provision of the Criminal Code, section 328A; or
- (f) upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender and summarily of an offence against any provision of the Criminal Code, section 328A;

the justices shall in respect of that offence impose, as the whole or part of the punishment, imprisonment.

- (1D) If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted of an offence under subsections (2), (2A), (2B), (2D) or (2J), the offender is liable in respect of the first mentioned offence to a penalty not exceeding 30 penalty units or to imprisonment for a term not exceeding 1 year.
- (1E) If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been twice previously convicted of an offence under subsections (2), (2A), (2B), (2D) or (2J), the offender is liable in respect of the first mentioned offence to a maximum penalty of 60 penalty units or 18 months imprisonment.
- (2) Any person who, while the person is over the general alcohol limit but is not over the high alcohol limit—
  - (a) drives a motor vehicle, tram, train or vessel; or
  - (b) attempts to put in motion a motor vehicle, tram, train or vessel; or
  - (c) is in charge of a motor vehicle, tram, train or vessel;

*Transport Operations (Road Use Management) Act  
1995*

---

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

(2A) Any person who has not attained the age of 25 years, who is the holder of a learner, probationary or provisional licence or is not the holder of a driver licence, and who, while the person is over the no alcohol limit but is not over the general alcohol limit—

- (a) drives a motor vehicle (other than a motor vehicle to which subsection (2B) applies); or
- (b) attempts to put such motor vehicle in motion; or
- (c) is in charge of such motor vehicle;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

(2B) Any person who, while the person is over the no alcohol limit but is not over the general alcohol limit—

- (a) drives a motor vehicle to which this subsection applies; or
- (b) attempts to put such motor vehicle in motion; or
- (c) is in charge of such motor vehicle;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

(2C) Subsection (2B) applies to the following motor vehicles—

- (a) a truck, a bus, an articulated motor vehicle, a B-double, a road train;
- (b) a vehicle carrying a placard load of dangerous goods;
- (c) a tow truck which is licensed or should be licensed under the *Tow Truck Act 1973* while it operates as a tow truck under that Act;
- (d) a pilot or escort vehicle that is escorting an oversize vehicle;

*Transport Operations (Road Use Management) Act  
1995*

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- (e) a vehicle that has, or is required to have, a taxi service licence or limousine licence under the *Transport Operations (Passenger Transport) Act 1994*;
  - (f) a vehicle while it is being used by a driver trainer to give driver training.
- (2D) Any person who, while the person is over the no alcohol limit but is not over the general alcohol limit—
- (a) drives a tram, a train or a vessel to which this subsection applies; or
  - (b) attempts to put in motion a tram, a train or a vessel to which this subsection applies; or
  - (c) is in charge of a tram, a train or a vessel to which this subsection applies;
- is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.
- (2E) Vessels to which subsection (2D) apply are air cushion vehicles and class I passenger vessels (not including ‘Hire and Drive’ Vessels) as defined in section 1, part 3, clause 6.1 of the Uniform Shipping Laws Code.
- (2F) If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been previously convicted under subsection (2), (2A), (2B), (2D) or (2J), the person is liable in respect of that offence to a penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 6 months.
- (2G) If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been twice previously convicted under subsections (2), (2A), (2B), (2D) or (2J), the person is liable in respect of that offence to a penalty not exceeding 28 penalty units or to imprisonment for a term not exceeding 9 months.
- (2H) If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or has been summarily

*Transport Operations (Road Use Management) Act  
1995*

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convicted of an offence against any provision of the Criminal Code, section 328A or has been previously convicted under subsection (1), the person is liable in respect of the first mentioned offence to a penalty not exceeding 30 penalty units or to imprisonment for a term not exceeding 1 year.

(2I) If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been previously convicted under those subsections and—

- (a) has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person; or
- (b) has been summarily convicted of an offence against any provision of the Criminal Code, section 328A; or
- (c) has been previously convicted under subsection (1);

the person is liable in respect of the first mentioned offence to a maximum penalty of 60 penalty units or 18 months imprisonment.

(2J) A person who is the holder of a restricted licence, or to whom a replacement licence is issued under section 79F, while the person is over the no alcohol limit but is not over the general alcohol limit, must not—

- (a) drive a motor vehicle; or
- (b) attempt to put a motor vehicle in motion; or
- (c) be in charge of a motor vehicle.

Maximum penalty—20 penalty units or 6 months imprisonment.

(3) Where upon the hearing of a complaint of an offence against subsection (1) the court is satisfied that at the material time the defendant was over the high alcohol limit, the defendant shall be conclusively presumed to have been at that time under the influence of liquor.

(4) Subject to subsection (3), where upon the hearing of a complaint of an offence against subsection (1) the court is satisfied—

*Transport Operations (Road Use Management) Act  
1995*

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- (a) as to all the elements of the offence charged other than the element of the defendant's being under the influence of liquor or a drug at the material time; and
- (b) that at the material time the defendant was over the general alcohol limit or that at the material time the defendant was a person to whom subsection (2A), (2B), (2D) or (2J) referred and the defendant was over the no alcohol limit;

the court shall convict the defendant of the offence under subsection (2), (2A), (2B), (2D) or (2J) that is established by the evidence.

- (4A) Where in the circumstances provided for in subsection (4), the court is satisfied that an offence under subsection (2) and an offence under subsection (2A), (2B), (2D) or (2J) are both established by the evidence, the court shall convict the defendant of the offence under subsection (2).
- (6) Where upon the hearing of a complaint of an offence against subsection (1)(c), (2)(c), (2A)(c), (2B)(c) or (2J)(c) in respect of a motor vehicle the court is satisfied beyond reasonable doubt by evidence on oath that at the material time—
  - (a) the defendant—
    - (i) by occupying a compartment of the motor vehicle in respect of which the offence is charged other than the compartment containing the driving seat of that motor vehicle; or
    - (ii) not being in that motor vehicle, by some action; had manifested an intention of refraining from driving that motor vehicle whilst the defendant was under the influence of liquor or a drug or, as the case may be, while the defendant was over the general alcohol limit or, if at the material time the defendant was a person to whom subsection (2A), (2B) or (2J) referred, the defendant was over the no alcohol limit; and
  - (b) the defendant—
    - (i) was not under the influence of liquor or a drug to such an extent; or, as the case may be,

*Transport Operations (Road Use Management) Act  
1995*

---

(ii) was not, as indicated by the concentration of alcohol in the defendant's blood or breath, influenced by alcohol to such an extent;

as to be incapable of understanding what the defendant was doing or as to be incapable of forming the intention referred to in paragraph (a); and

- (c) the motor vehicle in respect of which the offence is charged was parked in such a manner as not to constitute a source of danger to other persons or other traffic; and
- (d) the defendant had not previously been convicted of an offence under subsection (1), (2), (2A), (2B), (2D) or (2J) within a period of 1 year prior to the date in respect of which the defendant is charged;

the court shall not convict the defendant of the offence charged.

- (7) Any person who whilst under the influence of liquor or a drug drives or is in charge of any horse or other animal on a road, or drives or is in charge of any vehicle (other than a motor vehicle) on a road, or attempts to put in motion any vehicle (other than a motor vehicle) on a road, is guilty of an offence.

Maximum penalty for subsection (7)—40 penalty units or 9 months imprisonment.

- (8) A complaint for an offence against any provision of subsection (1) or (7) shall not be bad for uncertainty or duplicity by reason that it charges the alleged offender with being under the influence of 'liquor or a drug'.
- (8A) If upon the hearing of such a complaint the evidence led and admitted (including evidence (if any) for the defence) establishes—
- (a) that the person so charged was under an influence which was that of liquor or a drug, or both liquor and a drug; and
- (b) all other elements of the offence;

the person shall be convicted of the offence notwithstanding that the particular such influence is not established by the evidence.

*Transport Operations (Road Use Management) Act  
1995*

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- (9) Where a person charged with an offence against any provision of subsection (1), (2), (2A), (2B), (2D) or (2J) in relation to a motor vehicle does not appear personally before a Magistrates Court at any time and place when and where the person is required to appear, the court shall then and there order that any and every Queensland driver licence held by the person be from that time suspended until the time when the charge is heard and determined or otherwise disposed of.
- (9A) Subsection (9) applies subject to subsection (10).
- (10) A Magistrates Court has and may exercise a discretion not to make an order pursuant to subsection (9) where it is satisfied on medical or other evidence placed before the court that the person's failure to appear before it was occasioned by any medical or other circumstance rendering the person physically incapable of appearing before the court.
- (10A) In subsection (10)—
- medical or other evidence placed before the court*** means—
- (a) the oral testimony of at least 1 doctor adduced before the court; or
  - (b) at least 1 certificate placed before the court purporting to be a medical certificate by a doctor; or
  - (c) both such testimony and certificate; or
  - (d) such other evidence as is considered by the court to be sufficient in the circumstances to satisfy the court that the person was physically incapable of appearing before the court.
- (11) Subsections (1) to (2J) apply to and with respect to any person—
- (a) who is in charge of a motor vehicle on a road or elsewhere; or
  - (b) who drives a motor vehicle on a road or elsewhere; or
  - (c) who on a road or elsewhere attempts to put a motor vehicle in motion; or
  - (d) who drives or is in charge of or attempts to put in motion a tram or train on a road or elsewhere; or

- (e) who drives or is in charge of or attempts to put in motion a vessel that is being used, or is apparently about to be used, in navigation.
- (12) The Criminal Code, section 24 does not apply to an offence under this section.

### **79AA Provisions applying to supervisor of a learner**

- (1) This section applies to a person who is the supervisor of a learner while the learner is driving a motor vehicle under the direction of the supervisor.
- (2) The supervisor is in charge of the motor vehicle for the purposes of—
  - (a) the relevant provisions; and
  - (b) other provisions of this Act applying in relation to any charge, proceedings, conviction or sentence for an offence against a relevant provision.

*Example for subsection (2)(a)—*

- 1 If a learner is driving a car under the direction of a supervisor, the supervisor is in charge of the car and must not be over the general alcohol limit.
  - 2 If a learner is driving a truck or bus under the direction of a supervisor, the supervisor of the learner is in charge of the truck or bus and must not be over the no alcohol limit.
- (3) Subsection (2) has no effect on the application of the relevant provisions, or any other provisions of this Act, to the learner.
  - (4) In this section—

***learner*** means—

- (a) the holder of a licence that, under a regulation, authorises the holder to learn to drive a motor vehicle; or
- (b) the holder of a licence granted outside Queensland that corresponds to a licence mentioned in paragraph (a).

***relevant provisions*** means sections 79 and 80.

***supervisor***, of a learner—

- (a) means a person who—

*Transport Operations (Road Use Management) Act  
1995*

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- (i) under a regulation, is a person with whom a learner is authorised to drive under direction; or
  - (ii) purports to be a person mentioned in subparagraph (i); but
- (b) does not include a person accredited as a driver trainer under a regulation while the person is acting in the person's professional capacity as a driver trainer.

### **79A When is a person over the limit**

- (1) For this Act, a person is over the *no alcohol limit* if—
- (a) the concentration of alcohol in the person's blood is more than 0mg of alcohol in 100mL of blood; or
  - (b) the concentration of alcohol in the person's breath is more than 0g of alcohol in 210L of breath.
- (2) For this Act, a person is over the *general alcohol limit* if—
- (a) the concentration of alcohol in the person's blood is, or is more than, 50mg of alcohol in 100mL of blood; or
  - (b) the concentration of alcohol in the person's breath is, or is more than, 0.050g of alcohol in 210L of breath.
- (3) For this Act, a person is over the *high alcohol limit* if—
- (a) the concentration of alcohol in the person's blood is, or is more than, 150mg of alcohol in 100mL of blood; or
  - (b) the concentration of alcohol in the person's breath is, or is more than, 0.150g of alcohol in 210L of breath.
- (4) For this Act—
- (a) the concentration of alcohol in a person's blood may be expressed as—
    - (i) a specified number of milligrams of alcohol in 100mL of blood; or
    - (ii) a percentage that expresses the specified number of milligrams of alcohol in 100mL of blood; and
  - (b) the concentration of alcohol in a person's breath may be expressed as—

*Transport Operations (Road Use Management) Act  
1995*

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- (i) a specified number of grams of alcohol in 210L of breath; or
- (ii) a specified number of grams in 210L.

*Examples for subsection (4)—*

- 1 The concentration of alcohol in a person's blood may be expressed as 63mg of alcohol in 100mL of blood or as 0.063%.
- 2 The concentration of alcohol in a person's breath may be expressed as 0.063g of alcohol in 210L of breath or as 0.063g/210L.

## **79B Immediate suspension or disqualification**

- (1) This section applies if a person is—
  - (a) charged under section 79(1) with driving a motor vehicle whilst under the influence of liquor and, when the person is charged, the person is given an analysis certificate in relation to the offence indicating the person was over the high alcohol limit; or
  - (b) charged under section 80(11) with failing to provide a specimen of the person's breath for analysis or a specimen of the person's blood for a laboratory test; or
  - (c) charged under section 79(2), (2A), (2B) or (2J) with an offence committed after having been charged, after the commencement of this paragraph, with another offence under section 79(2), (2A), (2B) or (2J) and the earlier charge has not been dealt with by a court, or withdrawn or otherwise discontinued; or
  - (ca) charged under section 79(2), (2A), (2B) or (2J) with an offence committed after a replacement licence is issued, and while a section 79E order applies, to the person; or
  - (d) charged under the Criminal Code, section 328A(1) or (4) with the dangerous operation of a motor vehicle, when accompanied by the circumstance of aggravation that at the time of committing the offence the person was adversely affected by an intoxicating substance and the following circumstances also applied—
    - (i) the intoxicating substance was alcohol;
    - (ii) the person was over the following alcohol limit—

*Transport Operations (Road Use Management) Act  
1995*

---

- (A) the general alcohol limit;
  - (B) for a person mentioned in section 79(2A), (2B) or (2J)—the no alcohol limit.
- (2) If the person holds a Queensland driver licence, the person's Queensland driver licence is suspended.
  - (3) If the person's authority to drive on a Queensland road is under a non-Queensland driver licence, the person's authority under the licence to drive on a Queensland road is suspended.
  - (4) If the person does not hold a driver licence, the person is disqualified from obtaining or holding a Queensland driver licence.
  - (5) The suspension or disqualification under subsection (2), (3) or (4) starts when the person is charged and ends—
    - (a) for a suspension of a Queensland driver licence in relation to which a court may make an order under section 79E, when the first of the following happens—
      - (i) a replacement licence is issued to the person under section 79F;
      - (ii) the charge is dealt with by a court or is withdrawn or otherwise discontinued;
    - (b) in any other case, when the charge is dealt with by a court or is withdrawn or otherwise discontinued.

*Note—*

Section 127 provides for consequences for disqualifications, suspensions, etc. In particular, see section 127(4) and (5).

- (6) If a person's driver licence is suspended under this section and, at the time the driver licence is suspended, section 80(22AA) also applies to the person, the suspension of the driver licence under section 80(22AA) is superseded by the suspension under this section.
- (7) In this section—

*analysis certificate* means—

  - (a) a certificate mentioned in section 80(15) stating the concentration of alcohol indicated by an analysis of a

person's breath to be present in the blood or breath of the person; or

- (b) a certificate mentioned in section 80(16B) stating the concentration of alcohol in a person's blood indicated by a laboratory test of a specimen of the person's blood.

**replacement licence** see section 79F(2).

**section 79E order** see section 79F(1).

### **79C When person is charged for s 79B**

- (1) This section applies if a proceeding for an offence as mentioned in section 79B(1) is started against a person by notice to appear, arrest or on complaint and summons.
- (2) If the proceeding is started by notice to appear, the person is, for section 79B, taken to be charged with the offence when the notice to appear is issued and served on the person.
- (3) If the proceeding is started by arrest, the person is, for section 79B, taken to have been charged with the offence when the person is arrested.
- (4) If the proceeding is started by complaint and summons, the person is, for section 79B, taken to have been charged with the offence when the complaint and summons is issued and served on the person.
- (5) In this section—

**notice to appear** has the meaning given by the *Police Powers and Responsibilities Act 2000*.

### **79D Notice to be given of suspension or disqualification**

- (1) This section applies if, under section 79B—
  - (a) a person's Queensland driver licence, or authority to drive on a Queensland road under a non-Queensland driver licence, is suspended; or
  - (b) a person is disqualified from obtaining or holding a Queensland driver licence.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) As soon as practicable after the person is charged with the offence to which the suspension or disqualification relates—
  - (a) a police officer must give the person a notice about the suspension or disqualification, in the approved form, for the person's information; and
  - (b) the commissioner must give the chief executive notice about the details of the suspension or disqualification.
- (3) Failure by a police officer or the commissioner to give notice under subsection (2)(a) or (b) about the suspension or disqualification does not invalidate the suspension or disqualification, or affect anything done in relation to the suspension or disqualification unless, in relation to a notice under subsection (2)(a), the police officer has no reasonable excuse for failing to give the notice.

**79E Court may allow particular person whose licence is suspended under s 79B to drive**

- (1) This section applies to a person—
  - (a) whose Queensland driver licence is suspended under section 79B(2) because the person has been charged as mentioned in section 79B(1)(a), (b) or (d); and
  - (b) who is eligible, and who applies, under a regulation as mentioned in subsection (4).
- (2) On application to a court by the person, the court may, by order, authorise the person to continue to drive motor vehicles under the licence, including a renewal of the licence, in stated circumstances.
- (3) Despite the order, the person is not authorised to drive a motor vehicle under a Queensland driver licence until the person obtains a replacement licence under section 79F.

*Note—*

Until a replacement licence is obtained under 79F, the suspension continues under section 79B and it would be an offence against section 78 for the person to drive a motor vehicle for which a licence is required.

- (4) A regulation may provide for matters relating to an order under subsection (2), including, for example, the following—
- (a) the persons who are eligible, and who are not eligible, to apply for an order;
  - (b) how and when an application for an order is to be made;
  - (c) the criteria to be used in deciding an application for an order;
  - (d) the types of restrictions the court may or must apply to a licence;
  - (e) the period for which an order is effective;
  - (f) variation of an order;
  - (g) the consequences for failing to comply with an order or a restriction applicable to a licence, including, for example, the creation of offences and the disqualification of a person from holding or obtaining a licence.

### **79F Replacement licence if there is an order under s 79E**

- (1) This section applies to a person authorised to continue to drive motor vehicles by an order under section 79E (a ***section 79E order***).
- (2) The person may apply, in an approved form, for a form of licence (a ***replacement licence***) that is the same kind, class or description as the licence suspended under section 79B except for the inclusion of a code indicating that the holder of the licence is authorised to drive motor vehicles only under an order under section 79E.
- (3) In making a decision about the application, the chief executive must—
- (a) have regard to the section 79E order; and
  - (b) deal with the application as if it were an application for a Queensland driver licence.
- (4) Despite subsection (3)(b), the chief executive may only refuse the application if under an Act—

- (a) the person's licence is suspended or cancelled, or the person is disqualified from holding or obtaining a Queensland driver licence, for a reason other than the reason that resulted in the suspension to which the section 79E order relates; or
- (b) the person's licence would have been suspended or cancelled, or the person would have been disqualified from holding or obtaining a Queensland driver licence, except the person's licence was already suspended under section 79B(2).

## 80 Provisions with respect to breath tests and laboratory tests

- (1) In this section—

***authorised police officer*** means any police officer authorised by the commissioner pursuant to subsection (8G) to operate a breath analysing instrument.

***breath analysing instrument*** means an instrument—

- (a) for finding out the concentration of alcohol in—
  - (i) a person's blood by analysing a specimen of the person's breath; or
  - (ii) a person's breath by analysing a specimen of the person's breath; and
- (b) approved under a regulation.

***breath test*** means a test to obtain an indication of the concentration of alcohol in a person's breath using a device approved under a regulation.<sup>12</sup>

***health care professional*** means—

- (a) a doctor; or
- (b) a nurse; or
- (c) a qualified assistant.

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<sup>12</sup> As to devices previously approved by gazette notice, see the *Statutory Instruments Act 1992*, section 20C.

*Transport Operations (Road Use Management) Act  
1995*

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**nurse** means a person registered under the *Nursing Act 1992* as a registered nurse.

**qualified assistant** means a person whose duties include the taking of blood.

**suspend**, in relation to a driver licence issued outside Queensland, includes suspend the authority to drive on a Queensland road under the licence.

- (1A) If a person is required under this section to provide a specimen of breath for a breath test or analysis or a specimen of blood for a laboratory test, the person is taken not to have provided the specimen unless it—
- (a) is sufficient to enable the test or the analysis to be carried out; and
  - (b) is provided in a way that enables the objective of the test or analysis to be satisfactorily achieved.
- (2) A police officer may require any person found by the officer or who the officer suspects on reasonable grounds was during the last preceding 2 hours—
- (a) driving a motor vehicle, tram or train on a road or elsewhere; or
  - (b) attempting to put in motion a motor vehicle, tram or train on a road or elsewhere; or
  - (c) in charge of a motor vehicle, tram or train on a road or elsewhere; or
  - (d) driving or in charge of or attempting to put in motion a vessel being used or apparently about to be used in navigation;

to provide a specimen of breath for a breath test by the person.

- (2A) Where a motor vehicle, tram, train or vessel is involved in an incident resulting in injury to or death of any person or damage to property a police officer may require any person who the officer suspects on reasonable grounds—
- (a) was driving or attempting to drive the motor vehicle, tram or train on a road or elsewhere; or

*Transport Operations (Road Use Management) Act  
1995*

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- (b) was in charge of the motor vehicle, tram or train on a road or elsewhere; or
- (c) was driving or in charge of or attempting to drive the vessel;

at the time of the incident to provide a specimen of breath for a breath test by the person.

(2B) Subsection (2C) applies if—

- (a) a police officer requires a person to provide a specimen of breath for a breath test by the person under subsection (2) or (2A); and
- (b) the person—
  - (i) is taken not to have provided the specimen of breath under subsection (1A); or
  - (ii) provides the specimen of breath; but—
    - (A) the device used for the test is or becomes defective precluding its satisfactory operation; or
    - (B) for any reason it is not possible to use or continue using the device to conduct the breath test; or
    - (C) for any other reason it is not possible to complete the breath test.

(2C) Under subsection (2) or (2A), the police officer may require the person to provide as many specimens of breath as the officer considers reasonably necessary to carry out the breath test.

(3) A police officer who is exercising a power conferred on the officer by subsection (2) or (2A) may require the person in question to provide the specimen of breath—

- (a) at the time when and the place where the officer makes the requirement including at any police station where the person may then be; or
- (b) at the police station nearest to that place or at some other police station conveniently located as soon as practicable after the police officer makes the

*Transport Operations (Road Use Management) Act  
1995*

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requirement if the police officer believes on reasonable grounds that it is reasonable for such person to be taken to a police station for the purpose, having regard to the circumstances of the case; or

- (c) without limiting paragraph (b), as soon as practicable after the police officer makes the requirement, at a place at which the police officer believes on reasonable grounds there is located a device approved by the Minister pursuant to this section for carrying out breath tests, if the officer does not have such a device with him or her.
- (4) A requirement shall not be made under subsection (2) or (2A) unless it is made as soon as practicable and within 2 hours after the occurrence of the event whereby a police officer is authorised by that subsection to make the requirement.
- (5) If a person required by a police officer under subsection (2) or (2A) to provide at a police station or other place a specimen of breath for a breath test by the person fails to go voluntarily to the police station or other place for that purpose any police officer, using such force as is necessary, may take the person to the police station or, as the case may be, other place for that purpose.
- (5A) Subject to subsection (5B), if a person required by a police officer under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person, either—
  - (a) fails to provide the specimen; or
  - (b) fails to provide the specimen in the manner directed by the police officer who makes the requirement;the person commits an offence against this Act.  
Maximum penalty—40 penalty units or 6 months imprisonment.
- (5B) A person referred to in subsection (5A) is not guilty of an offence pursuant to that subsection if—
  - (a) immediately after the requirement is made, the person produces to the police officer a certificate in the approved form from a doctor stating that—

*Transport Operations (Road Use Management) Act  
1995*

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- (i) because of a stated illness or disability, the person is incapable of providing a specimen of breath; or
    - (ii) the provision of the specimen could adversely affect the person's health; or
  - (b) the person satisfies the justices that the requisition to provide the specimen was not lawfully made or that the person was, by reason of the events that occurred, incapable of providing the specimen or that there was some other reason of a substantial character for the person's failure to provide the specimen other than a desire to avoid providing information that might be used in evidence.
- (6) If—
- (a) it appears to a police officer in consequence of a breath test carried out by the officer on a specimen of breath of any person that the person is over the general alcohol limit; or
  - (aa) it appears to a police officer in consequence of a breath test carried out by the officer on a specimen of breath of any person that the person is over the no alcohol limit and the police officer suspects on reasonable grounds that the person is a person to whom section 79(2A), (2B), (2D) or (2J) refers; or
  - (b) a person required by a police officer under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person—
    - (i) fails to provide the specimen; or
    - (ii) fails to provide the specimen in the manner directed by the police officer who makes the requirement; or
    - (iii) declines to wait for such time as is reasonable in the circumstances to enable the test to be carried out satisfactorily; or
  - (ba) a police officer reasonably suspects that a person who produces a certificate under subsection (5B)(a) is, because of the external signs exhibited by the person, affected by liquor or a drug;

*Transport Operations (Road Use Management) Act  
1995*

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any police officer, using such force as is necessary, may—

- (c) take the person to a police station, hospital or other place authorised under this section; or
- (ca) take the person to a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath; or
- (d) if the person is already at a police station—detain the person there or take the person—
  - (i) to such other police station as is convenient and reasonable in the circumstances; or
  - (ii) to a vehicle or vessel, such as is convenient and reasonable in the circumstances, where facilities are available for the analysis by a breath analysing instrument of a specimen of breath; or
- (e) if the person is already at a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath—detain the person there or take the person—
  - (i) to another such vehicle or vessel as is convenient and reasonable in the circumstances; or
  - (ii) to a police station such as is convenient and reasonable in the circumstances;

for the purposes of subsections (8) to (8L).

- (8) Any person who—
  - (a) is arrested for an offence against section 79 or 83; or
  - (b) is arrested for any indictable offence in connection with or arising out of the driving of a motor vehicle by the person (including any offence against any provision of the Criminal Code, section 328A); or
  - (c) is, for the purposes of subsections (8) to (8L), detained at or taken to a police station, or detained at or taken to a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath, or taken to a hospital or other place authorised under this section;

*Transport Operations (Road Use Management) Act  
1995*

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may, while at a police station, vehicle, vessel, hospital or other place authorised under this section as aforesaid, be required by any police officer to provide a specimen of the person's breath for analysis by a breath analysing instrument or, according as such officer requires, a specimen of the person's blood for a laboratory test.

- (8A) A person to whom subsection (8) applies may be detained at a police station, vehicle, vessel, hospital or other place as aforesaid for the purposes of subsections (8) to (8L) by a police officer.
- (8B) Any person referred to in subsection (8) may, for the purposes of subsections (8) to (8L), be taken—
- (a) to a police station; or
  - (b) to a police station, vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath; or
  - (c) to a hospital; or
  - (d) where there are reasonable grounds for believing that a doctor or nurse is available at any other place—to that place;

and such person may be taken to more than 1 of such places if the purposes of those subsections cannot be carried out or effected at a place to which the person has been first taken.

- (8C) Where any person whom a police officer may require under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person is at a hospital for treatment, that person may, subject to the approval of a doctor who is familiar with the person's injuries and apparent state of health at the time, be required by any police officer to provide at the hospital a specimen of the person's breath for analysis by a breath analysing instrument or, according as such officer requires, a specimen of the person's blood for a laboratory test.
- (8D) A requisition shall not be made under subsection (8C) unless it is made as soon as practicable and within 2 hours after the occurrence of the event whereby a police officer is authorised

*Transport Operations (Road Use Management) Act  
1995*

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under subsection (2) or (2A) to require the person to provide a specimen of breath for a breath test by the person.

- (8E) If a person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis forthwith upon being so required produces to the police officer who made the requisition a doctor's certificate mentioned in subsection (5B)(a), such police officer shall not require a specimen of breath of such person but shall require a specimen of the person's blood.
- (8F) A person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis shall do so, when directed by the doctor or authorised police officer operating or who is to operate the breath analysing instrument, by placing the person's mouth over the mouthpiece of the instrument and blowing directly and continuously (and without escape of breath otherwise) through that mouthpiece into the instrument until told to stop by the doctor or authorised police officer operating the instrument.
- (8G) The commissioner may, by writing under the commissioner's hand, authorise any police officer to be an authorised police officer to operate a breath analysing instrument on being satisfied that such officer is competent to operate a breath analysing instrument.
- (8H) An authorised police officer shall continue as such notwithstanding that the writing whereby the officer was made such has been lost, mislaid or destroyed or otherwise cannot be produced and there may be issued to the officer as prescribed by subsection (8G) a fresh instrument of authority which shall be deemed to have been effective on and from the date when the instrument that it replaces took effect.
- (8I) A certificate purporting to be signed by the commissioner that the police officer named therein is authorised by the commissioner to operate a breath analysing instrument shall, in the absence of proof to the contrary, be proof that the officer named therein is so authorised.

*Transport Operations (Road Use Management) Act  
1995*

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- (8J) The authorised police officer operating or who is to operate a breath analysing instrument in any particular case shall not be the police officer—
- (a) who has arrested the person concerned for an offence referred to in subsection (8); or
  - (b) who requires the person to provide the specimen of breath for a breath test or analysis.
- (8L) Subsection (8M) applies if—
- (a) a person has been required to provide, under subsection (8) or (8C), a specimen of the person's breath for analysis by a breath analysing instrument or a specimen of the person's blood for a laboratory test; and
  - (b) the person—
    - (i) is taken under subsection (1A) not to have provided the specimen of breath or a specimen of blood; or
    - (ii) provides a specimen of breath for analysis by a breath analysing instrument; but—
      - (A) the breath analysing instrument is or becomes defective precluding its satisfactory operation to analyse the breath specimen; or
      - (B) for any reason it is not possible to use or continue using the breath analysing instrument for the purpose of analysing the breath specimen; or
      - (C) the breath analysing instrument indicates to the authorised police officer operating the instrument that alcohol or some other substance is present in the mouth of the person supplying the breath specimen; or
      - (D) for any other reason it is not possible to complete the analysis.
- (8M) Under subsection (8) or (8C), the police officer is authorised to require the person to provide as many specimens of breath or blood as the officer considers reasonably necessary to carry out the analysis or test.

*Transport Operations (Road Use Management) Act  
1995*

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(9) Where a person—

- (a) is arrested for any offence referred to in subsection (8); or
- (b) is, for the purposes of subsections (8) to (8L), detained at or taken to a police station, vehicle or vessel, or taken to a hospital or other place authorised under this section;

and whilst at a police station, vehicle, vessel, hospital or other place authorised under this section as aforesaid is required by a police officer to provide a specimen of the person's breath for analysis by a breath analysing instrument, the police officer making the requisition may—

- (c) if the police officer who arrested, detained or took as aforesaid the person believes on reasonable grounds that at the time of the arrest, detaining or taking the person exhibited external signs indicating that the person was affected by liquor or a drug; and
- (d) if the analysis by the breath analysing instrument of the specimen of breath provided in accordance with the requisition indicates either that there is no alcohol in the person's blood or breath or that the concentration of alcohol in the person's blood or breath is such that it does not reasonably explain the external signs exhibited and observed;

require the person to provide a specimen of the person's blood for a laboratory test and, subject to the direction of a doctor or nurse, a specimen of the person's urine for a laboratory test.

- (9A) The police officer making the requisition may detain the person at a police station, vehicle, vessel, hospital or other place authorised under this section for a period of time that is reasonable in the circumstances to enable a doctor to attend there in connection with the provision by the person of a specimen of blood or urine or, as the case requires, such police officer may take the person to a place where, in the reasonable belief of such officer, a doctor or nurse is available for the purposes of the provision by the person of a specimen of the person's blood.
- (9B) A person who is required by a police officer, under this section, to provide a specimen of the person's blood for a

*Transport Operations (Road Use Management) Act  
1995*

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laboratory test must allow a doctor or nurse, or a qualified assistant directed by a doctor or nurse to take the specimen, to take the specimen when and as directed by and to the satisfaction of the health care professional, the health care professional being hereby authorised to take such specimen whether or not the person consents to the taking.

- (9C) A person who is required pursuant to subsection (9) to provide a specimen of the person's urine for a laboratory test shall do so when and as directed by a doctor or nurse.
- (10) A police officer may require a doctor or nurse who is attending a person who is at a hospital for treatment to obtain a specimen of the person's blood for a laboratory test, if the person—
- (a) is a person whom a police officer may require under subsection (2) or (2A) to provide a specimen of breath for a breath test; and
  - (b) is, or appears to be, unable to consent to the taking of the specimen of blood because the person is, or appears to be, unconscious or otherwise unable to communicate.
- (10A) The doctor or nurse must—
- (a) take a specimen of the person's blood that will enable the laboratory test to be carried out; or
  - (b) ensure that a qualified assistant takes a specimen of the person's blood that will enable the laboratory test to be carried out.
- (10B) A qualified assistant may take the specimen of the person's blood if directed to do so by the doctor or nurse.
- (10C) The health care professional who takes the specimen of the person's blood under subsection (10A)(a) or (10B) must, immediately after taking the specimen, take another specimen of the person's blood and give it to the person as soon as practicable.
- (10D) The doctor or nurse need not comply with subsection (10A) if the doctor or nurse—
- (a) reasonably believes that taking the specimen would be prejudicial to the person's treatment; or

*Transport Operations (Road Use Management) Act  
1995*

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- (b) has another reasonable excuse.

*Example—*

A doctor or nurse would have a reasonable excuse if he or she was required to attend to a patient suffering a heart attack and was unable to take the specimen of blood when required.

- (10E) A police officer must not make a requirement under subsection (10) relating to a person if—
- (a) under this section, the person has provided a specimen of breath (the *analysis specimen*) for analysis by a breath analysing instrument in relation to the occurrence or event in relation to which the police officer may require a specimen of breath for a breath test as mentioned in subsection (10)(a); and
  - (b) the analysis specimen has been analysed by a breath analysing instrument; and
  - (c) there is a certificate under subsection (15) for the analysis.
- (10F) Subsections (10A) and (10C) do not create offences.
- (10G) It is lawful for a health care professional to take a specimen of a person's blood under subsection (10A)(a), (10B) or (10C) even though the person has not consented to the taking.
- (11) A person who, upon a requisition duly made by a police officer under subsection (8) or (8C), fails to provide as prescribed a specimen of the person's breath for analysis or, as the case may be, a specimen of the person's blood for a laboratory test or a person who, upon a requisition duly made by a police officer under subsection (9), fails to provide as prescribed a specimen of the person's blood for a laboratory test is guilty of an offence which shall be deemed to be an offence against the appropriate provision of section 79(1) and the offender is liable to the same punishment in all respects (including disqualification from holding or obtaining a Queensland driver licence) as the person would be in the case of the offence being actually one committed by the person against the provision.
- (11A) A person referred to in subsection (11) is not guilty of an offence pursuant to that subsection if the person satisfies the

*Transport Operations (Road Use Management) Act  
1995*

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justices that the requisition to provide the specimen was not lawfully made or that the person was, by reason of the events that occurred, incapable of providing the specimen or that there was some other reason of a substantial character for the person's failure to provide the specimen other than a desire to avoid providing information that might be used in evidence.

- (15) As soon as practicable after a specimen of breath provided pursuant to a requisition has been analysed by means of a breath analysing instrument, the doctor or authorised police officer operating such instrument shall sign 2 copies of a certificate in writing stating the concentration of alcohol indicated by the analysis to be present in the blood or breath of the person whose breath has been analysed, the date and time at which the analysis was made, and shall deliver—
- (a) 1 copy of such certificate to the police officer who made the requisition; and
  - (b) the other copy to the person whose breath has been analysed (or to another person on behalf of that person upon request by that other person).
- (15A) A copy of a certificate under subsection (15)—
- (a) is evidence that the instrument operated by the doctor or officer was a breath analysing instrument; and
  - (b) is evidence that the instrument was in proper working order and properly operated by the doctor or officer; and
  - (c) is evidence that all regulations relating to breath analysing instruments were complied with; and
  - (d) is presumed to have been given to the person whose breath was analysed, unless the contrary is proved.
- (15B) Where a person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis fails to do so as prescribed by that subsection, the doctor or authorised police officer operating or to operate the breath analysing instrument shall, as soon as practicable thereafter, sign 2 copies of a certificate in writing stating—
- (a) the full name of the person concerned; and

*Transport Operations (Road Use Management) Act  
1995*

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- (b) the name of the police officer who made the requisition; and
  - (c) the name of the operator of the breath analysing instrument; and
  - (d) the name and patent number or name and model number appearing on the breath analysing instrument; and
  - (e) that the person concerned failed to provide as prescribed by that subsection a specimen of breath when required; and shall deliver—
    - (g) 1 copy of such certificate to the police officer who made the requisition; and
    - (h) the other copy to the person who failed to provide as prescribed the specimen of breath when required (or to another person on behalf of that person upon request by that other person).
- (15F) A certificate referred to in subsection (15B) shall, upon its production in any proceeding, be accepted as evidence—
- (a) that a requisition to provide a specimen of the person's breath for analysis was made to the person concerned by the police officer named therein as the police officer making the requisition; and
  - (b) that the person concerned failed to provide as prescribed by subsections (8) to (8L) a specimen of breath when required; and
  - (c) that an approved breath analysing instrument was available at the place where and at the time when the requisition was made for the purpose of analysing a specimen of breath provided in accordance with the requisition;
- and until the contrary is proved shall be conclusive such evidence.
- (15G) Evidence by a doctor or an authorised police officer or by a copy of a certificate referred to in subsection (15) purporting to be signed by a doctor or an authorised police officer of the concentration of alcohol indicated to be present in the blood or breath of a person by a breath analysing instrument

*Transport Operations (Road Use Management) Act  
1995*

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operated by such doctor or authorised police officer shall, subject to subsection (15H), be conclusive evidence of the concentration of alcohol present in the blood or breath of the person in question at the time (being in the case of such certificate the date and time stated therein) the breath of that person was analysed and at a material time in any proceedings if the analysis was made not more than 2 hours after such material time, and at all material times between those times.

- (15H) The defendant may negative such evidence as aforesaid if the defendant proves that at the time of the operation of the breath analysing instrument it was defective or was not properly operated.
- (16) As soon as practicable after a specimen of blood or urine has been obtained under this section, the police officer who required the specimen must deliver it, or arrange for it to be delivered on the police officer's behalf, to the laboratory of an analyst.
- (16A) The specimen must be delivered to the analyst's laboratory in the way prescribed by regulation.
- (16B) A certificate purporting to be signed by an analyst and stating—
- (a) that there was received at the laboratory of the analyst from the police officer named in the certificate a specimen of the blood of the person named in the certificate provided by that person on the date and at the place and time stated in the certificate; and
  - (b) that the analyst made a laboratory test of such specimen on the date and at the place stated in the certificate; and
  - (c) that—
    - (i) the concentration of alcohol in the person's blood indicated by the laboratory test was a specified number of milligrams of alcohol in the blood per 100mL of blood; or
    - (ii) a specified drug or metabolite of a specified drug was indicated by the laboratory test to be present in the person's blood;

*Transport Operations (Road Use Management) Act  
1995*

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shall be evidence of those matters and until the contrary is proved shall be conclusive such evidence.

- (16C) Where a person who is required pursuant to subsection (8), (8C) or (9) to provide a specimen of the person's blood for a laboratory test fails to do so as prescribed by the subsection under which the requisition is made, the health care professional by whom the specimen is to be taken shall, as soon as practicable thereafter, sign 2 copies of a certificate in writing stating—
- (a) the full name of the person concerned; and
  - (b) the name of the police officer who made the requisition; and
  - (c) that the person concerned failed to provide a specimen of blood when required;
- and shall deliver—
- (e) 1 copy of such certificate to the police officer who made the requisition; and
  - (f) the other copy to the person who failed to provide the specimen of blood when required (or to another person on behalf of that person upon request by that other person).
- (16E) A certificate referred to in subsection (16C) shall, upon its production in any proceeding, be accepted as evidence—
- (a) that a requisition to provide a specimen of the person's blood for a laboratory test was made to the person concerned by the police officer named therein as the police officer making the requisition; and
  - (b) that the person concerned failed to provide as prescribed by the subsection under which the requisition was made a specimen of the person's blood when required;
- and until the contrary is proved shall be conclusive such evidence.
- (16F) Evidence by an analyst or by a certificate referred to in subsection (16B) of the concentration of alcohol indicated to be present in, or of the drug or metabolite of the drug indicated to be present in, the blood of a person by a

*Transport Operations (Road Use Management) Act  
1995*

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laboratory test of a specimen of the blood of that person shall, subject to subsection (16G), be conclusive evidence of the presence of the concentration of alcohol in, or the drug or the metabolite of the drug in, the blood of that person at the time (being in the case of such certificate the date and time stated therein) when the person provided the specimen and at a material time in any proceedings if the specimen was provided not more than 2 hours after such material time, and at all material times between those times.

- (16G) The defendant may negative such evidence as aforesaid if the defendant proves that the result of the laboratory test of that specimen of blood was not a correct result.
- (16H) The court shall on the application of the complainant adjourn the hearing as necessary to enable the production in evidence of the certificate of the analyst and if within 3 days after providing the specimen the defendant has given to the police officer in charge of the police station at which or nearest to the hospital or other place where the specimen of blood for the laboratory test was provided a notice in writing that the defendant requires a copy of the certificate to be given to the defendant at the address stated in the notice shall, at the request of the defendant, adjourn the hearing as necessary to ensure that such copy has been given to the defendant at such address not less than 3 days before the production of the certificate in evidence.
- (16I) Such copy may be given either personally or by sending it by registered post or certified mail.
- (16J) The person who gives the copy (whether personally or by sending it by registered post or certified mail) may attend before any justice of the peace having jurisdiction in the State or part of the State or part of the Commonwealth where the person gives the copy and depose on oath and in writing endorsed on a copy of the certificate to the giving thereof.
- (16K) Such deposition shall, upon production to the court, be evidence of the matters contained therein and, until the contrary is proved, shall be conclusive such evidence.
- (16L) Nothing contained in subsections (16H) to (16K) precludes the court in its discretion from dealing with a charge of an

*Transport Operations (Road Use Management) Act  
1995*

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offence against section 79(1) on the application of the defendant notwithstanding that at that time the result of the laboratory test of the specimen of the blood of the defendant is not known if—

- (a) the defendant pleads guilty to the offence; and
  - (b) the court is satisfied that the facts available to be put forward by the prosecution, and unchallenged by the defendant, are sufficient to enable it to deal properly with the matter.
- (18) A certificate purporting to be signed by a health care professional that on a date and at a place and time stated therein the health care professional took a specimen of blood for a laboratory test of a person named therein shall, upon its production in any proceeding, be accepted as evidence of those matters and until the contrary is proved shall be conclusive such evidence.
- (18A) Where by any provision of this section a certificate of or purporting to be signed by a health care professional, an authorised police officer or an analyst is made evidence of any matter, a certificate purporting to be signed by a health care professional, an authorised police officer or an analyst, as the case may be, as to that matter shall, upon its production in any proceeding, be accepted as evidence—
- (a) that the signature thereto is that of the person by whom the certificate purports to be made; and
  - (b) of all matters contained therein including the status, authority or qualification of the person by whom the certificate purports to be made;
- and until the contrary is proved shall be conclusive such evidence.
- (19) If a police officer delivers a specimen of blood, or arranges for a specimen of blood to be delivered on the officer's behalf, to an analyst's laboratory in a way prescribed by regulation, in any proceeding—
- (a) evidence of that fact given by the officer and any person who delivered the specimen on the officer's behalf; and

*Transport Operations (Road Use Management) Act  
1995*

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- (b) a certificate, produced in evidence, purporting to be signed by the analyst certifying that the specimen of blood was received at the analyst's laboratory from the officer;

is sufficient evidence of compliance with subsection (16A).

- (20) A person who, being thereunto required pursuant to subsection (8), (8C) or (9), has provided a specimen of blood for a laboratory test may when the person provides the specimen or immediately after providing it and where the person provides it (or another person on behalf of that person may when or immediately after the person provides the specimen and where the person provides it) request the health care professional who took the specimen to give to the person a specimen of the person's blood.
- (20A) Upon such request, subject to the person concerned then and there providing a second specimen of blood, the health care professional must give such second specimen to such person or to the person requesting it on the person's behalf.
- (22) Subsection (22AA) applies if—
  - (a) the analysis by means of a breath analysing instrument of a specimen of breath of a person required by a police officer to be provided pursuant to subsection (8) or (8C) indicates that the person is over the general alcohol limit or in the case of a person to whom section 79(2A), (2B), (2D) or (2J) refers, that the person is over the no alcohol limit; or
  - (b) a person so required fails to provide as prescribed by subsections (8) to (8L) such specimen; or
  - (ba) a person has been arrested for an offence under section 79(1) but has not been required by a police officer to provide a specimen of breath for analysis or a specimen of blood for a laboratory test under subsection (8) or (8C)—
    - (i) because the person is violent; or
    - (ii) because of the external signs exhibited by the person, the police officer reasonably believes the

*Transport Operations (Road Use Management) Act  
1995*

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- person is so affected by alcohol or a drug as to be unable to provide the specimen; or
- (iii) because of the remoteness of the area—
- (A) a breath analysing instrument is not available to analyse a specimen of the person's breath; or
- (B) a doctor or nurse is not available to take a specimen of blood from the person for a laboratory test or to direct a qualified assistant to take the specimen; or
- (c) a person who is required by a police officer pursuant to subsection (8) or (8C) to provide a specimen of the person's blood for a laboratory test permits a specimen of the person's blood to be taken for the purpose and thereupon such police officer requires that person to provide a specimen of breath for a breath test by the officer (the officer being hereby authorised to require such a specimen of breath for a breath test to be provided), and—
- (i) it appears to the police officer in consequence of the breath test carried out by the officer that the device by means of which the test is carried out indicates that the person is over the general alcohol limit or in the case of a person to whom section 79(2A), (2B), (2D) or (2J) refers, that the person is over the no alcohol limit; or
- (ii) the person fails to provide such specimen of breath; or
- (d) a person who is required by a police officer pursuant to subsection (8), (8C) or (9) to provide a specimen of the person's blood for a laboratory test fails to provide such specimen; or
- (e) a specimen of a person's blood is taken under this section for a laboratory test and a doctor or nurse certifies in writing to the police officer who made the requisition for the provision or taking of the specimen of blood that, in respect of the person concerned, the case

*Transport Operations (Road Use Management) Act  
1995*

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is a proper one for the suspension of that person's driver licence for a period of 24 hours.

- (22AA) The person's driver licence is suspended for 24 hours from when—
- (a) the analysis mentioned in subsection (22)(a) was made; or
  - (b) the requirement mentioned in subsection (22)(b), (c)(ii) or (d) was made; or
  - (c) the arrest mentioned in subsection (22)(ba) was made; or
  - (d) the breath test of the specimen of the person's breath mentioned in subsection (22)(c)(i) was carried out; or
  - (e) the certificate in writing mentioned in subsection (22)(e) was given.
- (22A) The police officer who required the specimen shall sign and deliver to the person concerned (or to another person on behalf of that person at the request of that other person) a statement in writing that the driver licence of the person concerned is suspended as prescribed by subsection (22AA) for the period of 24 hours commencing at the time stated therein.
- (22B) It is immaterial, in any of the cases referred to in subsection (22), whether the person concerned is arrested or not.
- (22C) Notwithstanding any other provision of this Act, an appeal shall not lie in respect of the suspension of a driver licence under subsection (22AA).
- (22D) Any person who whilst the person's driver licence is suspended under subsection (22AA) drives a motor vehicle on a road or elsewhere is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 1 year.
- (23) Where pursuant to this section a police officer may in the performance, exercise or carrying out of the officer's functions, powers or duties under this section take a person to a hospital or police station for the taking of a specimen and the police officer believes on reasonable grounds that a doctor

*Transport Operations (Road Use Management) Act  
1995*

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is not available at the hospital or to go to the police station, or that, for the taking of a specimen of blood at the hospital, a nurse also is not available, the officer may, whether the person concerned is under arrest or not, take such person to a place where to the officer's knowledge or in the officer's reasonable belief a doctor is available for the taking of a specimen.

- (24) Evidence of the presence of the concentration of alcohol in the blood or breath of a person, or the drug or metabolite of the drug in the blood of a person, at a time material to the time of an offence as hereinafter mentioned obtained in accordance with any of the provisions of this section is admissible upon the trial upon indictment of that person of any offence in connection with or arising out of the driving of a motor vehicle by the person or upon any hearing of a charge summarily against the person of an offence against any provision of the Criminal Code, section 328A, and shall not be excluded by reason only that such evidence was compulsorily obtained or otherwise obtained in accordance with this section.
- (24A) Evidence admissible pursuant to subsection (24)—
- (a) may be given in the same manner, whether by a witness or by a certificate, as it may be given pursuant to the provisions of this section, other than that subsection, in respect of an offence against this Act; and
  - (b) is admissible in the same circumstances and in all respects to the same extent as it would be admissible pursuant to the provisions of this section, other than subsection (24), in respect of an offence against this Act and, subject to paragraph (c), shall have the same evidentiary value in relation to the same matters and times as are provided for by the provisions of this section, other than that subsection, in respect of such evidence; and
  - (c) where such evidence indicates a person was over the high alcohol limit, shall be conclusive evidence that the person was adversely affected by alcohol at all times in relation to which such evidence has evidentiary value pursuant to this section.

*Transport Operations (Road Use Management) Act  
1995*

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- (26) If a defendant proposes to lead evidence to prove in any proceeding—
- (a) pursuant to subsection (15H), that at the time of the operation of a breath analysing instrument it was defective or was not properly operated; or
  - (b) pursuant to subsection (16G), that the result of a laboratory test of a specimen of blood referred to in subsection (16F) was not a correct result; or
  - (c) pursuant to subsection (18) or (18A), that the signature referred to therein is not the signature of the health care professional, authorised police officer or analyst by whom the certificate referred to therein purports to be signed or that any matter contained in the said certificate is not correct;

the defendant shall give notice thereof to the complainant not less than 14 clear days before the return date of the summons or the appointed date for the hearing of the charge.

- (27) The notice must—
- (a) be written; and
  - (b) be signed by the defendant or the defendant's solicitor; and
  - (c) for a notice under subsection (26)(a)—state the grounds on which the defendant intends to rely to prove that the breath analysing instrument was defective or was not properly operated; and

*Example of paragraph (c)—*

A claim that the breath analysing instrument was defective because it mistook the presence of mouthwash in the defendant's mouth for the presence of alcohol in the defendant's blood.

- (d) for a notice under subsection (26)(b)—state the grounds on which the defendant intends to rely to prove that the result of the laboratory test was not a correct result.
- (28) A defendant who gives a notice under subsection (26)(b) may, only with the court's leave, require a person who was involved in the taking, receipt, storage or testing of the specimen of blood to attend the hearing to give evidence.

*Transport Operations (Road Use Management) Act  
1995*

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- (29) The court may grant the leave only if satisfied—
- (a) that the complainant has been given an opportunity to make a submission to the court about granting the leave; and
  - (b) that—
    - (i) there is a reasonable possibility that an irregularity or defect exists in relation to the taking, receipt, storage or testing of the specimen of blood about which the person required to attend the hearing is able to give evidence; or
    - (ii) it is otherwise in the interests of justice that the person be required to attend the hearing to give evidence relevant to the proceeding.
- (30) In a proceeding for an offence against section 79, unless the contrary is proved—
- (a) a qualified assistant who takes a specimen of blood from a person for a laboratory test is to be taken to have been directed by a doctor or nurse to take the specimen; and
  - (b) any equipment used in a laboratory test of a specimen of blood is to be taken to have given accurate results.

**80A Obstructing the taking of a blood specimen**

- (1) A person must not obstruct a health care professional taking a specimen of blood from someone else under section 80, without a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) In this section—

*health care professional* has the same meaning it has in section 80.

*obstruct* includes hinder, resist and attempt to obstruct.

**80B Interstate exchange of information**

- (1) The commissioner may enter into an arrangement with an interstate commissioner for the exchange, between

Queensland and the other State, of information obtained under section 80 or a corresponding law to section 80.

(2) In this section—

*interstate commissioner* means the commissioner of the police service (however described) of another State.

## **81 Notices to offenders for certain first offences**

(1) If—

- (a) a police officer believes on reasonable grounds that a person has committed an offence against section 79(2), (2A), (2B), or (2D), or against (2J) while the person is the holder of a restricted licence; and
- (b) the concentration of alcohol—
  - (i) in the person's blood is less than 100mg of alcohol in 100mL of blood; or
  - (ii) in the person's breath is less than 0.100g of alcohol in 210L of breath;

the police officer may serve a notice on the person.

(2) The notice may be served on the person only if the person has not within 5 years before the alleged offence been convicted of an offence against section 79 or 80(11).

(3) The notice must—

- (a) be in a form approved by the commissioner; and
- (b) be identified by a serial number; and
- (c) specify the full name and address of the person; and
- (d) specify the time, date and place of the commission of the alleged offence; and
- (e) clearly indicate the nature of the alleged offence; and
- (f) state the alleged concentration of alcohol in the person's blood or breath; and
- (g) specify the day of its issue; and

*Transport Operations (Road Use Management) Act  
1995*

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- (h) state that, if the person does not wish the matter to be dealt with by a court, the person may pay to the department the amount of the prescribed penalty specified in the notice within 28 days after issue of the notice; and
  - (i) state that if the person acts in accordance with paragraph (h) the person—
    - (i) will be disqualified from holding or obtaining a Queensland driver licence for the prescribed period; and
    - (ii) must surrender to a superintendent every Queensland driver licence held by the person on the day after the day on which the disqualification takes effect.
- (4) Subject to subsections (12) and (14), if the notice under subsection (1) is served and, within 28 days after the issue of the notice, the amount of the prescribed penalty is paid in accordance with the notice and received by the department—
- (a) any liability of the person to a penalty in relation to the alleged offence is discharged and no further proceedings may be taken in relation to the alleged offence; and
  - (b) if the alleged offence is in relation to a motor vehicle, the person is disqualified from holding or obtaining a Queensland driver licence for the prescribed period starting from—
    - (i) the end of 28 days after the day of issue of the notice; or
    - (ii) if the person makes an application under subsection (7) and the court refuses to direct the issue of a restricted licence to the person—the day of the refusal;whichever is the later; and
  - (c) the person is taken, for the purposes of another offence against section 79 or 80(11), to have been convicted of the alleged offence on the day on which the amount is received by the department.

*Transport Operations (Road Use Management) Act  
1995*

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- (5) A person who, under this section, is disqualified from holding or obtaining a Queensland driver licence must on the day after the day on which the disqualification takes effect, surrender every Queensland driver licence held by the person to a superintendent.
- (6) Section 130 (Delivery of cancelled or suspended licences, or licences for endorsement), other than subsection (1), applies, with all necessary modifications and any prescribed modifications, to a person who is disqualified from holding or obtaining a Queensland driver licence under this section and to any licence held by the person.
- (7) If, under this section, a person is disqualified from holding or obtaining a Queensland driver licence from a particular day, the person may, before that day, apply to a court in accordance with the regulations for an order directing that the person be issued with a restricted licence.
- (8) A person who applies under subsection (7) must immediately give a copy of the application to the department.
- (9) An applicant—
  - (a) must attend the court; and
  - (b) if required by the court—must give evidence in respect of matters relevant to the application; and
  - (c) is liable to cross-examination.
- (10) Witnesses may also be called and cross-examined.
- (11) Section 87 (Issue of restricted licence to disqualified person), other than subsections (1) and (2), applies, with all necessary modifications and any prescribed modifications, in relation to an application under subsection (7) as if it were an application under section 87(1).
- (12) If the commissioner is of the opinion that—
  - (a) an offence in respect of which a notice under subsection (1) was issued to a person is not an offence in respect of which such a notice could be issued; or
  - (b) prescribed circumstances exist in relation to the alleged offence;

*Transport Operations (Road Use Management) Act  
1995*

---

the commissioner may withdraw the notice by serving on the person a withdrawal notice in a form approved by the commissioner.

- (13) The commissioner must give written reasons in the notice for the decision to withdraw under subsection (12).
- (14) The commissioner may withdraw a notice issued under subsection (1) for the purpose of—
  - (a) issuing a fresh notice; or
  - (b) taking no further action;in respect of the offence alleged in the withdrawn notice.
- (15) If a notice is withdrawn—
  - (a) the period (if any) of disqualification specified in the notice up to the withdrawal is valid; and
  - (b) under subsection (12)—the person may, with the approval of the commissioner, be proceeded against in relation to the alleged offence; and
  - (c) any penalty paid by the person is to be refunded.
- (16) A court that convicts a person of an offence alleged in a notice under subsection (1) after the notice has been withdrawn under subsection (12) or (14) must take into account any period of disqualification of the person that resulted from the operation of the notice that had passed before the withdrawal of the notice.
- (17) If more than 1 notice is served on a person under subsection (1) in relation to the same alleged offence, the total period of disqualification of the person is not to exceed the period prescribed in relation to the offence alleged in the last or latest notice.
- (18) If a notice under subsection (1) is served on a person and the prescribed penalty is not paid within 28 days after the day of issue of the notice, nothing in this section prejudices the institution or prosecution of a proceeding for the alleged offence to which the notice relates.

## **82 Offenders may be ordered to attend training programs**

- (1) This section applies if a person (the *offender*) is convicted before a court at a place prescribed under a regulation of an offence under section 79.
- (2) Whether or not any other order is made against the offender, the court may order the offender to attend and complete a training program while the offender is disqualified from holding or obtaining a Queensland driver licence.
- (3) The training program is to be—
  - (a) approved by the chief executive; and
  - (b) conducted by a person prescribed under a regulation.
- (4) A written notice of the day, time and place of the program that the offender is to attend, is to be given to the offender by a person prescribed under a regulation.

## **83 Careless driving of motor vehicles**

Any person who drives a motor vehicle on a road or elsewhere without due care and attention or without reasonable consideration for other persons using the road or place shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

## **84 Dangerous driving of vehicles (other than motor vehicles) etc.**

- (1) Any person who drives a vehicle (other than a motor vehicle), a tram, a train or an animal on a road dangerously shall be guilty of an offence and shall be liable to a penalty not exceeding 4 penalty units or to imprisonment for a term not exceeding 6 months.
- (1A) If the offender has been previously convicted under subsection (1) the offender shall be liable to a penalty not exceeding 8 penalty units or to imprisonment for a term not exceeding 1 year.

*Transport Operations (Road Use Management) Act  
1995*

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- (1B) If the offender has been twice previously convicted under subsection (1), the court shall, upon conviction, impose imprisonment as the whole or part of the punishment.
- (1C) For the purpose of determining whether or not the provisions of subsections (1) to (1B) require imprisonment to be imposed as the whole or part of the punishment for an offence (the *latest offence*) against subsection (1), not more than 1 previous conviction for an offence against the subsection incurred by the offender earlier than the period of 10 years immediately preceding the date of the offender's conviction for the latest offence shall be taken into account.

- (1D) In this section—

*drives a vehicle (other than a motor vehicle), a tram, a train or an animal dangerously* includes the driving of a vehicle (other than a motor vehicle), a tram, a train or an animal at a speed or in a manner dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road and the amount of traffic which is on the road at the time or which might reasonably be expected to be on the road.

- (2) Any person who drives a vehicle (other than a motor vehicle), a tram, a train, or an animal on a road without due care and attention or without reasonable consideration for other persons using the road shall be guilty of an offence.

Maximum penalty for subsection (2)—40 penalty units or 6 months imprisonment.

## 85 Racing and speed trials on roads

- (1) Any person who organises or promotes or takes part in—
- (a) any race between vehicles or animals on a road; or
  - (b) any attempt to establish or break any vehicle or animal speed record on a road; or
  - (c) any trial of the speed of a vehicle or animal on a road; or
  - (d) any competitive trial designed to test the skill of any vehicle driver or the reliability or mechanical condition of any vehicle on any road where a prize or trophy or

*Transport Operations (Road Use Management) Act  
1995*

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other benefit or advantage in excess of the value of \$100 may be won by a competitor;

shall be guilty of an offence, unless the prior permission in writing of the commissioner to the holding or making of the race, attempt, or trial has been obtained.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (2) The commissioner shall have power to grant or refuse permits under this section.
- (3) The commissioner may in any such permit impose any conditions the commissioner deems necessary in the interests of public safety or convenience.
- (4) Any such permit or conditions may be of general or limited application.
- (5) Where any person organising, promoting, or taking part in any such race, attempt, or trial contravenes or fails to comply with any condition imposed as aforesaid, that person shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (6) If the court convicts a person of an offence against subsection (1), the court, in addition to imposing a penalty, must disqualify the person from holding or obtaining a Queensland driver licence for a period of at least 6 months.

**86 Disqualification of drivers of motor vehicles for certain offences**

- (1) A person who is convicted of an offence in relation to a motor vehicle against section 79(1) shall, if during the period of 5 years prior to conviction the person has not been previously convicted—
  - (a) under section 79(1); or
  - (b) under section 79(2), (2A), (2B), (2D) or (2J); or

*Transport Operations (Road Use Management) Act  
1995*

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- (c) upon indictment, of any offence in connection with or arising out of the driving of a motor vehicle by the person; or
- (d) summarily of an offence against any provision of the Criminal Code, section 328A;

be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or obtaining a Queensland driver licence.

- (1A) If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(1), the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.
- (1B) If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 79(1), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.
- (1C) If within the period of 5 years prior to such conviction the person has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of the Criminal Code, section 328A, the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.
- (1D) If within the period of 5 years prior to such conviction the person has been previously convicted more than once upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or more than once summarily of an offence against any provision of the Criminal Code, section 328A or has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person and summarily of

*Transport Operations (Road Use Management) Act  
1995*

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an offence against any provision of the Criminal Code, section 328A, the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.

- (1E) If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(1) and has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of the Criminal Code, section 328A, the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.
- (1F) If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction and without any specific order for a period of 9 months from the date of such conviction from holding or obtaining a Queensland driver licence.
- (1G) If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.
- (2) A person who is convicted of an offence in relation to a motor vehicle against section 79(2), (2A), (2B), (2D) or (2J) shall, if during the period of 5 years prior to conviction the person has not been previously convicted—
- (a) under section 79(2), (2A), (2B), (2D) or (2J); or
  - (b) under section 79(1); or
  - (c) upon indictment, of any offence in connection with or arising out of the driving of a motor vehicle by the person; or

*Transport Operations (Road Use Management) Act  
1995*

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- (d) summarily of an offence against any provision of the Criminal Code, section 328A;  
be disqualified by such conviction—
  - (e) in a case where at the time of the commission of the offence the person convicted was, in respect of the motor vehicle, not the holder of a driver licence, was a person to whom a replacement licence is issued under section 79F or was the holder of a learner, probationary, provisional or restricted licence—for a period of not less than 3 months and not more than 9 months from the date of such conviction from holding or obtaining a Queensland driver licence;
  - (f) in any other case—for a period of not less than 1 month and not more than 9 months from the date of such conviction from holding or obtaining a Queensland driver licence.
- (2A) The period of disqualification shall be determined by the court which, in making its determination, shall have regard to the concentration of alcohol in the blood or breath of the defendant and the danger, real or potential, to the public in the circumstances of the case.
- (2B) If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction for a period of not less than 3 months and not more than 18 months from the date of such conviction from holding or obtaining a Queensland driver licence.
- (2C) The period of disqualification shall be determined by the court which, in making its determination, shall have regard to the concentration of alcohol in the blood or breath of the defendant and the danger, real or potential, to the public in the circumstances of the case.
- (2D) If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction and without any specific order for a period of 6 months from the date of

*Transport Operations (Road Use Management) Act  
1995*

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such conviction from holding or obtaining a Queensland driver licence.

- (2E) If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(1) or upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of the Criminal Code, section 328A, the person shall be disqualified by such conviction and without any specific order for a period of 9 months from the date of such conviction from holding or obtaining a Queensland driver licence.
- (2F) If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(2), (2A), (2B), (2D) or (2J) and—
- (a) has been previously convicted of an offence under section 79(1); or
  - (b) has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of the Criminal Code, section 328A;

the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.

- (3) A person who is convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of the Criminal Code, section 328A shall, subject to the provisions of subsections (3A) to (3F), be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or obtaining a Queensland driver licence.
- (3A) If within the period of 5 years prior to such conviction the person has been previously convicted—
- (a) of an offence (whether of the same or of a different kind) of either of the classes referred to in subsection (3);

*Transport Operations (Road Use Management) Act  
1995*

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(b) under section 79(1);

the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.

- (3B) If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence (whether of the same or of a different kind) of either of the classes referred to in subsection (3) or has been previously convicted of an offence (whether of the same or of a different kind) of each of the classes referred to in subsection (3), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.
- (3C) If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 79(1), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.
- (3D) If within the period of 5 years prior to such conviction the person has been previously convicted of an offence (whether of the same or of a different kind) of either of the classes referred to in subsection (3) and has been previously convicted of an offence under section 79(1), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.
- (3E) If within the period of 5 years prior to such conviction the person has been previously convicted under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction and without any specific order for a period of 9 months from the date of such conviction from holding or obtaining a Queensland driver licence.
- (3F) If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 79(2), (2A), (2B), (2D) or (2J), the

*Transport Operations (Road Use Management) Act  
1995*

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person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.

- (4) A person who is convicted of an offence under section 80(22D) shall be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or obtaining a Queensland driver licence.
- (5) In the case of any conviction referred to in this section in respect of which a person is disqualified by such conviction and without any specific order for a period of time specified from holding or obtaining a Queensland driver licence, the judge before whom such person is so convicted upon indictment or the justices by whom such person is so convicted may order that from the date of conviction such person shall be disqualified absolutely or for a longer period than the period specified in the person's case from holding or obtaining a Queensland driver licence, and the person shall thereupon be so disqualified under and in accordance with that order.
- (5A) Where a person ordered to attend a training program or defensive driving course referred to in section 82 fails to comply with the order, the chief executive may by notice given to the person call upon the person to appear and show cause before a Magistrates Court constituted under the *Justices Act 1886* at a time and place specified in the notice why the person should not be disqualified from holding or obtaining a Queensland driver licence for a period of 1 month in addition to the period for which the person is or was so disqualified by his or her conviction or the order of the judge or justices.
- (5B) Where a person called upon to appear and show cause pursuant to subsection (5A)—
  - (a) fails to appear at the time and place specified or at any time or place to which the show-cause proceeding may be adjourned; or

*Transport Operations (Road Use Management) Act  
1995*

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- (b) having appeared, fails to show cause to the satisfaction of the court;

the person shall thereby, without any specific order being made, be disqualified from holding or obtaining a Queensland driver licence for a period of 1 month in addition to the period for which the person is or was so disqualified by the person's conviction or the order of the judge or justices.

- (5C) The additional period of 1 month's disqualification shall commence—

- (a) if it is incurred during the period for which the person is disqualified from holding or obtaining a Queensland driver licence by the person's conviction or the order of the judge or justices—upon the expiration of that period; or

- (b) if it is incurred after the expiration of the period for which the person is disqualified from holding or obtaining a Queensland driver licence by the person's conviction or the order of the judge or justices—upon the date of the person's failure whereby the person has incurred the additional period of disqualification.

- (6) Any disqualification pursuant to this section shall be in addition to any punishment to which the person convicted may be liable upon the person's conviction.

- (7) In deciding a period of disqualification for a person whose licence is suspended, or who is disqualified from obtaining or holding a licence, under section 79B, the court may take into account the period of suspension or disqualification that has already been served under that section.

- (8) The provisions of this section apply notwithstanding anything contained in any other Act.

**87 Issue of restricted licence to disqualified person**

- (1) Where a person is convicted by a court of an offence under section 79 or 80(5A) and—

- (a) by order of the court, is disqualified from holding or obtaining a Queensland driver licence; or

*Transport Operations (Road Use Management) Act  
1995*

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- (b) by operation of law and without specific order, is disqualified from holding or obtaining a Queensland driver licence;

the court may, where it has received an application from the person, make an order directing that the person be issued with a restricted licence.

- (2) An application for an order under this section may be made—
  - (a) at the proceedings in which the conviction is recorded against the applicant by reason of which the applicant is disqualified from holding or obtaining a Queensland driver licence; and
  - (b) in a case where the court makes an order disqualifying the applicant from holding or obtaining a Queensland driver licence—before the court makes that order;

and not otherwise.

- (2A) An application shall be made in the approved form and in respect of every application—
  - (a) the applicant shall, if required by the court so to do, submit himself or herself as a witness; and
  - (b) other persons may be called as witnesses;

to give evidence in respect of all matters relevant to the application and shall be liable to cross-examination with respect thereto.

- (3) An order under this section may be made—
  - (a) at the proceedings in which the conviction is recorded against the applicant by reason of which the applicant is disqualified from holding or obtaining a Queensland driver licence; and
  - (b) in a case where the court makes an order disqualifying the applicant from holding or obtaining a Queensland driver licence—in conjunction with that order;

and not otherwise.

- (3A) To remove doubt, it is declared that if a court makes an order under subsection (1) directing that a person be issued with a restricted licence, the person—

*Transport Operations (Road Use Management) Act  
1995*

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- (a) is disqualified from holding or obtaining a Queensland driver licence, other than the restricted licence; and
  - (b) may not drive a motor vehicle during the period of the disqualification unless the person applies for and obtains the restricted licence the court ordered be issued.
- (4) A court that grants an application shall make an order directing that a restricted licence be issued to the applicant during the period of the applicant's disqualification subject to restrictions specified in the order—
- (a) which shall restrict the use of the restricted licence by the applicant to specified circumstances directly connected with the applicant's means of earning the applicant's livelihood; and
  - (b) which may include, but are not limited to—
    - (i) the class of vehicle which may be driven;
    - (ii) the purpose for which a vehicle may be driven;
    - (iii) the times at which or period of time during which a vehicle may be driven.
- (4A) An order under this section may relate only to a restricted licence that is of the same class as the probationary, provisional or open licence which is held by the applicant for the order immediately prior to the disqualification in respect of which his or her application is made.
- (5) An application for an order under this section shall not be granted—
- (a) unless the applicant satisfies the court that hears the application that—
    - (i) the applicant is a fit and proper person to hold a restricted licence, having regard to the safety of other road users and the public generally; and
    - (ii) a refusal would cause extreme hardship to the applicant or the applicant's family by depriving the applicant of the applicant's means of earning the applicant's livelihood;

*Transport Operations (Road Use Management) Act  
1995*

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- (b) if the applicant's provisional or open licence has been suspended or cancelled, or the applicant has been disqualified from holding or obtaining a Queensland driver licence, within 5 years before the application is made;
- (c) in a case where the applicant has been previously convicted—
  - (i) under section 79 or 80(5A) or the Criminal Code, section 328A; or
  - (ii) elsewhere than in Queensland of any offence which if committed in Queensland would be an offence under section 79 or 80(5A);within a period of 5 years prior to the conviction that results in the disqualification in respect of which the application is made;
- (d) in a case where the disqualification in respect of which the application is made resulted from a conviction of the applicant—
  - (i) for an offence committed whilst the applicant was engaged in an activity directly connected with the applicant's means of earning the applicant's livelihood; or
  - (ii) for an offence committed when the applicant was driving a motor vehicle the applicant was not authorised, under a provisional or open licence, to drive; or
  - (iii) for an offence committed at a time when the applicant was the holder of a restricted licence issued pursuant to an order made under this section;
- (da) if the disqualification for which the application is made resulted from the applicant's conviction for an offence against section 79(1), (2A), (2B), (2D) or (2J);

*Transport Operations (Road Use Management) Act  
1995*

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- (db) if—
    - (i) the disqualification for which the application is made resulted from the applicant's conviction for an offence against section 79(2); and
    - (ii) the applicant is a person to whom section 79(2A), (2B), (2D) or (2J) would have applied apart from the fact that the person was over the general alcohol limit;
  - (e) unless the disqualification for which the application is made resulted from the applicant's conviction for an offence committed when the applicant held a provisional or open licence (other than a corresponding document);
  - (f) unless the applicant is the holder of a provisional or open licence (other than a corresponding document) immediately prior to the disqualification in respect of which the application is made.
- (5A) For subsection (5)(a)(ii), if the applicant is not self-employed, the applicant must produce to the court an affidavit made by the applicant's employer confirming the applicant would be deprived of the applicant's means of earning a living if the application is refused.
- (5B) In subsection (5)(b), the reference to a suspension, cancellation or disqualification does not include—
- (a) a suspension, cancellation or disqualification that was set aside on appeal; or
  - (b) a suspension, cancellation or disqualification because of the applicant's mental or physical disability; or
  - (c) a suspension under the *State Penalties Enforcement Act 1999*; or
  - (d) a suspension under section 79(9); or
  - (e) a 24 hour suspension under section 80(22AA).
- (6) Where—
- (a) an order is made under this section by a court directing the issue of a restricted licence to an applicant in

*Transport Operations (Road Use Management) Act  
1995*

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conjunction with an order disqualifying the applicant from holding or obtaining a Queensland driver licence; and

- (b) the provision of this Act that empowers a court to impose the disqualification specifies a maximum period of time for which a disqualification may be imposed;

for the purpose of making the order disqualifying the applicant, the maximum period for which the court may impose the disqualification shall be deemed to be twice that specified in the provision.

- (6A) A court, in considering whether an order disqualifying the applicant from holding or obtaining a Queensland driver licence should be made under section 86(5), and in considering the terms of any other disqualification order it proposes to make, shall have regard to any order it proposes to make under this section as a circumstance indicating that the disqualification imposed should be for a longer period of time than if it made no order under this section.
- (7) Where an order is made under this section and the person in respect of whom the order is made makes an application to a superintendent for a restricted licence under and in accordance with this Act, the superintendent shall issue to the person a restricted licence subject to the restrictions imposed by the court by the order made under this section, and such other terms, provisions, conditions, limitations or restrictions, consistent with the order, as are specified on the licence in accordance with this Act.
- (8) A restricted licence issued pursuant to an order under this section—
- (a) shall be issued in the first instance for such period as is prescribed by regulation and thereafter shall be renewed from time to time for such period as is prescribed by regulation until the period of disqualification in respect of which the order under this section was made expires; and
- (b) in a case where it is renewed during that period of disqualification—shall, subject to section 88(7), be

*Transport Operations (Road Use Management) Act  
1995*

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renewed subject to the restrictions specified in the order last made whether under this section or section 88.

- (8A) A restricted licence issued or renewed pursuant to an order made under this section shall remain in force until it expires or is cancelled, surrendered or suspended in accordance with this Act.
- (9) The power of the Governor in Council to make regulations in respect of a restricted licence includes the power to make regulations in respect of the restricted licence provided for under this section including regulations in respect of its cancellation or suspension notwithstanding that it is issued or renewed pursuant to an order of the court.
- (10) Any person who, being the holder of a restricted licence issued pursuant to an order made under this section, drives a motor vehicle otherwise than in accordance with the restrictions to which the licence is subject as a consequence of that order or an order under section 88 commits an offence and shall be liable to a penalty not exceeding 20 penalty units.
- (10A) In addition to any other penalty imposed—
  - (a) if the restricted licence issued to the person is still current at the time of the conviction—it is by virtue of the conviction thereby cancelled without specific order; and
  - (b) the person shall by virtue of the conviction be disqualified from holding or obtaining a Queensland driver licence for a period of 3 months from the expiration of the disqualification in respect of which the order was made under this section or, where the conviction is later than the expiration of that disqualification, for 3 months from the date of conviction.
- (11) For the purposes of this section, the proceedings in which a conviction is recorded shall be taken to continue until the court has completed the exercise of its jurisdiction to sentence the defendant in respect of the conviction, notwithstanding that the proceedings have been adjourned.

## **88 Variation of conditions**

- (1) Where subsequent to a court making an order under section 87 or this section in respect of a person and the issuing to the person of a restricted licence the circumstances connected with the person's means of earning the person's livelihood have altered, the person may apply to a Magistrates Court exercising jurisdiction at the place where the person resides for an order varying the restrictions to which the restricted licence is subject as a consequence of the order made under section 87 or this section.
- (2) An application shall be made in the approved form and in respect of every application—
  - (a) the applicant shall, if required by the court so to do, submit himself or herself as a witness; and
  - (b) other persons may be called as witnesses;  
to give evidence in respect to all matters relevant to the application and shall be liable to cross-examination with respect thereto.
- (3) Written notice of the application setting forth the time and place at which the application is to be heard shall be given by the applicant, at least 14 days prior to the date of hearing, to the commissioner or to a police officer authorised by the commissioner to receive such notices.
- (4) The commissioner is entitled to be represented at the hearing of the application.
- (4A) A police officer may appear and act at the hearing of the application on behalf of the commissioner.
- (5) A court to which an application is made under subsection (1) may, if it considers that the justice of the case requires that it do so and having regard to the restrictions referred to in section 87(4), make an order varying the restrictions to which the restricted licence is subject as a consequence of an order made under section 87 or this section.

- (6) A superintendent to whom—
- (a) a copy of an order made under this section (*the order*) certified by the clerk of the court which made the order to be a true copy; and
  - (b) the restricted licence to which the order relates;
- are produced shall vary the restrictions to which the restricted licence is subject by reason of an order made under section 87 or a prior order made under this section so that they accord with those imposed by the court by the order.
- (7) Until a superintendent, pursuant to subsection (6), varies the restrictions to which the restricted licence is subject, those restrictions shall continue to apply to the holder of the licence notwithstanding the making of an order or, as the case may be, a further order under this section.

**89 Power to disqualify person from holding or obtaining Queensland driver licence though acquitted of certain indictable offences**

- (1) Where upon the trial of any person charged upon indictment with an offence in connection with or arising out of the driving of a motor vehicle by the person the judge presiding at the trial is satisfied that upon the evidence such person should, in the interest of the public, be prohibited from driving a motor vehicle either absolutely or for a period, the judge may, notwithstanding that such person is found not guilty by the jury, order that the person shall from the date of the order be disqualified absolutely from holding or obtaining a Queensland driver licence, or be so disqualified for such period as the judge shall specify in the order.
- (2) An order under this section may be made by the judge before the judge discharges the defendant upon the conclusion of the trial, or the judge may discharge the defendant and adjourn the matter of whether or not the judge will make such order to a later date when the judge may receive such evidence in addition to the evidence given at the trial as the judge considers necessary under the circumstances.

**90 Power to disqualify person from holding or obtaining Queensland driver licence though complaint dismissed**

- (1) Where upon the hearing of a complaint against any person of an offence against any provision of the Criminal Code, section 328A, or of an offence in relation to a motor vehicle against section 79, 83 or 85, the justices determining the complaint are satisfied that upon the evidence such person should, in the interest of the public, be prohibited from driving a motor vehicle either absolutely or for a period, the justices may, notwithstanding that they dismiss the complaint, order that the person shall from the date of the order be disqualified absolutely from holding or obtaining a Queensland driver licence, or be so disqualified for such period as the justices shall specify in the order.
- (2) An order under this section may be made by the justices when they dismiss the complaint or the justices may dismiss the complaint and adjourn the matter of whether or not they will make such order to a later date when the justices may receive such evidence in addition to the evidence given upon the hearing of the complaint as they consider necessary under the circumstances.

**91 Chief executive to be advised of persons disqualified from holding Queensland driver licences etc.**

When, by or under this Act, a person is disqualified or has been ordered by a judge of the Supreme Court or District Court or justices to be disqualified from holding or obtaining a Queensland driver licence either absolutely or for a period, then—

- (a) in the case where no order with respect to such disqualification was made by the judge of the Supreme Court or District Court before whom the person was convicted—particulars of the conviction; or
- (b) in the case where an order with respect to such disqualification was made by a judge of the Supreme Court or District Court upon the trial or conviction of that person—a copy of such order; or

- (c) in the case where no order with respect to such disqualification was made by the justices who convicted the person—a copy of the minute or memorandum of the conviction made and signed by such justices; or
- (d) in the case where the order with respect to such disqualification has been made by justices—a copy of such order;

shall be transmitted by the registrar of the Supreme, Circuit, or District Court or the clerk of the court concerned to the chief executive.

## **Part 4                      Road incidents**

### **92            Duties and liabilities of drivers involved in road incidents**

- (1) The driver of any vehicle, tram or animal involved on any road, or of any motor vehicle involved elsewhere than on a road, in an incident resulting in injury to or death of any person or damage to any property (including any animal in the charge of any person) shall—
  - (a) immediately stop the vehicle, tram or animal;
  - (c) if any person is injured—
    - (i) remain at or near the scene of the incident and immediately render such assistance as the driver can to the injured person;
    - (ii) make reasonable endeavours to obtain such medical and other aid as may reasonably be required for the injured person;
  - (i) if any property is damaged to an extent apparently in excess of an amount fixed by regulation for the purpose of this paragraph and no police officer is present at the scene of the incident—as soon as possible report in person full particulars of the incident at the police station that is nearest to the scene of the incident;

*Transport Operations (Road Use Management) Act  
1995*

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- (j) if any person is dead or apparently dead—exhibit proper respect for the person’s body and take whatever steps are reasonably practicable to have the body removed to an appropriate place.

Maximum penalty—

- (a) if death or injury is caused to any person—20 penalty units or imprisonment for 1 year; or
- (b) otherwise—10 penalty units or 6 months imprisonment.
- (2) Notwithstanding subsection (1)(c)(i), a person may leave the scene of the incident where the person’s leaving is solely for the purpose of obtaining medical or other aid for the injured person.
- (4) If in determining a complaint for an offence against subsection (1) in respect of an incident whereby any person is injured the court is satisfied that the defendant showed a callous disregard for the needs of the injured person the court shall impose, as the whole or part of the sentence, a period of imprisonment.
- (5) A person who—
- (a) in purported compliance with subsection (1) furnishes any false or misleading information; or
- (b) reports the happening of an incident such as is referred to in subsection (1) to a police officer knowing the report to be false;

commits an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (6) In any proceedings for an offence against this section the averment in the complaint—
- (a) that any incident specified therein had not been reported at the police station that was nearest to the scene of the incident within or prior to any time or date specified in the averment;

*Transport Operations (Road Use Management) Act  
1995*

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- (b) that a police officer was or was not present at the scene of any incident specified therein at any time or during any period specified in the averment;
- shall be evident of the matter so averred.
- (7) The incident may be specified by reference to the approximate time and place thereof or to the person or persons involved or otherwise so as to sufficiently identify it.
- (8) Nothing in this section shall prejudice or affect the provisions of the Criminal Code or any Act relating to traffic or transport and, notwithstanding an order of disqualification for any specified period made under the *Penalties and Sentences Act 1992*, section 187, upon a conviction of any person for an offence against this section resulting from any road incident hereinbefore mentioned in this section, if that person is subsequently convicted upon indictment of any offence in connection with or arising out of the same road incident, the judge of the Supreme Court or District Court before whom that person is so convicted, in addition to any sentence the judge may impose, may order that the offender shall, from the date of the conviction upon indictment, be disqualified absolutely from holding or obtaining a Queensland driver licence.

**94 Scheme to facilitate supply of information as to road incidents**

- (1) The commissioner or the chief executive, may authorise a scheme to facilitate the supply of information in the possession of a police officer or contained in a writing prepared by a police officer, as to the facts relating to any incident whereby, owing to the presence on a road of a vehicle, tram, train or animal, death or injury has been caused to any person, or damage has been caused to any property (including any animal in the charge of any person) to any person who or whose property has been involved in that incident, or to the agent, servant or other representative of that person, and to any insurer or other person having a bona fide interest in that incident.



interest, the chief executive may temporarily prohibit, divert or direct all or any part of the traffic in or from any road, and may take any measure and give or cause to be given any direction, signal or order which the chief executive considers necessary or desirable for the safe and effective regulation of traffic in the locality where that road is situated.

- (6) Any person who contravenes or fails to comply with any prohibition, direction, signal or order made or given under this section shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (7) The chief executive may carry out such construction works as are necessary to give effect to the closure of any road ordered under subsection (1).

## **100 Removal of things from roads**

- (1) Subsections (3) to (11) apply if the chief executive officer of a local government considers on reasonable grounds that a vehicle, tram or animal in the local government's area has been abandoned on a road, other than a busway, by the person who last drove or used it, or that—

- (a) a vehicle, tram or animal in the local government's area has been—

(i) left on a road unattended whether temporarily or otherwise for a time or in a place, condition, way or circumstances where its presence is hazardous; or

(ii) found on a road in a place, condition, way or circumstances where its presence is hazardous or in contravention of this Act; and

- (b) the driver of the vehicle, tram or animal—

(i) can not readily be located; or

(ii) has failed to immediately remove the vehicle, tram or animal when required by the local government to do so.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) For subsection (1), the presence of a vehicle, tram or animal on a road is *hazardous* if it is causing, or is likely to cause, danger, hindrance or obstruction to traffic or is preventing, hindering or obstructing, or is likely to prevent, hinder or obstruct, the use of the road or a part of the road for a lawful purpose.
- (3) The local government may remove the vehicle, tram or animal from the road and detain it at a place for safe keeping.
- (4) As soon as practicable after removal of the vehicle, tram or animal, the chief executive officer of the local government concerned shall cause notice in writing to be given to the owner thereof, if the owner can be ascertained, of such removal and of the place at which the vehicle, tram or animal is then detained.
- (5) Such notice shall, if practicable, be served upon the owner personally, but if it is not so served within 14 days from the date of such removal it may be given by public advertisement in a newspaper circulating in the locality in which the vehicle, tram or animal was found.
- (6) If within 1 month from the date of service or advertisement of such notice the owner of the vehicle, tram or animal or a person acting on the owner's behalf or a person claiming a right to the possession of the vehicle, tram or animal, has not obtained possession of the vehicle, tram or animal in accordance with the provisions of subsection (10), the chief executive officer of the local government may—
  - (a) by notice published in a newspaper circulating in the locality in which the vehicle, tram or animal was found, advertise that it will offer the vehicle, tram or animal for sale by public auction at the place and time stated in the advertisement;
  - (b) at the time on the day stated in the advertisement (which day shall be not earlier than 14 days after the date when the advertisement was published) and at the place stated in the advertisement, offer the vehicle, tram or animal for sale by public auction unless the owner thereof or a person acting on the owner's behalf or a person claiming a right to possession thereof has sooner obtained

*Transport Operations (Road Use Management) Act  
1995*

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- possession of the vehicle, tram or animal in accordance with the provisions of subsection (10);
- (c) if no offer for the vehicle, tram or animal is received at such auction—dispose of the same in such manner and on such terms as the chief executive officer of the local government may determine.
- (7) The proceeds of the sale or disposal of the vehicle, tram or animal shall be applied as follows—
- (a) firstly, in payment of the expenses of the sale or disposal;
- (b) secondly, in payment of the cost of removal and detention of the vehicle, tram or animal and the service and advertisement of any notice served or advertised under subsection (5);
- (c) thirdly, in payment of the balance of such proceeds to the owner of the vehicle, tram or animal or, if after reasonable inquiry, the owner cannot be ascertained, into the general fund of the local government.
- (8) The local government may deal with any goods, equipment or thing contained in, on or about the vehicle, tram or animal at the time of its removal in the same manner as it may deal with the vehicle, tram or animal pursuant to this section.
- (9) However, any perishable goods in or on the vehicle, tram or animal at the time of its removal may be disposed of in the way the chief executive officer of the local government concerned shall direct and the proceeds (if any) of such disposal shall be applied in accordance with the provisions of subsection (7).
- (10) The chief executive officer of the local government must not deliver possession of the vehicle, tram or animal to the owner thereof, or to another person acting on the owner's behalf, or to any other person claiming a right to the possession thereof unless the following provisions have been complied with—
- (a) the owner, or person acting on the owner's behalf, or other person claiming a right to possession of the vehicle, tram or animal shall have applied in writing signed by the applicant to the chief executive officer of

*Transport Operations (Road Use Management) Act  
1995*

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- the local government concerned for the release from such detention of the vehicle, tram or animal;
- (b) the applicant shall have furnished proof to the satisfaction of the chief executive officer of the applicant's ownership or of the applicant's right to possession of the vehicle, tram or animal and, in the case of the applicant's being a person acting on behalf of the owner, shall have furnished proof to the satisfaction of the chief executive officer of the applicant's authority to act on behalf of such owner;
  - (c) the applicant shall have paid all expenses incurred by the local government concerned in connection with the removal and detention of the vehicle, tram or animal and the service, or advertisement, of any notice served or advertised in relation to such removal and detention or intended sale of the vehicle, tram or animal;
  - (d) the applicant has signed a receipt for the delivery of the vehicle, tram or animal to the applicant.
- (11) Any person who takes delivery, or obtains possession of or removes or attempts to remove from the detention of a local government a vehicle, tram or animal removed and detained pursuant to the provisions of subsection (3) except in accordance with the provisions of subsection (10) shall be guilty of an offence.
- Maximum penalty—40 penalty units or 6 months imprisonment.
- (12) Under a local law, a local government may provide for the removal, safe storage or disposal of a vehicle, tram or animal in the local government's area that a person authorised under the local law considers on reasonable grounds—
- (a) has been abandoned on a road, other than a busway; or
  - (b) has been left as described in subsection (1)(a)(i); or
  - (c) has been found as described in subsection (1)(a)(ii).
- (13) If a local law provides for a matter mentioned in subsection (12), subsections (3) to (11) no longer apply in the local government's area.

- (14) Subsections (3) to (11) in their application in the local government's area are not revived by the repeal of the local law.
- (15) In this section—  
*vehicle* includes any part of a vehicle.

## **Part 6                      Regulated parking**

### **101      Who may regulate parking**

- (1) A local government may regulate parking in its area—
  - (a) on a road, other than a declared road; or
  - (b) on a declared road, with the chief executive's written agreement; or
  - (c) on an off-street regulated parking area.
- (1A) The chief executive may regulate parking on an off-street regulated parking area.
- (2) The regulation of parking may include—
  - (a) specifying the times when a vehicle may or must not be parked; and
  - (b) requiring the payment of a fee for a vehicle to be parked; and
  - (c) specifying the types of vehicles that may or must not be parked; and
  - (d) specifying the purposes for which a vehicle may or must not be parked; and
  - (e) specifying where its regulation of parking applies.

## **102 Parking regulation involves installing official traffic signs**

- (1) The chief executive or a local government may regulate parking by installing official traffic signs indicating how parking is regulated.
- (2) An official traffic sign may apply to parking—
  - (a) at or near the place where the sign is installed, for example, a particular parking space, road or off-street regulated parking area; or
  - (b) for a sign installed by a local government—throughout an area consisting of the whole or part of the local government’s area (a *traffic area*).
- (3) A local government may install an official traffic sign applying to parking throughout a traffic area only if—
  - (a) the boundaries of the traffic area have been defined under a local law; and
  - (b) the sign is installed on the road at every road entry to the traffic area.
- (4) An official traffic sign applying to parking throughout a traffic area—
  - (a) may only indicate the following matters about how parking is regulated throughout the traffic area—
    - (i) the times when a person may only park for a maximum specified time;
    - (ii) the times when a person may only park by paid parking at a place where the local government has provided for paid parking; and
    - (iii) the types of vehicle a person may park; and
  - (b) for parking for which another official traffic sign is installed within the traffic area—applies subject to the other official traffic sign.

*Example of subsection (4)(b)—*

An official traffic sign installed within a traffic area may allow a longer or shorter parking time than that allowed by the official traffic sign for the entire traffic area.

- (5) Subsection (4)(a) does not limit the matters that may be indicated on an official traffic sign mentioned in subsection (4)(b).
- (6) A person parking anywhere within a traffic area is taken to have notice of the contents of the official traffic sign installed at the road entries to the traffic area.
- (7) If an official traffic sign is installed at or near a place so that a person parking at the place is likely to see the sign, the person is taken to have notice of the contents of the sign.
- (9) This section does not limit a local government's power to install an official traffic sign under a provision other than this part or under another law.

### **103 Examples of how parking may be regulated**

- (1) This section does not limit section 101 or 102 and its object is to state common examples of how parking may be regulated.
- (2) Official traffic signs may define or indicate—
  - (a) where paid parking is authorised; or
  - (b) spaces on roads or off-street parking areas that are designated parking spaces; or
  - (c) loading zones; or
  - (d) for roads or off-street parking areas—where parking is only allowed for a specified maximum time.
- (3) Official traffic signs installed by a local government may specify for a place or a traffic area—
  - (a) the hours and days when parking is only allowed for a specified maximum time; and
  - (b) the fixed hours for paid parking; and
  - (c) for specified designated parking spaces—the maximum time for which a vehicle may be paid parked; and
  - (d) a system (the *authorised system*) for the payment of a parking fee for paid parking including, for example, by the use of a coin, token, card or credit card; and

*Transport Operations (Road Use Management) Act*  
1995

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- (e) the denomination or number of coins to be inserted in a parking meter or parkatarea in payment of a parking fee.
- (4) Under a local law, a local government may—
  - (a) allow a vehicle to park contrary to an indication on an official traffic sign regulating parking by time or payment of a fee, if the vehicle displays—
    - (i) a parking permit for people with disabilities; or
    - (ii) a permit issued by the local government; and
  - (b) define the persons that may be issued with a permit.
- (5) Under a local law, a local government may—
  - (a) allow a vehicle to park in a loading zone if the vehicle displays a commercial vehicle identification label issued by the local government; and
  - (b) define the vehicles that may be issued with a commercial vehicle identification label of the type specified by the MUTCD.
- (6) A local government may, by local law or resolution, specify the following—
  - (a) parking fees for a place or a traffic area;
  - (b) the fee for—
    - (i) a permit mentioned in subsection (4)(a)(i) or (ii);  
or
    - (ii) a commercial vehicle identification label mentioned in subsection (5)(a).

#### **104 Off-street regulated parking areas**

- (1) An *off-street regulated parking area* is an area of land, including any structure on the land, that—
  - (a) is controlled by the chief executive or a local government; and
  - (b) is specified as an off-street regulated parking area under—

*Transport Operations (Road Use Management) Act  
1995*

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- (i) a regulation; or
  - (ii) for a local government—a local law.
- (2) Land controlled by the chief executive or a local government includes land over which the chief executive or local government may exercise control for the purposes of this part under an arrangement with a person who owns, or has an interest in, the land.

*Example—*

The chief executive may, under an arrangement with the owner of a shopping centre, regulate the use of the shopping centre's public parking area that has been specified to be an off-street regulated parking area under a regulation.

- (3) An agreement to give effect to the arrangement for the area must provide for the matters prescribed under a regulation.

## **105 Paid parking**

- (1) Fixed hours start for a designated parking space after a local government has installed the appropriate official traffic signs for the space.
- (2) A person may park a vehicle in a designated parking space during the fixed hours only if—
  - (a) the person does not park the vehicle in the space for longer than the maximum time indicated on the official traffic sign installed in relation to the space; and
  - (b) the person pays the parking fee for the space as prescribed immediately on parking the vehicle.
- (3) The person may pay the parking fee—
  - (a) if a parking meter or parkatarea is installed for the space—by inserting coins of the number and denomination appropriate to the parking fee in the parking meter or parkatarea; or
  - (b) if an authorised system applies in relation to the space—by doing what is required by the system.
- (4) Nothing in this section prevents a person from making more than 1 payment while a vehicle is parked in a designated

parking space, if the total time of continuous paid parking does not exceed the maximum time indicated on the official traffic sign installed in relation to the space.

- (5) A local government may install a parking meter or parkatarea for a designated parking space if it is installed in a way—
- (a) specified by the MUTCD; or
  - (b) approved by the chief executive.

### **106 Paid parking offences**

- (1) During the fixed hours, a person must not park a vehicle in a designated parking space—
- (a) unless—
    - (i) a parking meter or parkatarea installed for the space indicates that the parking fee has been paid; or
    - (ii) the person has done what is required by an authorised system that applies in relation to the space; or
  - (b) for a time longer than the maximum time indicated on the official traffic sign installed for the space; or
  - (c) if another vehicle is parked in the space; or
  - (d) so that the vehicle is not wholly within the space, unless the vehicle—
    - (i) is longer than the length of the space; and
    - (ii) is parked within a space in relation to which a parkatarea is installed; and
    - (iii) is engaged in loading or unloading goods; and
    - (iv) is as nearly as practicable wholly within the space.

Maximum penalty—40 penalty units.

- (2) A person who parks a vehicle in a designated parking space when a parking meter or parkatarea installed in relation to the space indicates that the parking fee has not been paid does not commit an offence against subsection (1)(a) if the person

*Transport Operations (Road Use Management) Act  
1995*

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immediately pays the parking fee in accordance with section 105(3).

- (3) If—
- (a) a person commits an offence against subsection (1)(b) in a designated parking space; and
  - (b) an infringement notice, under the *State Penalties Enforcement Act 1999*, for the offence is placed on or attached to the vehicle; and
  - (c) the vehicle in relation to which the offence is committed remains parked in the space after the notice is affixed;

the person commits a separate and further offence under subsection (1)(b) for each further time (equal to the maximum time indicated on the official traffic sign installed in relation to the space) that the vehicle remains parked in the space during the fixed hours.

### **107 Owner responsible for offence**

Subject as hereinafter provided, where any offence is committed in relation to the parking or stopping of any vehicle, the person who at the time of the commission of the breach was the owner of the vehicle shall be deemed to have committed that offence and may be proceeded against and shall be punishable accordingly.

### **108 Local laws about minor traffic offences**

- (1) A local government may, under a local law, prescribe an amount as the infringement notice penalty for a minor traffic offence committed in the local government's area.
- (2) For the *State Penalties Enforcement Act 1999*—
  - (a) the minor traffic offence is an infringement notice offence; and
  - (b) the penalty is the infringement notice penalty for the offence; and

*Transport Operations (Road Use Management) Act  
1995*

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- (c) the chief executive officer of the local government is the administering authority for the infringement notice and the infringement notice offence.
- (3) If the local government prescribes a penalty for a minor traffic offence, the penalty applies to the exclusion of another infringement notice penalty under the *State Penalties Enforcement Act 1999* for the minor traffic offence committed in its area.
- (4) In this section—  
*minor traffic offence* means—
  - (a) an offence against this part; or
  - (b) an offence, prescribed under a regulation, that relates to the parking or stopping of a vehicle; or
  - (c) an offence against section 74 that is a contravention of an indication given by an official traffic sign installed by a local government under this part.

**109 Agreement with local government on costs of administration**

- (1) The commissioner may, with the approval of the Minister, enter into an agreement with the local government whereby the local government shall pay to the commissioner an annual or other periodic sum in respect of the costs incurred in the carrying out of duties under this part by police officers.
- (2) If the commissioner and the local government cannot agree upon such payment, the Governor in Council may, by regulation, determine that the local government shall pay to the commissioner, in respect of the costs incurred in the carrying out of duties under this part by police officers, such annual or other periodic sum as the auditor-general certifies to be fair and reasonable.
- (3) The Governor in Council may, by regulation, revoke or from time to time vary any such determination, but no such variation shall be made unless the auditor-general certifies that it is fair and reasonable.

- (4) The local government shall make to the commissioner payments in accordance with such determination (or, if such determination shall have been varied, such determination as varied for the time being).

### **110 Notice restricting parking in special circumstances**

- (1) If the chief executive is satisfied special circumstances exist justifying a restriction on parking in a traffic area or designated parking space, the chief executive may, by notice published in a newspaper circulating generally in the locality concerned—
  - (a) prohibit the parking of vehicles in the area or designated parking space for a stated time; and
  - (b) direct the owner or driver of any vehicle parked in the area or designated parking space to remove the vehicle from the area.
- (2) If the owner or driver of a vehicle parked in a traffic area or designated parking space cannot be readily located, or, if located, fails to remove the vehicle from the area or parking space when directed to do so, the chief executive may remove the vehicle from the area or parking space.
- (3) Section 100 applies to a vehicle mentioned in subsection (2).

### **111 Parking permits for people with disabilities**

- (1) The chief executive may issue a permit to—
  - (a) a person whose ability to walk is impaired (a *person with a disability*); or
  - (b) an organisation for a specified vehicle, if the chief executive is satisfied that the organisation transports persons with disabilities in the vehicle.
- (2) The chief executive may issue the permit subject to conditions stated on it.

## Part 7                      **Detection devices**

### Division 1                **Speed detection devices**

#### 112    **Use of speed detection devices**

When using a speed detection device, a police officer must comply with the following, as in force from time to time—

- (a) for a radar speed detection device, AS 2898.2: Radar speed detection—Operational procedures;
- (b) for a laser-based speed detection device, AS 4691.2: Laser-based speed detection devices—Operational procedures.

### Division 2                **Photographic detection devices**

#### 113    **Definitions for div 2**

In this division—

***camera-detected offence*** means a prescribed offence in respect of which—

- (a) the infringement notice under the *State Penalties Enforcement Act 1999*; or
- (b) the complaint or summons;

indicates that the offence was detected by a photographic detection device.

***corresponding transport law***, to a transport Act or a provision of a transport Act, means a law of the Commonwealth or another State that provides for the same matter as—

- (a) for a transport Act—the Act or a provision of the Act; or
- (b) for a provision of a transport Act—the provision.

***person in charge*** of a vehicle, in relation to an alleged offence, means—

*Transport Operations (Road Use Management) Act  
1995*

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- (a) if there was a responsible operator for the vehicle at the time the offence allegedly happened—
  - (i) the responsible operator; or
  - (ii) if the responsible operator gives a notice under section 114(3)(b)—the person named, in any notice under the section, as the person in charge of the vehicle at the time; or
- (b) if there was no responsible operator for the vehicle, and the vehicle was registered under a transport Act or a corresponding transport law, at the time the offence allegedly happened—
  - (i) the registered operator of the vehicle at the time; or
  - (ii) if the registered operator gives a notice under section 114(3)(b)—the person named, in any notice under the section, as the person in charge of the vehicle at the time; or
- (c) if there was no responsible operator for the vehicle, and the vehicle was not registered under a transport Act or a corresponding transport law, at the time the offence allegedly happened—
  - (i) the person who, immediately before the registration expired, was the registered operator; or
  - (ii) if the person who was the registered operator gives a notice under section 114(3)(b)—the person named, in any notice under the section, as the person in charge of the vehicle at the time.

***photographic detection device*** means a device that captures an image, including, for example, a digital device, of a type approved by regulation as a photographic detection device.

***prescribed offence*** means an offence prescribed by regulation for this part that is an offence against this Act or another transport Act.

***responsible operator*** means a person nominated as responsible operator under section 170<sup>13</sup> or a person

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13 Section 170 (Nomination of responsible operator)

corresponding to a responsible operator under a corresponding transport law.

**transport Act** means an Act administered by the Minister or the *Motor Accident Insurance Act 1994*.

## **114 Offences detected by photographic detection device**

- (1) If a prescribed offence happens and the offence is detected by a photographic detection device, a person is taken to have committed the offence if the person was the person in charge of the vehicle that was involved in the offence at the time the offence happened even though the actual offender may have been someone else.
- (2) If the actual offender is someone else, subsection (1) does not affect the liability of the actual offender but the person in charge and the actual offender can not both be punished for the offence.
- (3) It is a defence to a camera detected offence for a person to prove that—
  - (a) the person was not the driver of the vehicle at the time the offence happened; and
  - (b) the person—
    - (i) has notified the commissioner or chief executive of the name and address of the person in charge of the vehicle at the time the offence happened; or
    - (ii) has notified the commissioner or chief executive that the person did not know and could not, with reasonable diligence, have ascertained the name and address of the person in charge of the vehicle at the time the offence happened.
- (4) The person must notify the commissioner or chief executive about the matters specified in subsection (3)(b)(i), or the matters specified in subsections (3)(b)(ii) and (6), in a statutory declaration.
- (5) The defence under subsection (3) is not available unless notice under subsection (3)(b)(i) or (ii) is given to the commissioner

*Transport Operations (Road Use Management) Act  
1995*

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or chief executive by the person within 28 days of the first given of—

- (a) written notice from the commissioner or chief executive to the person alleging a camera-detected offence; or
  - (b) an infringement notice under the *State Penalties Enforcement Act 1999*.
- (6) For subsection (3)(b)(ii) a person must prove that—
- (a) at the time the offence happened, the person—
    - (i) exercised reasonable control over the vehicle's use; and
    - (ii) had in place a reasonable way of finding out the name and address of the person in charge of the vehicle at any given time having regard to—
      - (A) the number of drivers; and
      - (B) the amount and frequency of use; and
      - (C) whether the vehicle was driven for business or private use; and
  - (b) after the offence happened, the person made proper search and enquiry to ascertain the name and address of the person in charge of the vehicle at the time the offence happened.
- (7) Subsection (6) does not apply if the person is able to prove that at the time the offence happened the vehicle—
- (a) was stolen or illegally taken; or
  - (b) had already been sold or otherwise disposed of.
- (8) Nothing in this section stops a person notifying the commissioner or chief executive, in a statutory declaration, that the person was the driver of the vehicle involved in a camera-detected offence.
- (9) A notification purporting to have been given for a body corporate by a director, manager or secretary of the body corporate is to be taken to have been given by the body corporate.

**115 Limitation of prosecution period extended in particular circumstances**

- (1) Subsection (2) applies if a conviction or an enforcement order against a person for a camera-detected offence is set aside because the person can not be proved to be the driver of the vehicle at the time the prescribed offence happened.
- (2) If a conviction or an enforcement order is set aside, despite any other Act, proceedings for a camera-detected offence may be started against another person within 3 months of the setting aside of the conviction or enforcement order.
- (3) For this section, a conviction without recording the conviction, is taken to be a conviction.

**116 Notice accompanying summons**

- (1) A notice, complaint or summons served on a person for a camera-detected offence must be accompanied by written information about—
  - (a) if the person has been nominated under section 114(3)(b)(i) as the person in charge of the vehicle at the time the offence happened—the particulars of the nomination; and
  - (b) the provisions of section 114; and
  - (c) the right to examine and challenge an image from a photographic detection device under section 118.
- (2) A statement in a deposition made for the *Justices Act 1886*, section 56(3)(b) that the notice was served as required by subsection (1) is evidence of that fact.
- (3) The *Justices Act 1886*, section 56(5) applies to the deposition.

**117 Use of penalties collected for camera detected offences**

- (1) All money collected for penalties imposed for camera detected offences in excess of the administrative costs of collection must be used for the following purposes—
  - (a) road safety education and awareness programs;
  - (b) road accident injury rehabilitation programs;

(c) road funding to improve the safety of the sections of State-controlled roads where accidents most frequently happen.

(2) In this section—

*State-controlled road* means a road or route or part of a road or route declared to be a State-controlled road under the *Transport Infrastructure Act 1994*.

### **118 Photographic evidence—inspection and challenges**

- (1) This section applies to a person who has been charged with a camera-detected offence and wants to examine a copy of the image from a photographic detection device on which the offence is based.
- (2) The person must ask the commissioner, at least 21 days before the charge is heard, to make a copy of the image from a photographic detection device available for examination.
- (3) The commissioner must make reasonable arrangements to allow the examination at least 14 days before the charge is heard.
- (4) If the person intends to challenge the image from a photographic detection device at a hearing, the person must give the commissioner written notice of the intention at least 7 days before the day fixed for the hearing.

### **119 Notice of dispute about traffic control device or sign**

If a person intends to dispute that a traffic control device or sign was functioning without defect or was visible, the person must give the commissioner written notice of the intention, specifying the device or sign, at least 7 days before the day fixed for the hearing.

### **120 Evidentiary provisions**

- (1) This section applies to a proceeding for an offence involving a motor vehicle under this or another Act.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) An image produced by the prosecution purporting to be certified by the commissioner stating that the image was properly taken by a photographic detection device at a specified location and time is evidence of the following matters—
  - (a) the image was taken at the specified location and time;
  - (b) the accuracy of the image;
  - (c) the things depicted in the image;
  - (d) any requirements prescribed by a regulation about the operation and testing of a photographic detection device were complied with for the specified device at all material times.
- (3) If an image produced under subsection (2) is one in a series of images also produced under subsection (2)—
  - (a) the image may be numbered; and
  - (b) the time it was taken may be identified by reference to another image in the series.
- (4) A marking or writing made by a photographic detection device on an image is taken to have the meaning prescribed under a regulation and is evidence of what it is taken to mean.
- (6) Evidence of the condition of the photographic detection device is not required unless evidence that the device was not in proper condition has been given.

## **121 Application of the State Penalties Enforcement Act 1999**

- (1) The *State Penalties Enforcement Act 1999*, part 3 applies to camera-detected offences subject to this division.
- (2) If there is any inconsistency between the *State Penalties Enforcement Act 1999* and this division, the provisions of this division prevail.
- (3) Without limiting subsection (1) or (2), for the *State Penalties Enforcement Act 1999*—
  - (a) a reference to *person in charge* or *user* is, if the context permits, taken to be a reference to the person in charge of the vehicle; and

- (b) a reference to *illegal user declaration*, *known user declaration*, *sold vehicle declaration* or *unknown user declaration* or ‘declaration’ generally is taken to be a reference to the appropriate approved form for section 114; and
- (c) the *State Penalties Enforcement Act 1999* sections 18(2), 19(5), 20(5) and 21(2) are subject to section 114 and in particular section 114(6) applies instead of the *State Penalties Enforcement Act 1999*, section 21(2)(b).

## Part 7A                      Crossing supervisor scheme

### Division 1                      Definitions

#### 122      Definitions for pt 7A

In this part—

***applicant*** means a person applying for authority to act as a crossing supervisor.

***authorised scheme*** see section 122A(1)(a).

***authority*** means authority to perform a role under an authorised scheme.

***criminal history***, of a person who is an applicant or crossing supervisor—

- (a) means the following—
  - (i) the date of conviction for a disqualifying offence or the date a charge of a disqualifying offence was laid, whether before or after the commencement of this section;
  - (ii) the name of the Act, and the provision, under which the disqualifying offence is created;

*Transport Operations (Road Use Management) Act  
1995*

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- (iii) for a conviction for a disqualifying offence—the penalty or other order made in relation to the conviction;<sup>14</sup> and
- (b) despite section 6<sup>15</sup> of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, includes a conviction of the person to which that section applies; and
- (c) despite section 5<sup>16</sup> of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, includes a charge made against the person for a disqualifying offence.

**crossing supervisor** see section 122A(1)(b).

**disqualifying offence** means—

- (a) a serious child-related sexual offence, or serious offence, under the *Commission for Children and Young People and Child Guardian Act 2000*; or
- (b) an offence against a provision of the Criminal Code mentioned in schedule 2; or
- (c) an offence against the *Drugs Misuse Act 1986*, part 2;<sup>17</sup> or
- (d) an offence similar to an offence mentioned in paragraph (a), (b) or (c) committed outside Queensland.

## **Division 2                      Scheme and authorisation of persons under scheme**

### **122A Chief executive may authorise scheme**

- (1) The chief executive may—

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14 See schedule 4 (Dictionary), which defines *convicting*.

15 Section 6 (Non-disclosure of convictions upon expiration of rehabilitation period) of the *Criminal Law (Rehabilitation of Offenders) Act 1986*

16 Section 5 (Matter excluded from criminal history) of the *Criminal Law (Rehabilitation of Offenders) Act 1986*

17 *Drugs Misuse Act 1986*, part 2 (Drug trafficking)

- (a) authorise a scheme to help children to safely cross roads (an *authorised scheme*); and
  - (b) authorise a person to perform a role under the scheme (a *crossing supervisor*).
- (2) An authorised scheme comes into force on the day stated in the scheme.

**122B Unauthorised person must not act as crossing supervisor**

- (1) A person must not perform a role under an authorised scheme as a crossing supervisor unless the person is a crossing supervisor.

Maximum penalty—20 penalty units.

- (2) A person must not hold himself or herself out as being a crossing supervisor if the person is not authorised as a crossing supervisor under an authorised scheme.

Maximum penalty—20 penalty units.

**122C Chief executive may refuse to authorise person under scheme**

The chief executive may refuse to authorise a person to perform a role under an authorised scheme if the person—

- (a) has been convicted of a disqualifying offence; or
- (b) has been charged with a disqualifying offence and the charge has not been finally dealt with; or
- (c) has previously had the person's authority to act as a crossing supervisor cancelled under this part.

**122D Chief executive may impose conditions on authority**

The chief executive may authorise a person to perform a role under an authorised scheme subject to conditions.

### **122E Notice to be given about refusal or imposition of condition**

- (1) This section applies if the chief executive—
  - (a) refuses to authorise a person to perform a role under an authorised scheme; or
  - (b) authorises a person to perform a role under an authorised scheme subject to conditions.
- (2) The chief executive must inform the person of the decision by written notice.
- (3) The notice must state—
  - (a) the reasons for the decision; and
  - (b) that the person may, under section 65, ask for the decision to be reviewed and appeal against the reviewed decision.
- (4) The decision takes effect on the day the notice is given to the person.

## **Division 3 Criminal history**

### **122F Criminal history to be disclosed by applicants and crossing supervisors**

- (1) A person who is an applicant or a crossing supervisor must, by written notice as required by subsection (2), give the chief executive details of the person's criminal history.  
Maximum penalty—40 penalty units.
- (2) The applicant or crossing supervisor must give the written notice—
  - (a) for a charge laid or an offence of which the applicant is convicted before the application is made—with the application; or
  - (b) for a charge laid or an offence of which the applicant is convicted after the application is made but before the application is decided—as soon as practicable after the charge is laid or the applicant is convicted; or

- (c) for a charge laid or an offence of which the crossing supervisor is convicted after becoming a crossing supervisor—as soon as practicable after the charge is laid or the crossing supervisor is convicted.

### **122G Crossing supervisor may surrender authority**

- (1) A crossing supervisor who fails to give a notice required by section 122F(2)(c) does not commit an offence if, as soon as practicable after the requirement arises, the crossing supervisor gives the chief executive written notice that the crossing supervisor will immediately stop acting as a crossing supervisor.
- (2) If a crossing supervisor gives the chief executive a notice under subsection (1), the crossing supervisor's authority to perform a role under an authorised scheme is taken to be cancelled on the day the notice is given to the chief executive.

### **122H Chief executive may ask commissioner for criminal history**

- (1) The chief executive may ask the commissioner for a written report about the criminal history of a person who is an applicant.
- (2) The chief executive may, at any time, ask the commissioner for a written report about the criminal history of a person who is a crossing supervisor if the chief executive is satisfied, on reasonable grounds, it is necessary to do so to ensure the protection of children.
- (3) If requested, the commissioner must give the chief executive a written report about the criminal history of the person—
  - (a) that is in the commissioner's possession; or
  - (b) to which the commissioner ordinarily has access through arrangements with the police service of the Commonwealth or another State.
- (4) This section expires 1 year after it commences.



*Transport Operations (Road Use Management) Act  
1995*

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- (d) if the proposed action is to amend the authority, including a condition of the authority—the proposed amendment; and
- (e) if the proposed action is to suspend the authority—the proposed suspension period; and
- (f) an invitation to the crossing supervisor to show in writing, within a stated time of at least 28 days, why the proposed action should not be taken.

**122K Amending, suspending or cancelling authority**

- (1) If, after considering all the written representations made within the stated time under section 122J(f), the chief executive still considers a ground exists to take proposed action, the chief executive may—
  - (a) if the proposed action was to amend the authority—amend the authority in the way stated in the notice; or
  - (b) if the proposed action was to suspend the authority—
    - (i) amend the authority in the way the chief executive considers appropriate; or
    - (ii) suspend the authority for no longer than the period stated in the notice; or
  - (c) if the proposed action was to cancel the authority—
    - (i) amend the authority in a way the chief executive considers appropriate; or
    - (ii) suspend the authority for a period; or
    - (iii) cancel the authority.
- (2) However, if the proposed action relates to a matter that is the subject of a proceeding before a court that has not been finally decided, the chief executive—
  - (a) need not make a final decision under subsection (1) until the proceeding is finally decided; but

- (b) must make the decision as soon as reasonably practicable after the proceeding is decided.
- (3) This section does not apply if section 122P applies.

### **122L Notice to be given to crossing supervisor**

- (1) The chief executive must inform the crossing supervisor by written notice about the chief executive's decision under section 122K(1).
- (2) If the chief executive decides to amend, suspend or cancel the authority, the notice must state—
  - (a) the reasons for the decision; and
  - (b) that the crossing supervisor may—
    - (i) under section 65, ask for the decision to be reviewed and appeal against the reviewed decision; and
    - (ii) under the *Transport Planning and Coordination Act 1994*, part 5, ask for the decision or the reviewed decision to be stayed.
- (3) The decision takes effect on the later of the following—
  - (a) the day the notice is given to the crossing supervisor;
  - (b) the day stated in the notice.

### **122M Grounds for immediate suspension of authority**

- (1) Despite section 122J, the chief executive may immediately suspend a crossing supervisor's authority, by written notice given to the crossing supervisor, if the chief executive reasonably believes it is necessary because—
  - (a) public safety, particularly the safety of children, has been endangered, or is likely to be endangered, because of the authority; or
  - (b) it is otherwise necessary in the public interest.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) Without limiting the chief executive's powers under subsection (1), it is enough to immediately suspend a crossing supervisor's authority if—
- (a) a person complains to a police officer about the crossing supervisor's conduct and the chief executive reasonably believes—
    - (i) the complaint is not trivial, vexatious or otherwise lacking in substance; and
    - (ii) the alleged conduct complained of justifies taking action under subsection (1); or
  - (b) having regard to statements or other information about the crossing supervisor's conduct given to the chief executive, the chief executive reasonably believes the statements or other information justifies taking action under subsection (1).

### **122N Procedure for immediate suspension of authority**

- (1) If the chief executive immediately suspends an authority, the suspension—
- (a) takes effect on the day the notice is given to the crossing supervisor; and
  - (b) has effect until—
    - (i) if the chief executive informs the crossing supervisor of the chief executive's decision by notice under section 122L—the day the decision takes effect under section 122L(3); or
    - (ii) if the decision is set aside on review or appeal—the day the decision is set aside; or
    - (iii) otherwise—the end of 56 days after the notice is given to the crossing supervisor or the end of any further period or periods by which the suspension is extended under subsection (3).
- (2) If the chief executive immediately suspends an authority, the notice under section 122M(1) must state—
- (a) the reasons for the decision; and

*Transport Operations (Road Use Management) Act  
1995*

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- (b) the general effect of subsection (1)(b); and
  - (c) that the crossing supervisor may—
    - (i) under section 65, ask for the decision to be reviewed and appeal against the reviewed decision; and
    - (ii) under the *Transport Planning and Coordination Act 1994*, part 5, ask for the decision or the reviewed decision to be stayed.
- (3) If the immediate suspension of an authority relates to a matter that is the subject of a proceeding before a court that has not been finally decided, the chief executive—
- (a) may extend the suspension for a further period or periods until the proceeding is finally decided; but
  - (b) must make a decision about whether to take proposed action under section 122K as soon as practicable after the proceeding is decided.

## **122O Further action after immediate suspension**

- (1) This section applies if—
- (a) under section 122M, the chief executive immediately suspends a crossing supervisor's authority; and
  - (b) the chief executive proposes, under section 122J, to amend, further suspend or cancel the crossing supervisor's authority (also the *proposed action*).
- (2) The chief executive must, within 14 days after immediately suspending the crossing supervisor's authority, give the crossing supervisor a notice that states—
- (a) the information mentioned in section 122J(a), (b) and (c) in relation to the proposed action; and
  - (b) if the proposed action is to amend the authority, including a condition of the authority—the proposed amendment; and
  - (c) if the proposed action is further suspension of the authority—the proposed suspension period; and

- (d) an invitation to the crossing supervisor to show cause in writing, within a stated time of at least 28 days, why the proposed action should not be taken.
- (3) The notice under subsection (2) may be combined with the notice given to the crossing supervisor under section 122M.
- (4) Sections 122K and 122L apply to the proposed action as if the notice had been given under section 122J.
- (5) Despite subsection (4), section 122K(1)(b)(ii) or (c)(ii) does not limit the chief executive's powers to extend the period of suspension under section 122N(3).

### **122P Other amendments of authorities**

- (1) This section applies only if the chief executive proposes to amend a crossing supervisor's authority—
  - (a) for a formal or clerical reason; or
  - (b) in another way that does not adversely affect the crossing supervisor's interests; or
  - (c) because the crossing supervisor asks.
- (2) The chief executive may make amendments of a type mentioned in subsection (1) by written notice given to the crossing supervisor.

## **Part 8 Proceedings and evidence**

### **123 Records**

- (1) A responsible person who issues an instrument under this Act must keep a record of the particulars of the instrument at—
  - (a) if the instrument is issued by the chief executive—an office of the department decided by the chief executive; or
  - (b) otherwise—an office of the Queensland Police Service decided by the commissioner.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) However, a record of particulars of a person's Queensland driver licence must—
- (a) be kept at an office of the department decided by the chief executive; and
  - (b) include the person's traffic history.
- (3) The person who has custody of the record is—
- (a) for a record mentioned in subsection (1)—the person in charge of the office where the record is kept; or
  - (b) for a record mentioned in subsection (2)—the chief executive.
- (4) An extract from or copy of any entry of any particulars of the record that is, or purports to be, certified by the person who has custody of the record as being an extract from or copy of the record, is for a court and all other purposes, evidence of the particulars contained in the record, without requiring the production of the record.
- (5) In this section—
- instrument*** means an appointment, approval, authorisation, cancellation, demand, determination, direction, licence, notification, order, suspension or surrender.
- issues*** includes gives or makes.
- responsible person*** means—
- (a) the chief executive; or
  - (b) the commissioner; or
  - (c) a superintendent.

## 124 Facilitation of proof

- (1) In any proceeding under or for the purpose of this Act—
- (a) it shall not be necessary to prove the appointment of the chief executive, the commissioner, a superintendent or of a police officer;
  - (b) a signature purporting to be that of the chief executive, the commissioner, a superintendent or the person having

*Transport Operations (Road Use Management) Act  
1995*

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- the custody of the particulars of Queensland driver licences shall be taken to be the signature it purports to be until the contrary is proved;
- (c) it shall not be necessary to prove the limits of any district or part of a district, or that any road or place is within a district or part thereof, or the authority of the chief executive, the commissioner, superintendent, or a police officer to do any act or take any proceedings, but this shall not prejudice the right of any defendant to prove the limits of the district or part of the district or the extent of such authority;
  - (e) proof that a person applied for or obtained a licence for a vehicle shall be evidence that such person was the owner of such vehicle and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such ownership;
  - (f) a document purporting to be a copy of a licence and certified as a true copy by the person having custody of the record relating to the licence is evidence of the licence; or
  - (fa) particulars of a conviction, disqualification, suspension or cancellation stated on a licence, or on a document purporting to be a copy of a licence certified in the way stated in paragraph (f), is evidence that—
    - (i) the holder of the licence, or the holder of the licence of which the document purports to be a copy, was convicted or disqualified; or
    - (ii) the licence was suspended or cancelled; or
  - (g) a document purporting to be signed by the chief executive, the commissioner or a superintendent and stating that at any specified time there was or was not in force a licence under this Act as described therein issued to a specified person, or in respect of a specified vehicle, or for a specified purpose (or a document purporting to be signed by the officer ordinarily having the custody of the particulars of Queensland driver licences and stating that at any specified time there was or was not in force a Queensland driver licence under this Act issued to a

*Transport Operations (Road Use Management) Act  
1995*

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specified person), or, in the case of either document as aforesaid, stating that any such licence was or was not issued subject to terms, conditions, or restrictions, or was or was not issued subject to the terms, conditions, and restrictions set out in that document shall, upon its production in evidence, be evidence of the matter or matters in that document, and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;

- (ga) a certificate purporting to be signed by the chief executive stating a person's traffic history at a stated date is evidence of the matters stated in it; or
- (j) against the owner of a vehicle, tram, or animal for permitting or allowing such vehicle, tram, or animal to be used or driven by a person not authorised under this Act by an appropriate driver licence or otherwise to use or drive that vehicle, tram, or animal, proof that such person used or drove that vehicle, tram, or animal shall be evidence that the owner of such vehicle, tram, or animal permitted or allowed such use or driving, and in the absence of evidence in rebuttal thereof shall be conclusive evidence that the owner of such vehicle, tram, or animal permitted or allowed such use or driving;
- (k) any certificate purporting to be signed by the chief executive, the commissioner, a superintendent, chief executive officer of a local government or a clerk of the court or other person having custody of records relating to payments of moneys payable under this Act of the receipt or non-receipt of any notice, application, or payment or of any other thing required by this Act to be given or made shall, upon its production in evidence, be evidence of the matter or matters certified to therein, and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matter or matters;
- (l) any certificate purporting to be signed by the chief executive or the chief executive's delegate as to any inspection made by any inspector appointed under this Act of any vehicle, whether such inspection was carried

*Transport Operations (Road Use Management) Act  
1995*

---

out at the direction of any police officer or not, shall, upon its production (and provided that a copy thereof has been made available a reasonable time before the hearing of the proceedings to any party, if requested), be evidence of the matter or matters stated therein and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matter or matters, appointment, or authority, and the appointment of the chief executive or the authority of the delegate giving the certificate to give it and the appointment of the inspector who made such inspection shall be presumed until the contrary is proved;

- (n) any certificate or document—
  - (i) purporting to be issued under regulations about motor vehicle registrations made under this Act or a law of another State or a Territory corresponding to the regulations (a *corresponding law*); or
  - (ii) purporting to be signed by the chief executive, an entity responsible for registering motor vehicles under a corresponding law, or a person authorised by the chief executive or entity;

which states that on any date or during any period the motor vehicle specified in the certificate or document was registered in the name of the person specified therein shall be received in evidence, and shall be evidence that the person specified in the certificate or document was the owner of the motor vehicle specified therein at the time or during the period specified therein, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such ownership;

- (na) any certificate or document referred to in paragraph (n) shall be presumed to have been duly issued or given until the contrary is proved;
- (o) a certificate purporting to be signed by the chief executive, the commissioner or a superintendent stating that the records of the chief executive, commissioner or superintendent, as the case may be, show that any person was the licensee of any vehicle licensed under

*Transport Operations (Road Use Management) Act  
1995*

---

this Act at any time shall be received in evidence and shall be evidence that such person was such licensee at such time, and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence that such person was such licensee at that time;

- (oa) a document purporting to be signed by the commissioner or chief executive stating that the document is a true copy of a plan of installation of a photographic detection device at a place, showing any features of the installation, road infrastructure, road boundaries or road markings is evidence of the things shown in the document;
- (p) a certificate purporting to be signed by the chief executive, the commissioner or a superintendent stating a specified stop watch, other watch or speedometer has been tested and found to produce accurate results at the time of testing is evidence the stop watch, other watch or speedometer was producing accurate results at the time of testing and for 6 months after the day of testing;
- (pa) a certificate purporting to be signed by the commissioner stating a specified radar speed detection device has been—
  - (i) tested in accordance with AS 2898.2: Radar speed detection—Operational procedures (as in force at a specified time); and
  - (ii) found to produce accurate results at the specified time;is evidence the device was producing accurate results at the time of testing and for 1 year after the time;
- (pb) a certificate purporting to be signed by a police officer stating a specified radar speed detection device was used by the officer—
  - (i) at a specified time; and
  - (ii) in accordance with Australian Standard 2898.2 (as in force at the time);is evidence of the matters specified;

*Transport Operations (Road Use Management) Act  
1995*

---

(pc) a certificate purporting to be signed by the commissioner stating a specified vehicle speedometer accuracy indicator (commonly known as a chassis dynamometer) has been—

(i) tested; and

(ii) found to produce accurate results at the specified time;

is evidence the indicator was producing accurate results at the time of testing and for 6 months after the day of testing;

(pd) a certificate purporting to be signed by the commissioner, chief executive or a superintendent certifying that a laser-based speed detection device has been—

(i) tested at a specified time—

(A) in accordance with the appropriate Australian Standard that is in force at the time; or

(B) if there is no appropriate standard—in accordance with the manufacturer's specifications; and

(ii) found to produce accurate results at the specified time;

is evidence of the matters stated and evidence the device was producing accurate results at the time of testing and for 1 year after the time;

(pe) a certificate purporting to be signed by a police officer stating that a specified laser speed detection device was used by the officer—

(i) at a specified time; and

(ii) in accordance with—

(A) the appropriate Australian Standard that is in force at the time; or

*Transport Operations (Road Use Management) Act  
1995*

---

- (B) if there is no appropriate standard—the manufacturer’s specifications;
- is evidence of the matter stated;
- (pf) a certificate purporting to be signed by the commissioner, chief executive or a superintendent certifying that a photographic detection device has been—
- (i) tested at a specified time in accordance with paragraph (pa) or (pd); and
- (ii) found to produce accurate results at the specified time;
- is evidence of the matters stated and evidence the photographic detection device was producing accurate results at the time of testing and for 1 year after the time;
- (q) the burden of proof that any person, vehicle, tram, train, vessel, or animal was at any time exempt from any provision of this Act or that any such provision was not at any time applicable to any person, vehicle, tram, train, vessel, or animal shall be on the defendant;
- (r) the allegation or averment in any complaint that—
- (i) any person is or is not or was or was not at any time or date mentioned in the complaint—
- (A) the owner of any vehicle, tram, train, vessel, or animal; or
- (B) the holder of a licence or any particular class or description of licence; or
- (C) of, or under, or over a specified age; or
- (D) the holder of a driver licence authorising the holder to drive a motor vehicle on the road therein specified; or
- (ii) any thing is or was a vehicle, tram, train, vessel, or animal or of a particular class or description thereof; or

*Transport Operations (Road Use Management) Act  
1995*

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- (iii) any place or thing is or was a road or a part of a road or an off-street regulated parking area or a part of such an area; or
- (iv) any way is or was a tramway or railway; or
- (v) any distance referred to therein is or was a specified distance or is or was greater or less than a specified distance; or
- (vi) any indication or prescribed indication is or was given by an official traffic sign;

shall be evidence of the matter or matters so averred or alleged, and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;

- (s) the allegation or averment in any complaint that any sign, signal, light, marking, or other device—
  - (i) is or is not, or was or was not, an official traffic sign; or
  - (ii) is or is not, or was or was not, lawfully constructed, made, marked, placed, erected, affixed, or painted in, into, or on or near any specified road or off-street regulated parking area, or that such sign, signal, light, marking, or other device is or is not, or was or was not, for any purpose specified in the complaint; or
  - (iii) does or does not contain, or has or has not contained, any specified work, figure, warning, direction, indication, or symbol;

shall be evidence of the matter or matters so alleged or averred and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;

- (t) any person who appears, acts, or behaves as the driver, rider, or person having the possession, custody, care, or management of any vehicle, tram, train, vessel, or animal, or who uses or drives, or attempts to use or drive the same shall be presumed to be the person in charge thereof whether the person is or is not the real person in

*Transport Operations (Road Use Management) Act*  
1995

---

charge, and it is immaterial that by reason of circumstances not known to such person it is impossible to drive or otherwise use the same;

- (ta) evidence that a number plate showing a particular registration number was attached to a motor vehicle at a particular time is evidence that the motor vehicle is the motor vehicle noted in the register of vehicles as then having that registration number;
- (tb) a certificate purporting to be signed by the commissioner, chief executive or a superintendent certifying that a breath analysing instrument has been—
  - (i) tested at a specified time—
    - (A) in accordance with the appropriate Australian Standard that is in force at the time using devices or substances certified or otherwise authenticated under the *National Measurements Act 1960* (Cwlth); or
    - (B) if there is no appropriate standard—in accordance with the manufacturer's specifications using devices or substances certified or otherwise authenticated under the *National Measurements Act 1960* (Cwlth); and
  - (ii) found to produce accurate results at the specified time;

is evidence of the matters stated and evidence the breath analysing instrument was producing accurate results at the time of testing and for 1 year after the time;

- (u) evidence of the condition of a breath analysing instrument, as defined in section 80, or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced;
- (v) evidence of the condition of a parking meter or parkatarea is not required unless evidence that the parking meter or parkatarea was not in proper condition has been given.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) Subsection (1)(r) and (s) shall apply to any matter alleged or averred thereunder although—
- (a) evidence in support of such matter or of any other matter is given; or
  - (b) any matter so alleged or averred is a mixed question of law and fact, but in that case the allegation or averment shall be evidence of the fact only.
- (3) This section shall not lessen or affect any onus of proof otherwise falling on the defendant.
- (4) A defendant who intends to challenge—
- (a) the accuracy of a radar or laser speed detection device or vehicle speedometer accuracy indicator; or
  - (b) the time at, or way in, which the radar or laser speed detection device was used;
- at the hearing and determination of a charge against the defendant under this Act must give written notice of the challenge to the prosecution.
- (5) The notice must be—
- (a) signed by the defendant; and
  - (b) given at least 14 days before the day fixed for the hearing.

## **125 When offences not to be dealt with summarily**

Where a person is charged with an act or omission which is both an offence under this Act and an indictable offence, the justices shall abstain from dealing with the case summarily if they are of opinion that the charge is a fit subject for prosecution by indictment and thereupon shall commit the alleged offender for trial.



*Transport Operations (Road Use Management) Act  
1995*

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- (2) Where under this or any other Act a judge of the Supreme Court or District Court or justices orders or order that any person shall be disqualified for a specified period from holding or obtaining a licence of any kind, class or description (other than a Queensland driver licence), each subsisting such licence held by that person shall by virtue of the order, where such licence—
- (a) would expire during the period of disqualification so ordered, be and be deemed to be cancelled on and from the date upon which that person became so disqualified; or
  - (b) would not expire during the period of disqualification so ordered, be and be deemed to be suspended on and from the date upon which that person became so disqualified and thereafter until the expiration of the period of disqualification specified in the order.
- (2A) Where under this or any other Act a judge of the Supreme Court or District Court or justices orders or order that any person shall be disqualified absolutely or for a specified period from holding or obtaining a Queensland driver licence, each subsisting Queensland driver licence held by that person shall, by virtue of such order, be and be deemed to be cancelled on and from the date upon which that person became so disqualified.
- (3) Where under any provision of this Act a conviction for an offence disqualifies any person from holding or obtaining a Queensland driver licence for any period therein specified and no order of disqualification has been made upon such conviction, each and every subsisting Queensland driver licence held by that person shall, by virtue of such conviction, be and be deemed to be cancelled on and from the date of such conviction.
- (4) Suspension under this Act of any licence—
- (a) shall, whilst such licence is so suspended, have the same effect as the cancellation of the licence; and
  - (b) shall, whilst such licence is so suspended, disqualify the person who held that licence from holding or obtaining a licence of the same kind, class, or description; and

*Transport Operations (Road Use Management) Act  
1995*

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- (c) (if the period of such suspension is less than the period during which that licence ordinarily would have remained in force) shall not, upon the termination of that suspension, extend the period during which that licence thereafter remains in force beyond the period during which that licence would have remained in force if it had not been so suspended.
- (5) Any cancellation or suspension of a Queensland driver licence shall apply and extend to such licence and to every other Queensland driver licence authorising the person in question to drive any vehicle.
- (6) A person shall not apply for or obtain a Queensland driver licence or licence of any other kind, class, or description at a time when the person is disqualified—
- (a) by this Act; or
- (b) by an order made under this or any other Act (including any Act of a State or Territory or any other country);
- from holding or obtaining a driver licence or, as the case may be, licence of that other kind, class, or description.
- (7) The provisions of subsection (6) do not apply to a person who in accordance with this Act applies for or obtains—
- (a) a restricted licence under an order made under section 87; or
- (b) a replacement licence under section 79F.
- (8) A person who applies for or obtains a licence in contravention of subsection (6) shall be guilty of an offence.
- Maximum penalty—
- (a) for a Queensland driver licence—20 penalty units or 18 months imprisonment; or
- (b) for another licence—40 penalty units.
- (10) In determining the punishment to be imposed on a person who is guilty of an offence under subsection (8) where the licence applied for or obtained in contravention hereof is a Queensland driver licence, the justices shall have regard to—

*Transport Operations (Road Use Management) Act  
1995*

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- (a) the whole of the circumstances of the case, including circumstances of aggravation or mitigation; and
  - (b) the interest of the public; and
  - (c) the criminal and traffic history of the offender; and
  - (d) all matters before them in relation to the medical history of the offender or the offender's physical or mental capacity that are considered by them to be relevant in the circumstances; and
  - (e) such other matters that are considered by them to be relevant in the circumstances.
- (11) Notwithstanding that, at the time of the commission of an offence under subsection (8) where the licence applied for or obtained in contravention hereof is a Queensland driver licence, the person who committed the offence is disqualified by this Act or by an order made under this or any other Act from holding or obtaining a Queensland driver licence, the justices before whom the person is convicted of the offence, in addition to any punishment they may impose upon the person on conviction, shall order that the person shall, on and from the date of the conviction, be disqualified absolutely from holding or obtaining a Queensland driver licence, and the person shall thereupon be so disqualified under and in accordance with that order.
- (12) Any Queensland driver licence or licence of any other kind, class, or description, obtained by any person or issued to the person at any time when the person is disqualified—
- (a) by this Act; or
  - (b) by an order made under this or any other Act (including any Act of a State or Territory or any other country);
- from holding or obtaining a driver licence or, as the case may be, licence of that other kind, class, or description shall be absolutely void and of no legal effect whatsoever.
- (13) The provisions of subsection (12) do not apply to either of the following obtained by or issued to any person—

- (a) a restricted licence under an order made under section 87;
  - (b) a replacement licence under section 79F.
- (14) Subsection (12) shall be read so as not to affect the liability (if any) of that person to punishment under any other provision of this Act or under any other Act in respect of anything done or omitted to be done by the person in relation to the obtaining of the licence in question.

**128 Effect of disqualification on subsequent issue of Queensland driver licence**

Where the Queensland driver licence of a person is cancelled or deemed to be cancelled in accordance with the provisions of section 127 and that person subsequently makes application for a Queensland driver licence (other than a learner licence or a restricted licence applied for pursuant to an order made under section 87), the superintendent may cause the person to be tested as prescribed and issue a probationary licence to the person.

**129A Effect of suspension of licence under State Penalties Enforcement Act 1999**

- (1) This section applies if a person's driver licence is suspended under the *State Penalties Enforcement Act 1999*, but is subject to section 106 of that Act.
- (2) Suspension of the driver licence under the *State Penalties Enforcement Act 1999*—
  - (a) has, while the licence is suspended, the same effect as if the licence were cancelled under this Act; and
  - (b) if the period of the suspension ends before the licence would ordinarily expire, does not extend the period during which the licence would, apart from the suspension, have remained in force.
- (3) If under this Act, a person must hold a driver licence for a stated period—

*Transport Operations (Road Use Management) Act  
1995*

---

- (a) the stated period is extended by the length of the period for which the licence is suspended under the *State Penalties Enforcement Act 1999*; and
  - (b) the period of the suspension does not break the continuous period for which the person must hold the licence.
- (4) If the period of the licence expires before the period of the suspension ends, the person must not apply for or obtain a Queensland driver licence until—
- (a) the person pays the amount stated in the enforcement order under the *State Penalties Enforcement Act 1999* as the amount owing for the offence for which the licence was suspended; or
  - (b) the amount is otherwise discharged under that Act.

Maximum penalty—20 penalty units or 18 months imprisonment.

- (5) A suspension of a driver licence under the *State Penalties Enforcement Act 1999* also suspends any other driver licence authorising the person in question to drive a vehicle.
- (6) A person must not apply for or obtain a Queensland driver licence while the person's licence is suspended under the *State Penalties Enforcement Act 1999* or a corresponding law of another State.

Maximum penalty for subsection (6)—20 penalty units or 18 months imprisonment.

- (7) A person who is disqualified from applying for or obtaining a driver licence under the *State Penalties Enforcement Act 1999*, section 106(4) must not apply for or obtain a driver licence while the person is disqualified under that section.

Maximum penalty—20 penalty units or 18 months imprisonment.

**129B Disqualification period for person driving more than 40km/h over speed limit**

- (1) This section applies if—

*Transport Operations (Road Use Management) Act  
1995*

---

- (a) a person is convicted of an offence against a regulation for driving more than 40km/h over the speed limit; and
  - (b) the court that convicts the person decides, under the *Penalties and Sentences Act 1992*, section 187,<sup>18</sup> to disqualify the person from holding or obtaining a driver licence for a period.
- (2) The disqualification must be for a period of at least 6 months.

**130 Delivery of cancelled or surrendered licences, or licences for endorsement**

- (1) Where any licence is or is deemed to be cancelled or is surrendered or is required for the purpose of making an endorsement thereon under this Act the licensee shall forthwith deliver that licence—
- (a) if any person is appointed by the regulations to whom a licence of that kind, class, or description is to be delivered upon its cancellation or surrender, or for its endorsement—to that person; or
  - (b) where any person has not been so appointed by the regulations and—
    - (i) where such licence is cancelled consequent on a conviction on indictment, or by or consequent on an order made by a judge of the Supreme Court or District Court—to the registrar of the Supreme Court, Circuit Court, or District Court which recorded the conviction or made the order; or
    - (ii) where such licence is cancelled consequent on a conviction, or by or consequent on an order, by justices—to the clerk of the court which recorded the conviction or made the order; or
    - (iii) in any other case—to the chief executive or the superintendent who is the officer in charge of the police station in the police division in which the

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<sup>18</sup> *Penalties and Sentences Act 1992*, section 187 (Disqualification from holding driver licence)

*Transport Operations (Road Use Management) Act  
1995*

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address of the licensee, as indicated on the licence in question, is situated.

- (2) Any person who fails to deliver any licence as required by subsection (1) shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (2A) If such default in delivering any licence is continued by any person who has been convicted of the offence of failing to deliver that licence as required by subsection (1), then that person shall be deemed to commit a continuing offence and shall be liable to a penalty of 1 penalty unit for each and every day during which such offence is so continued.
- (2B) However, the continuing offence in respect of the non-delivery of such licence shall not be deemed to commence until the expiration of 14 days from the date of conviction as aforementioned.
- (3) The person to whom any licence is delivered pursuant to the provisions of this section shall make an endorsement containing such particulars relating to its cancellation or surrender, or the other purpose for which the endorsement is required to be made thereon, as may be prescribed and shall transmit such licence to the commissioner unless, in the case of a licence continuing in force, the commissioner is authorised by the regulations to return such licence to the licensee.
- (5) Where any person (whether the person is at the time the holder of a licence or not) has been disqualified—
- (a) by this Act; or
- (b) by an order made under this or any other Act;
- from holding or obtaining any licence (other than a Queensland driver licence), every licence of that kind, class, or description which the person may then hold or may subsequently obtain shall be endorsed with such particulars relating to the person's disqualification as may be prescribed.
- (6) On the issue of a new licence (other than a Queensland driver licence) to any person, the prescribed particulars endorsed or required to be endorsed on any previous licence of that kind,

*Transport Operations (Road Use Management) Act  
1995*

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class, or description held by the person shall be copied or made on to the new licence unless the person has previously become entitled under the provisions of this Act to have that new licence issued to the person free from such endorsements.

- (7) Any person who, having failed to deliver in accordance with this Act for endorsement the person's licence required hereby to be delivered for the purpose of making an endorsement thereon hereunder and not previously becoming entitled under the provisions of this Act to have a licence issued to the person free from such endorsement, applies for or obtains a new licence of the same kind, class, or description as that which was required to be endorsed without giving sufficient particulars to enable any and every required endorsement to be made on the new licence shall be guilty of an offence.

Maximum penalty for subsection (7)—40 penalty units or 6 months imprisonment.

### **131 Appeals with respect to issue of licences etc.**

- (1) This section does not apply in relation to a licence that is suspended under the *State Penalties Enforcement Act 1999*.
- (1AA) A person aggrieved by the refusal of the chief executive or commissioner or of a superintendent to issue or renew a licence, or by the suspension or cancellation of a licence by the chief executive or commissioner, or by the imposition of a condition in respect of a licence by or by direction of the chief executive or commissioner or a superintendent may appeal against such refusal, suspension, cancellation or imposition to the court.
- (1A) Notwithstanding the provisions of the *Justices Act 1886*, the decision upon the appeal of the court shall be final and binding and without appeal.
- (1B) Except where the reason, or 1 of the reasons, for the chief executive or commissioner suspending or cancelling the appellant's licence is the mental or physical disability of the appellant, upon and by virtue of the commencement of the appeal the cancellation or suspension in question shall be suspended pending the determination of the appeal but, subject to the decision of the court upon the appeal, that

*Transport Operations (Road Use Management) Act  
1995*

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cancellation or suspension shall take effect from the date of the determination of the appeal for that portion of the period for which it was made which had not expired when the appeal was commenced.

- (1C) Subsections (1) to (1B) shall be read and construed so that an appeal hereunder shall not lie under subsection (1)—
- (a) in respect of the cancellation or suspension of a Queensland driver licence by reason of the disqualification from holding or obtaining that licence of the licensee upon conviction or by order of a judge of the Supreme Court or District Court or of the court; or
  - (b) in respect of the cancellation or suspension of a licence by or at or pursuant to the order or direction of a judge of the Supreme Court or District Court or of the court under any provision of this Act or under any other Act or law; or
  - (c) in respect of the refusal to issue or renew a licence or a suspension or cancellation of a licence or the imposition of a condition in respect of a licence if provision is made elsewhere in this Act for or in respect of such an appeal.
- (2) A person who has been disqualified, by operation of law or an order, from holding or obtaining a Queensland driver licence absolutely or for a period of more than 2 years, may, at any time after the expiration of 2 years from the start of the disqualification period, apply for the disqualification to be removed.
- (2AA) The application for the disqualification to be removed must be made to—
- (a) if the disqualification was ordered by a judge of the Supreme Court—a judge of the Supreme Court; or
  - (b) if the disqualification was ordered by a judge of the District Court—a judge of the District Court; or
  - (c) if the disqualification was not ordered by a judge of the Supreme or District Court—
    - (i) if the person lives in Queensland—the Magistrates Court exercising jurisdiction at the place where the person lives; or

*Transport Operations (Road Use Management) Act  
1995*

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- (ii) if the person lives outside Queensland—the Magistrates Court, central division of the Brisbane district.
- (2A) Notice of any such application shall be given to the commissioner or to any police officer authorised by the commissioner to receive such notices, who shall be entitled to appear and be heard and to give and produce evidence at the hearing of such application for or against the granting of the application.
- (2B) The notice required by subsection (2A) to be given shall be given at least 28 clear days prior to the date of hearing of such application.
- (2C) Upon hearing any such application the judge of the Supreme Court or District Court or justices constituting the court may, as is thought proper, having regard to the character of the person disqualified and the person's conduct subsequent to the order, the nature of the offence, and any other circumstances of the case, either by order remove the disqualification as from such date as may be specified in the order or refuse the application.
- (2D) Where an application under subsection (2) is refused, a further application hereunder shall not be entertained if made within 1 year after the date of the refusal.
- (2E) If an order is made under subsection (2) for the removal of a disqualification, the judge or justices have power to order the applicant to pay the whole or any part of the costs of the application.
- (2F) Particulars of the result of any application made under subsection (2) shall be transmitted by the registrar of the Supreme Court or District Court or the clerk of the court concerned to the commissioner.
- (3) A person who by virtue of an order of a judge of the Supreme Court or District Court or justices made under this or any other Act is disqualified from holding or obtaining a licence may appeal against the order in the same manner as against a conviction recorded against the person by that judge or the justices and the Supreme Court or District Court in determining the appeal may, as is thought proper, having

*Transport Operations (Road Use Management) Act  
1995*

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regard to the circumstances of the case, either by order remove the disqualification as from such date as may be specified in that order or dismiss the appeal.

- (3AA) A memorandum of the determination of the appeal shall be transmitted by the registrar of the Supreme Court or, as the case may be, District Court to the commissioner.
- (3A) Where a person has, following upon a conviction, been disqualified from holding or obtaining a Queensland driver licence and has commenced an appeal against that conviction, that disqualification shall, upon the commencement of that appeal, and without further order in that behalf, be suspended pending the determination of that appeal.
- (3B) However, subject to any decision of a court upon that appeal, that portion of the period of disqualification which had not expired when such suspension began to operate shall take effect from the date of determination of that appeal.
- (4) Where on an appeal a conviction against any person for an offence against this or any other Act is quashed, any disqualification of that person from the holding or obtaining of a licence by that conviction without any specific order of disqualification having been made by a judge of the Supreme Court or District Court or justices shall thereupon be removed without any specific order being required for that purpose and without further or other authority than this Act.
- (5) Where under the authority of this or any other Act an order is made by a judge of the Supreme Court or District Court or justices disqualifying a person from holding or obtaining any licence such order shall be valid and effective notwithstanding that no application was made for that purpose or that the person so disqualified was not present or was not called upon to show cause against the making thereof.

**131A Removing absolute disqualification imposed before  
13/3/2**

- (1) This section applies to a person who was absolutely disqualified from holding or obtaining a Queensland driver licence under section 78 before 13 March 2002.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) The person may, at any time after the expiration of 5 years from the start of the disqualification, apply to the chief executive to remove the disqualification.
- (3) When deciding whether to remove the disqualification, the chief executive may consider—
  - (a) whether any demerit points have been recorded on the person's traffic history in the 2 years immediately before the person applies to the chief executive; and
  - (b) whether the person has been disqualified from holding or obtaining an Australian driver licence since the disqualification that the person is applying to the chief executive to remove.
- (4) The chief executive may decide—
  - (a) to remove the disqualification from a certain date; or
  - (b) to refuse to remove the disqualification.
- (5) The chief executive must inform the person of the chief executive's decision by written notice.
- (6) If the chief executive refuses to remove the disqualification, the person must wait at least 1 year after the date of the chief executive's written notice before—
  - (a) reapplying to the chief executive, under this section, to remove the disqualification; or
  - (b) applying to a court, under section 131, to remove the disqualification.

### **132 Appeals against licence suspension under regulations**

- (1) The regulations may provide for any appeal (including to the court or otherwise, which appeal may be stated to be final) against the suspension of a Queensland driver licence pursuant to the regulations solely on the grounds that such suspension would cause extreme hardship to the person or the person's family by depriving the person of the person's means of earning the person's livelihood.
- (2) Despite subsection (1), the regulation may provide that the court may dismiss an appeal if, considering the appellant's

traffic history, the court considers it would be inappropriate to allow the appeal.

### **133 Occupiers of garages etc. to keep register of repairs**

- (1) The occupier of every garage or other premises where motor vehicles are repaired or painted for reward shall keep a register in writing, and shall enter therein in respect of every motor vehicle to which repairs are or painting is effected at such garage or premises—
  - (a) the make, model, engine number, chassis number, registered number and colour of such motor vehicle; and
  - (b) the name and address of the person leaving such motor vehicle and of the owner thereof; and
  - (c) the date and time of receiving such motor vehicle at such garage or premises; and
  - (d) the nature of the repairs or painting, including colour of painting carried out; and
  - (e) such further particulars as may be prescribed.
- (2) Such register shall be kept at the premises where such repairs are or painting is carried out for the period of 3 years after the day the work is carried out.
- (3) Every such occupier who—
  - (a) fails to keep such a register; or
  - (c) makes or causes or permits to be made any false, incorrect, or misleading entry in such register; or
  - (d) fails to make any entry required by this Act to be made in such register;

shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (4) The occupier of a garage or other premises shall not be convicted of an offence against this section in relation to repairs effected to a motor vehicle at such garage or other premises if the court is satisfied—

*Transport Operations (Road Use Management) Act  
1995*

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- (a) that, at the time when such repairs were effected, particulars as required by subsection (1)(a) of that motor vehicle and the name and address of the owner thereof were recorded in the aforementioned register; and
- (b) that such motor vehicle was delivered at such garage or other premises for the purpose of being so repaired by, or with the authority of, the person recorded in such register as the owner thereof; and
- (c) that such register containing particulars as specified in paragraph (a) was available for inspection at the time when the repairs in question were effected and at all times thereafter to and including the date of the hearing of the complaint for the offence.

**134 Altering, defacing or removing identifying numbers**

Any person who—

- (a) alters, defaces, or removes an identifying number on a motor vehicle without the permission in writing of the commissioner; or
- (b) places on a motor vehicle a number purporting to be, or which is likely to be taken to be, an identifying number, without previously—
  - (i) delivering to the commissioner a notice in writing signed by such person and stating that the number is to be placed on the motor vehicle and containing particulars of such number and the registration number of the vehicle under this Act; and
  - (ii) receiving permission in writing from the commissioner to place the identifying number on the motor vehicle; or
- (c) without lawful excuse, the proof of which shall lie upon the person, has in the person's possession or under the person's control any motor vehicle upon which an identifying number has been altered, or defaced, or from which an identifying number has been removed, or upon which any number has been placed in contravention of this section;

*Transport Operations (Road Use Management) Act  
1995*

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shall be guilty of an offence.

Maximum penalty—100 penalty units or 1 year's imprisonment.

**135 Unlawfully interfering with, or detaining, vehicles etc.**

- (1) A person must not, without the owners consent—
  - (a) drive or otherwise use a vehicle on a road; or
  - (b) wilfully interfere with—
    - (i) any mechanism or other part of, or equipment attached to, a vehicle or tram on a road or elsewhere; or
    - (ii) the harness or other equipment attached to an animal on a road; or
  - (c) detain a vehicle parked or stopped on a road or elsewhere by—
    - (i) attaching an immobilising device to the vehicle; or
    - (ii) placing an immobilising device near the vehicle.

*Example of paragraph (c)(ii)—*

By locking in an upright position, a moveable steel post (commonly called a *parking sentinel*) that is secured to the ground at the entrance of a parking space where the vehicle is parked or stopped.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (1A) For subsection (1)(c), the owner's consent must be given expressly.
- (2) Subsection (1) does not apply to a police officer exercising the officer's powers or performing the officer's functions, or a person acting under a lawful direction of a police officer.
- (3) Subsection (1)(c) does not apply to the sheriff or another person authorised by law to execute a warrant of execution against the vehicle.

*Transport Operations (Road Use Management) Act  
1995*

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- (4) This section does not limit the exercise of a power over a vehicle that a person may have as the holder of a security interest in the vehicle.
- (5) The common law remedy of distress damage feasant in relation to trespass on land by a vehicle is abolished to the extent that it is inconsistent with subsection (1)(c).
- (6) However, subsection (5) does not limit a right a person may have to remove, or cause to be removed, from land a vehicle parked or stopped on the land.
- (7) Subsection (6) does not apply to a person who has detained a vehicle in contravention of subsection (1)(c).
- (8) In this section—

***detain*** includes immobilise.

***immobilising device***, for a vehicle, means—

- (a) wheel clamps; or
- (b) another device that effectively detains the vehicle.

***interfere with*** includes damage, destroy and remove.

***owner*** of a vehicle includes a person in lawful possession of the vehicle.

***security interest*** see the *Motor Vehicles and Boats Securities Act 1986*, section 2.<sup>19</sup>

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<sup>19</sup> *Motor Vehicles and Boats Securities Act 1986*, section 2—

***security interest*** means an interest in a motor vehicle, boat or outboard motor by way of security for or in respect of a liability, whether present, contingent or future created or otherwise arising in or under or in connection with a bill of sale, mortgage, charge, lien, hire-purchase agreement, lease or instrument having a like effect to any of them and includes the interest of—

- (a) an owner within the meaning of the *Hire-purchase Act 1959* in respect of the liability of the hirer within the meaning of that Act; and
- (b) a lessor in respect of the liability of a lessee.

### **136 Agreements for detaining vehicles**

- (1) An agreement, whether entered into before or after 12 December 1997 is of no legal effect to the extent to which it authorises, or purports to authorise, a person to—
  - (a) do an act in contravention of section 135; or
  - (b) remove a vehicle detained in contravention of section 135 from any land.
- (2) A party to an agreement that is of no legal effect wholly or partly because of subsection (1)—
  - (a) is not entitled to recover any money for providing services under the agreement from—
    - (i) the owner or occupier of the land to which the agreement relates or purports to relate; or
    - (ii) any other person; and
  - (b) must repay to the person from whom it was received—
    - (i) any money received before the commencement of this section, for services that were to be provided after the commencement; and
    - (ii) any money received after the commencement of this section for the services.
- (3) If a party does not repay money required by subsection (2)(b) to be repaid, the person entitled to be repaid may recover the money from the party as a debt.

### **137 Injurious matter on roads**

- (1) Any person who deposits or drops or causes or suffers to be deposited or dropped on any road any matter, substance, or thing likely to cause injury, damage, or danger to any person, vehicle, tram, train, or animal, and being any wood, stone, sand, gravel, nail, tack, scrap iron, glass, wire, tin, bottle, thorn, clipping, oily or sticky substance, or other matter, substance or thing whatsoever, shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

*Transport Operations (Road Use Management) Act  
1995*

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(1A) However, it shall be a defence to a charge under this section if the defendant proves that the defendant had taken reasonable precautions to prevent the matter, substance or thing from being so deposited or dropped.

(2) Any person who deposits or drops or causes or suffers to be deposited or dropped upon any road any matter, substance or thing referred to in subsection (1) shall immediately upon becoming aware thereof remove or cause to be removed from such road all of such matter, substance or thing, and if the person fails to do so the person shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

(3) If any damage or injury (other than normal wear and tear) is caused to any road in consequence of the use or passage thereon of a vehicle, tram, or animal, or of anything carried, drawn, or propelled by a vehicle, tram, or animal, and such damage or injury is of such a nature that it may endanger any person, vehicle, tram, or animal using or being used upon such road, the driver of the vehicle, tram, or animal by the use or passage of which such damage or injury was caused or which carried, drew, or propelled the thing by the use or passage of which such damage or injury was caused shall immediately place a mark or sign on or near the place where the damage or injury has been caused of such a nature and in such a manner that it will act as a conspicuous warning of danger to any person approaching that place.

(3A) The driver as aforesaid shall also report the damage or injury to the superintendent who is the officer in charge of the nearest police station as soon as reasonably practicable after the causing thereof.

(3B) A person who fails to comply with subsection (3) or (3A) in any respect shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

(4) The provisions of this chapter—

(a) shall not be deemed to repeal or prejudice or otherwise affect—

- (i) the provisions of any law or of any other Act or of any regulation or local law made under any other Act; or
  - (ii) any power under any other Act to make local laws; with respect to the digging up or undermining of, or any other interference with, any road or part thereof, or the placing or use thereon or therein of anything which may, or would be likely to cause danger, obstruction, inconvenience, annoyance, injury, or accident;
- (b) shall not be deemed to prejudice or otherwise affect the having, exercising, or performing by a local government of any power, function, authority, or duty with respect to any of the matters in this subsection specified, and any liability of the local government therefor.

**139 Service of determinations, notices, orders, and directions of the commissioner or the chief executive**

- (1) Every determination, notice, order, or direction made or given by the commissioner or the chief executive under this Act, or notice of rescission by the commissioner or the chief executive of any such determination, notice, order, or direction, may be published in the gazette, and upon such publication shall be judicially noticed and shall be and be deemed to be sufficiently served upon or notified to all persons affected by such determination, notice, order, or direction, or rescission thereof.
- (3) Subsection (1) shall not apply with respect to determinations by the commissioner or the chief executive of any provision, term, or condition of a licence, where such provision, term, or condition is set out in that licence.

**140 Service if address unknown etc.**

- (1) If a determination, notice, order, direction, or document (the *notice*) is required or authorised to be given to a person whose place of business or address is unknown to the commissioner or chief executive, the notice may be, and is taken to be, given

by publishing it twice in a newspaper with an interval of at least 1 week between the dates of publication.

- (2) A declaration purporting to be made by the commissioner or chief executive that the place of business or address of a person is unknown is evidence of the matter.
- (3) The publication of a determination, notice, order, direction, or document may be proved by the production of a copy of the gazette or newspaper containing it.
- (4) This section does not limit section 139.

#### **141 Instruments not affected by error**

An omission, misnomer or inaccurate description in a determination, notice, order or direction (the *instrument*) made or given by the commissioner, the chief executive or a superintendent does not affect the instrument if the instrument's true intent can be understood.

#### **142 Health professional's disclosure not breach of confidence**

- (1) A health professional is not liable, civilly or under an administrative process, for giving information in good faith to the chief executive about a person's medical fitness to hold, or to continue to hold, a Queensland driver licence.
- (2) Without limiting subsection (1)—
  - (a) in a civil proceeding for defamation, the health professional has a defence of absolute privilege for publishing the information; and
  - (b) if the health professional would otherwise be required to maintain confidentiality about the information under an Act, oath, rule of law or practice—
    - (i) the health professional does not contravene the Act, oath, rule of law or practice by disclosing the information; and
    - (ii) is not liable to disciplinary action for disclosing the information.

*Transport Operations (Road Use Management) Act  
1995*

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(3) In this section—

***health professional*** means—

- (a) a doctor; or
- (b) a person registered under the *Occupational Therapists Registration Act 2001* or a corresponding law to that Act; or
- (c) a person registered under the *Optometrists Registration Act 2001* or a corresponding law to that Act; or
- (d) a person registered under the *Physiotherapists Registration Act 2001* or a corresponding law to that Act.

***information*** includes a document.

### **143 Confidentiality**

(1) A person must not disclose, record or use information that the person gained—

- (a) through involvement in the administration of this Act; or
- (b) because of an opportunity provided by the involvement.

Maximum penalty—200 penalty units.

(2) However, a person may disclose, record or use the information—

- (a) in the discharge of a function under this Act; or
- (b) if it is authorised—
  - (i) under another Act or a regulation; or
  - (ii) by the person to whom the information relates; or
- (c) to a court or tribunal in a proceeding in which the information is relevant.

(3) In this section—

***disclose*** information means—

- (a) intentionally or recklessly disclose the information; or
- (b) allow access to the information.

#### **144 Act does not apply to police officer in course of duty**

Provisions of this Act about offences (other than section 79 and 80) do not apply to a police officer while exercising a power, or performing a function, under this or another Act.

## **Part 10 Fees and regulations**

### **145 Fees for road use**

- (1) Fees for road use (other than registration fees) must take into account, but must not be more than, the costs of the road use to other road users and the community and the administrative costs involved.

*Examples of costs of road use to other road users and the community—*

- 1 accelerated road wear
  - 2 costs of ensuring safety
  - 3 congestion
  - 4 noise
  - 5 pollution
- (2) A regulation may prescribe a way of calculating or deciding the costs of road use.

### **146 Regulating vehicle operations and road rules**

- (1) A regulation may prescribe rules about the operation of vehicles and use of the road network, including, for example, rules about—
- (a) driver behaviour; and
  - (b) loading, unloading and securing loads; and
  - (c) keeping and producing records; and
  - (d) vehicle mass and dimension; and
  - (e) defective vehicles and ways of managing them; and

*Transport Operations (Road Use Management) Act  
1995*

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- (f) the environmental impact of vehicle use; and
  - (g) the use of the road network by vehicles, trains, trams, persons and animals; and
  - (ga) traffic density, routes and load restrictions for vehicles with a GVM of more than 4.5t; and
  - (h) removing vehicles from the road network if they pose a risk to safety or impede the use of the road network; and
  - (i) the recovery of removed vehicles by their owners or registered operators, and fees for removing and storing the vehicles.
- (2) Also, a regulation may provide for the following—
- (a) for a motor vehicle with a GVM of more than 4.5t—
    - (i) prohibiting the vehicle's registration in circumstances stated in the regulation; or
    - (ii) prohibiting the transfer, or cancellation, of the vehicle's registration in circumstances stated in the regulation; or
    - (iii) prohibiting a person from driving the vehicle in Queensland if the person irresponsibly uses the vehicle;
  - (b) prohibiting a visiting heavy vehicle from being driven in Queensland if a person irresponsibly uses the vehicle.
- (3) A regulation may prescribe what is an irresponsible use of a motor vehicle.
- (4) In this section—
- visiting heavy vehicle*** means a motor vehicle with a GVM of more than 4.5t that is registered in the Commonwealth, another State or a foreign country under a corresponding law to this Act.

## **147 Regulating vehicles etc. in public places**

- (1) A regulation may—

*Transport Operations (Road Use Management) Act  
1995*

---

- (a) prescribe rules about the operation of vehicles and their use in a public place, including, for example, rules about—
    - (i) driver behaviour; and
    - (ii) loading, unloading and securing loads; and
    - (iii) keeping and producing records; and
    - (iv) vehicle mass and dimension; and
    - (v) defective vehicles and ways of managing them; and
    - (vi) the environmental impact of vehicle use; and
    - (vii) rules for using public places for vehicles, drivers, cyclists, pedestrians and animals; and
    - (viii) removing vehicles from a public place if they pose a risk to safety or impede the use of the public place; and
    - (ix) the recovery of removed vehicles by their owners or registered operators, and fees for removing and storing the vehicles; and
  - (b) prescribe vehicle standards with which vehicles must comply to use a public place.
- (2) A regulation may authorise a local government to—
- (a) declare, by gazette notice—
    - (i) a place not to be a public place; or
    - (ii) reasonable conditions, consistent with the objectives of this Act, for using a vehicle in a public place; or
  - (b) by a local law, consistent with the objectives of this Act, regulate (including by permit) access of vehicles that must be registered under this Act, to a public place in its area.

## **148 Regulating vehicle standards**

A regulation may prescribe—

- (a) vehicle standards with which vehicles must comply to use the road network; and
- (b) rules about—
  - (i) requiring vehicles to be inspected and inspection certificates to be obtained, at stated times or in stated circumstances, to ensure the vehicles comply with the standards; and
  - (ii) issuing inspection certificates, defect notices and other documents for vehicles inspected; and
  - (iii) approving premises (including mobile premises) as inspection stations for vehicles.

*Example of paragraph (b)(i)—*

A requirement that—

- (a) heavy vehicle be inspected at a regular interval; or
- (b) a vehicle be inspected and an inspection certificate issued for it before the vehicle is sold or the registration is transferred.

## **149 Regulating identification of vehicles**

A regulation may—

- (a) prescribe ways of identifying vehicles; and
- (b) require the keeping of a register of the vehicles identified in those ways; and
- (c) provide for the circumstances in which details of the register's contents can be given to someone.

## **150 Regulating driver management**

- (1) A regulation may prescribe rules about the management of drivers, including, for example—
  - (a) standards about driver skills and knowledge; and
  - (aa) the training of drivers; and
  - (ab) the approval of driver trainers and driver trainer competency assessors; and

*Transport Operations (Road Use Management) Act  
1995*

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- (b) the testing and licensing of drivers; and
  - (c) rules about licences, including, in particular, the circumstances in which, and the reasons for which, they can be cancelled or suspended or conditions imposed on them; and
  - (d) requiring the keeping of a register of licences; and
  - (e) providing for the circumstances in which details of the register's contents can be given to someone; and
  - (f) the granting of exemptions from conditions of licences; and
  - (g) requiring that—
    - (i) drivers of heavy vehicles take rest periods and be in a fit state of health and wellbeing to drive heavy vehicles safely; and
    - (ii) employers, consignors and other persons ensure that the drivers comply with a regulation under this paragraph.
- (1A) Without limiting subsection (1)(c), a regulation may provide that a court may make orders, on the basis of special hardship, authorising persons whose licences have been suspended to continue to drive motor vehicles under the licences in stated circumstances, including, for example—
- (a) how applications for the orders are to be made; and
  - (b) the criteria to be used in deciding applications for the orders; and
  - (c) the type of conditions that may be included in the orders; and
  - (d) variation of the orders; and
  - (e) the consequences for failing to comply with the orders, including, for example, the creation of offences and the disqualification of persons from holding or obtaining driver licences.
- (2) A regulation may prescribe the maximum fees payable for approved courses for pre-licence motorbike driver training.

- (3) In this section—  
*approval* includes accreditation.

### **150AA Regulating young drivers**

- (1) A regulation made under section 150, to the extent it is about the management of young drivers, may also provide for the following—
- (a) standards about young driver skills and knowledge;
  - (b) the training of young drivers;
  - (c) the keeping and production of logbooks to record the driving experience of young drivers;
  - (d) the retention of the logbooks mentioned in subsection (c);
  - (e) the testing and licensing of young drivers;
  - (f) rules about licences held by young drivers, including, in particular, the circumstances in which, and the reasons for which, they can be cancelled or suspended or conditions imposed on them;
  - (g) the granting of exemptions from conditions of licences;
  - (h) the passengers who may travel in a vehicle driven by a young driver;
  - (i) the use of mobile phones and other similar forms of communication in a vehicle driven by a young driver;
  - (j) the vehicles that may and may not be driven by young drivers.
- (2) The following is not unlawful discrimination on the basis of age for the *Anti-Discrimination Act 1991*—
- (a) a provision of a regulation about the management of young drivers as mentioned in subsection (1), that is declared under the regulation as a provision that is not unlawful discrimination on the basis of age for the *Anti-Discrimination Act 1991*;

- (b) the doing of an act that is necessary to comply with, or that is authorised by, a provision declared under paragraph (a).
- (3) In this section—  
*young driver* means a driver under 25 years.

### **150A Regulating form of licence**

- (1) A regulation may provide for the form of a licence under this Act, including the information to be included on a licence.
- (2) Without limiting subsection (1), a regulation may provide that a licence under this Act may include information that identifies the holder of the licence as being the holder of a licence under another Act.

*Example for subsection (2)—*

A regulation may provide that a licence issued under this Act may include information indicating the holder of the licence also holds a licence under the *Transport Operations (Marine Safety) Act 1994*.

## **Chapter 5A Transporting dangerous goods**

### **151 Application of ch 5A**

- (1) This chapter—
  - (a) applies only in relation to the transport of dangerous goods by road; and
  - (b) is in addition to and does not limit any other provision of this Act or any other Act.
- (2) However, this chapter does not apply to—
  - (a) the transport of radioactive substances under the *Radiation Safety Act 1999*; or

*Transport Operations (Road Use Management) Act*  
1995

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- (b) the transport of explosives under the *Explosives Act 1999*; or
- (c) the transfer, under the *Gas (Residual Provisions) Act 1965*, of gas (within the meaning of that Act) to or from a road tank vehicle or bulk container; or
- (d) the transport by vehicle of packages of liquefied petroleum gas if the total capacity of the packages is not more than 1000L and—
  - (i) no other dangerous goods are being transported by the vehicle at the same time; or
  - (ii) the packages are being transported by—
    - (A) a primary producer, or a person employed by a primary producer, for use by the primary producer; or
    - (B) a tradesperson, or a person employed by a tradesperson, for use by the tradesperson; or
- (e) dangerous goods in a container that is—
  - (i) designed to form part of, and forms part of, the fuel system of—
    - (A) a vehicle's engine; or
    - (B) another part of a vehicle's propulsion equipment; or
    - (C) an engine that is part of a vehicle's refrigeration system; or
    - (D) another auxiliary engine of a vehicle; or
  - (ii) designed as a fuel storage container for a fuel burning appliance, or an engine, that is—
    - (A) built into a vehicle; or
    - (B) designed to be attached to a vehicle; or
    - (C) part of a refrigeration system attached to a freight container; or
    - (D) prescribed under a regulation; or

*Transport Operations (Road Use Management) Act  
1995*

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- (f) a battery installed in a vehicle or its load for the purpose of operating a function of the vehicle or of equipment relating to the load; or
- (g) a fire extinguisher fitted to or carried in a vehicle to be used for the protection of the vehicle or its load; or
- (h) equipment, for example an airbag or seatbelt pretensioning device, installed in a vehicle to provide a safety or protective system for an occupant of the vehicle; or
- (i) compressed air, compressed oxygen or oxygen releasing chemicals that are part of self contained breathing or rebreathing apparatus for use by the vehicle's driver.

## **152 Regulations about dangerous goods**

- (1) A regulation may prescribe rules about the transport of dangerous goods, including for example, rules about the following—
  - (a) types and categories of dangerous goods and ways of deciding types and categories of dangerous goods;
  - (b) deciding which goods are—
    - (i) dangerous; or
    - (ii) are dangerous goods of a particular type; or
    - (iii) are too dangerous to be transported; or
    - (iv) are too dangerous to be transported in bulk;
  - (c) the analysis and testing of dangerous goods;
  - (d) goods too dangerous to be transported or too dangerous to be transported in bulk;
  - (e) the marking of packages and unit loads containing dangerous goods for transport by road and the placarding of containers and vehicles in which dangerous goods are transported by road;
  - (f) containers and packaging used in transporting dangerous goods by road;

*Transport Operations (Road Use Management) Act  
1995*

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- (g) the manufacture of vehicles and containers for use in transporting dangerous goods by road;
  - (h) voluntary accreditation schemes, including privileges to be accorded or sanctions to be imposed under the schemes and the cancellation or suspension of the schemes;
  - (i) the loading of dangerous goods for, and the unloading of dangerous goods after, their transport by road;
  - (j) deciding routes along which, the areas in which and the times during which dangerous goods may or may not be transported by road;
  - (k) procedures for transporting dangerous goods by road, including, but not limited to—
    - (i) the quantities and circumstances in which dangerous goods, may be transported; and
    - (ii) safety procedures and equipment;
  - (l) the licensing of—
    - (i) vehicles and drivers for transporting dangerous goods by road; and
    - (ii) persons responsible for transporting dangerous goods by road or particular aspects of that transport;
  - (m) the mandatory accreditation of persons involved in transporting dangerous goods by road or particular aspects of that transport;
  - (n) the approval of—
    - (i) packages, containers, equipment and other items used in relation to transporting dangerous goods by road; and
    - (ii) facilities for, and methods of, testing or using—
      - (A) packages, containers, equipment and other items used; and
      - (B) processes carried out;
- in relation to transporting dangerous goods by road;

*Transport Operations (Road Use Management) Act  
1995*

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- (o) documents required to be prepared or kept by persons involved in transporting dangerous goods by road and the approval of alternative documentation;
  - (p) public liability insurance that must be taken out by persons involved in transporting dangerous goods by road;
  - (q) obligations arising, and procedures to be followed, in the event of a dangerous situation in relation to transporting dangerous goods by road;
  - (r) the training and qualifications required of persons involved in, and the approval of training courses and qualifications relating to involvement in, transporting dangerous goods by road.
- (2) A regulation may allow something in subsection (1)(b) or (j) to be determined by the chief executive.

### **153 Exemptions**

- (1) A person may apply to the chief executive for an exemption from complying with a provision of a regulation about transporting particular dangerous goods by road.
- (2) The chief executive may, on an application under subsection (1) or on the chief executive's own initiative, exempt a person from complying with a provision of a regulation about transporting dangerous goods by road if satisfied that—
  - (a) it is not reasonably practicable for the person to comply with the provision; and
  - (b) granting the exemption—
    - (i) would not be likely to create a risk of a dangerous situation greater than that which would be the case if the person was required to comply; and
    - (ii) would not cause unnecessary administrative or enforcement difficulties, particularly about maintaining national uniformity of road transport laws.

*Transport Operations (Road Use Management) Act  
1995*

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- (3) If an exemption is given on conditions, the exemption operates only if the conditions are complied with.
- (4) The chief executive must, as soon as is practicable after giving an exemption, give notice of it in the gazette.
- (5) The notice must state the following—
  - (a) the person to whom the exemption applies;
  - (b) the provisions of the regulation from which the person is exempt;
  - (c) the dangerous goods to which the exemption applies;
  - (d) the time for which the exemption applies;
  - (e) the conditions to which the exemption is subject;
  - (f) the geographical area for which the exemption applies.
- (6) *The Statutory Instruments Act 1992*, sections 24 to 26 apply to an exemption as if it were a statutory instrument.
- (7) A regulation may regulate the giving of an exemption under this section.

**154 Failure to hold licence etc.**

- (1) A person must not drive a vehicle transporting dangerous goods by road if—
  - (a) a regulation requires the vehicle to be licensed to transport the goods; and
  - (b) the vehicle is not licensed under the regulation.Maximum penalty—135 penalty units.
- (2) A person must not drive a vehicle transporting dangerous goods by road if—
  - (a) a regulation requires the person to be licensed to drive the vehicle; and
  - (b) the person is not licensed under the regulation.Maximum penalty—135 penalty units.
- (3) A person must not employ, engage or permit another person to drive a vehicle transporting dangerous goods by road if—

*Transport Operations (Road Use Management) Act  
1995*

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- (a) a regulation requires the other person to be licensed to drive the vehicle; and
  - (b) the other person is not licensed under the regulation.  
Maximum penalty—665 penalty units.
- (4) A person must not employ, engage or permit another person to drive a vehicle transporting dangerous goods by road if—
- (a) a regulation requires the vehicle to be licensed to transport the goods; and
  - (b) the vehicle is not licensed under the regulation.  
Maximum penalty—665 penalty units.
- (5) A person who is required under a regulation to be accredited to be involved in transporting dangerous goods by road or a particular aspect of that transport must not be involved unless the person is accredited as required.  
Maximum penalty—665 penalty units.

### **155 Goods too dangerous to be transported**

A person must not transport by road goods prescribed under a regulation as being too dangerous to transport by road.

Maximum penalty—665 penalty units.

### **156 Duties when transporting dangerous goods**

- (1) A person involved in transporting dangerous goods by road must ensure, as far as is practicable, that the goods are transported safely.
- (2) If a person involved in transporting dangerous goods by road contravenes this Act in circumstances where the person knew, or ought reasonably to have known, that the contravention would be likely to endanger the safety of another person or of property or the environment, the person commits an offence.  
Maximum penalty—665 penalty units.
- (3) This section is in addition to and does not limit any other provision of this Act.

**157 Additional evidentiary aids for transporting dangerous goods**

- (1) This section applies if, in a prosecution for a contravention of this Act—
  - (a) an authorised officer gives evidence the officer believes any of the following matters—
    - (i) that dangerous goods stated in shipping documents carried in a vehicle, are being carried in the vehicle;
    - (ii) that particular goods are dangerous goods or dangerous goods of a particular type;
    - (iii) if markings on a substance or container indicate that the substance is, or the container contains particular dangerous goods—that the substance is or the container contains the dangerous goods indicated;
    - (iv) if markings on a vehicle or equipment indicate the vehicle or equipment is being used to transport dangerous goods—that the vehicle or equipment is being used to transport the dangerous goods indicated;
    - (v) if markings on a substance, container or the container's contents indicate, the substance, container or contents have an indicated attribute—that the substance, container or contents have the indicated attribute;
    - (vi) if markings on a vehicle or container indicate the vehicle's load is, or the container's contents are, an indicated quantity of dangerous goods—that the vehicle was loaded with, or the container contained, the quantity of dangerous goods indicated; and
  - (b) the court considers the belief to be reasonable; and
  - (c) there is no evidence to the contrary.
- (2) The court must accept the matter as proved.

(3) In this section—

*attribute* means—

- (a) capacity; or
- (b) character; or
- (c) date of manufacture; or
- (d) origin; or
- (e) ownership; or
- (f) specification; or
- (g) tare weight.

*markings* include placards.

*on* includes attached to.

### **158 Recovery of costs from convicted person**

- (1) A court convicting a person of an offence against this Act about the transport of dangerous goods by road may order the person to pay to a government entity or the State costs reasonably incurred by the entity or the State in prosecuting the offence, including the cost of testing, transporting, storing and disposing of dangerous goods and other evidence.
- (2) An amount ordered to be paid under subsection (1) is a debt owing to the entity or the State.
- (3) Subsection (1) is in addition to any other order the court may make.

### **159 Recovery of costs of government action**

- (1) This section applies if any of the following events happens in relation to the transport of dangerous goods by road—
  - (a) a dangerous situation;
  - (b) an incident—
    - (i) wholly or partly constituted by or arising from—
      - (A) the escape of dangerous goods; or

*Transport Operations (Road Use Management) Act  
1995*

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- (B) an explosion or fire involving dangerous goods; or
  - (ii) involving the risk of the escape of dangerous goods or an explosion or fire involving dangerous goods.
- (2) If a government entity incurs costs because of the event, the entity may recover the costs reasonably incurred in dealing with the event as a debt owing to the entity or the State.
- (3) The costs are recoverable jointly and severally from the following—
  - (a) the person who owned the dangerous goods when the event happened;
  - (b) the person who had possession or control of the dangerous goods when the event happened;
  - (c) the person who caused the event;
  - (d) the person responsible (other than as an employee, agent or subcontractor of someone else) for the transport of the dangerous goods by road.
- (4) However, costs are not recoverable from a person who—
  - (a) is mentioned in section 162; or
  - (b) establishes that—
    - (i) the event was primarily caused by someone else; or
    - (ii) the person could not, exercising reasonable care, have prevented the event; or
    - (iii) the event was not attributable to the person or to an employee, agent or subcontractor of the person.
- (5) This section does not limit the powers a government entity has apart from this Act.

**160 Prohibition from involvement in the transport of dangerous goods by road**

- (1) This section applies if a person is convicted of an offence against this Act relating to the transport of dangerous goods by road.

*Transport Operations (Road Use Management) Act  
1995*

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- (2) The court before which the person is convicted may, after having regard to the following matters, order that the person be prohibited for a stated period from involvement in the transport of dangerous goods by road—
- (a) the person's record in the transport of dangerous goods by road;
  - (b) the person's prior convictions relating to dangerous goods;
  - (c) the circumstances surrounding the commission of the offence;
  - (d) any other matters the court considers appropriate.
- (3) A person must not contravene an order made under subsection (2).

Maximum penalty—665 penalty units or 2 years imprisonment.

- (4) Subsection (2) does not limit any other penalty the court may impose for the offence.
- (5) In this section—

*involvement*, in the transport of dangerous goods by road, includes the following—

- (a) importing, or arranging for the importation of dangerous goods;
- (b) marking packages and unit loads containing dangerous goods for transport by road, and placarding containers and vehicles in which dangerous goods are transported by road;
- (c) consigning dangerous goods for transport by road;
- (d) loading dangerous goods onto a vehicle or into a container that is to be put on a vehicle for transport by road or unloading dangerous goods that have been transported by road;
- (e) undertaking or being responsible for, other than as an employee or sub-contractor, the transport of dangerous goods by road;

- (f) driving a vehicle carrying dangerous goods by road;
- (g) being a consignee of dangerous goods transported by road;
- (h) being involved as a director, secretary or manager of a corporation or other person who takes part in the management of a corporation that takes part in something mentioned in paragraphs (a) to (g).

### **161 Forfeiting dangerous goods**

- (1) If a person is convicted of an offence against this Act relating to the transport of dangerous goods by road, the court before which the person is convicted may, whether or not it makes any other order on conviction, order that the goods or anything used to commit the offence be forfeited to the State.
- (2) Goods or a thing that are forfeited may be destroyed or otherwise dealt with as directed by the chief executive.

### **162 Helping in emergencies or accidents**

- (1) This section applies if a person, other than an official mentioned in section 167—
  - (a) helps, or attempts to help, in a dangerous situation; and
  - (b) the help, or attempt to help, is given—
    - (i) honestly and without negligence; and
    - (ii) without any fee, charge or other reward.
- (2) The person does not incur civil liability for helping or attempting to help.
- (3) However, this section does not apply to a person whose act or omission wholly or partly caused the dangerous situation.

## Chapter 5B Extreme overloading

### 163 Forfeiture on conviction

- (1) This section applies on the conviction of a person for an extreme overloading offence.
- (2) The court may order a motor vehicle used to commit the offence be forfeited to the State.
- (3) In considering whether it is appropriate to make a forfeiture order for the vehicle, the court may, for example, have regard to—
  - (a) any hardship that may reasonably be expected to be caused to anyone by the order; and
  - (b) the use that is ordinarily made, or is intended to be made, of the vehicle.
- (4) The court may make any order to enforce the forfeiture that it considers appropriate.
- (5) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.
- (6) On the forfeiture of the vehicle—
  - (a) it becomes the State's property; and
  - (b) it may be dealt with as the chief executive considers appropriate.
- (7) The chief executive must not deal with the vehicle until any appeal against the order to forfeit the vehicle is decided.
- (8) In this section—

***extreme overloading offence*** means an offence committed when a vehicle that a person was in control of was loaded to 160% or more of a mass requirement, prescribed under a regulation, that applies to the vehicle.

***vehicle*** means—

- (a) a vehicle with a GVM of more than 4.5t; or
- (b) a combination including a vehicle with a GVM of more than 4.5t.

## Chapter 6      Miscellaneous

### 164      Court orders for payment

(1) In this section—

*convicts* a person includes finds a person guilty, and accepts a plea of guilty from a person, whether or not a conviction is recorded.

(2) If—

(a) a court convicts a person of an offence against a transport Act; and

(b) the person owes fees in relation to the offence;

the court may, in addition to or instead of imposing a penalty, order the person to pay an amount of not more than double the amount of the fees.

(3) If—

(a) a court convicts a person of an offence against a transport Act; and

(b) in committing the offence, the person caused damage to road transport infrastructure, including, for example, accelerated wear of road pavements or structures through overloading;

the court may, in addition to imposing a penalty, order the person to pay an amount of not more than the cost of the damage.

### 165      Special provision for serving documents

(1) A document about a vehicle may be given to the vehicle's owner or registered operator under a transport Act by securely fixing the document to a part of the vehicle in a way that a driver of the vehicle is likely to notice the document.

- (2) This section does not affect—
- (a) the operation of another law that permits service of a document other than as provided in this section;<sup>20</sup> or
  - (b) the power of a court or tribunal to authorise service of a document other than as provided in this section.

### **166 Official traffic sign approvals**

- (1) The chief executive may approve the design of, and a method, standard or procedure about, an official traffic sign.
- (2) The approved design, method, standard or procedure must be contained in the MUTCD or an approved notice.
- (3) The MUTCD or approval notice must be available for purchase or inspection by the public at the department's head office or the other offices of the department that the chief executive directs.

### **167 Protection from liability**

- (1) In this section—
- official* means—
- (a) the Minister; and
  - (b) the chief executive; and
  - (c) the commissioner; and
  - (d) an authorised officer; and
  - (e) an accredited person; and
  - (f) a person acting under the direction of an authorised officer; and
  - (g) an employee of the department of the police service; and
  - (h) a health care professional under section 80 acting under that section; and

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<sup>20</sup> See, for example, the *Acts Interpretation Act 1954*, part 10 (Service of documents).

*Transport Operations (Road Use Management) Act*  
1995

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- (i) the chief executive officer, or an officer or employee, of a local government.
- (2) An official is not civilly liable for an act done, or omission made, honestly and without negligence under a transport Act.
- (3) If subsection (2) prevents civil liability attaching to an official, the liability attaches instead to—
  - (a) for a person mentioned in subsection (1)(a) to (h)—the State; or
  - (b) for a person mentioned in subsection (1)(i)—the local government.

**168 Effect of failure to comply with ch 2**

- (1) It is Parliament's intention that chapter 2<sup>21</sup> be complied with.
- (2) However—
  - (a) chapter 2 is directory only and does not create rights or impose legally enforceable obligations on the State, Minister, chief executive or anyone else; and
  - (b) failure to comply with chapter 2 does not affect the validity of anything done or not done under this Act.
- (3) In addition, a decision made, or appearing to be made, under chapter 2—
  - (a) is final and conclusive; and
  - (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* (whether by the Supreme Court, another court, a tribunal or another entity); and
  - (c) is not subject to a writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (4) In this section—

***decision*** includes—

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21 Chapter 2 (Responsibilities for road use management strategies and programs)

- (a) conduct engaged in to make a decision; and
- (b) conduct related to making a decision; and
- (c) failure to make a decision.

## **169 Approval of forms**

The chief executive may approve forms for use under this Act.

## **170 Nomination of responsible operator**

- (1) If a registered operator has previously claimed the registered operator was not the driver and has failed to notify the name and address of the driver of a vehicle that was involved in a camera-detected offence, the chief executive may give written notice requesting the registered operator to nominate 1 responsible operator for each vehicle registered in the registered operator's name whether jointly or otherwise.
- (2) If the registered operator wants to nominate the responsible operator the registered operator must give written notice containing the prescribed particulars to the chief executive within 28 days of receipt of the notice from the chief executive.
- (3) If a person does not nominate a responsible operator within 28 days, or nominates a person who is ineligible to be a responsible operator, the chief executive may nominate an existing registered operator as the responsible operator.
- (4) A responsible operator must be—
  - (a) an individual who is—
    - (i) 17 years or more; and
    - (ii) the holder of a licence issued under a law of a State to drive a vehicle on a road; or
  - (b) a corporation that is—
    - (i) a company registered under the Corporations Act; or
    - (ii) incorporated by or under an Act; or

*Transport Operations (Road Use Management) Act  
1995*

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- (iii) incorporated for a public purpose by an Act of this or another State or the Commonwealth; or
    - (c) this or another State or the Commonwealth.
  - (5) Except for a nomination by the chief executive, the nomination must be accompanied by the written consent of the responsible operator.
  - (6) If a licence is not required for the normal operation of the type of vehicle being registered and it is not designed to be towed, the responsible operator does not have to be the holder of a licence for the vehicle.
  - (7) A person must not nominate a person as a responsible operator knowing that—
    - (a) the nominated person is ineligible to be a responsible operator; or
    - (b) any particulars about the nominated person are inaccurate.
- Maximum penalty—40 penalty units.
- (8) A person who has been requested to nominate a responsible operator—
    - (a) may subsequently apply for, renew or transfer the registration of a vehicle only if a responsible operator has been nominated for the vehicle; and
    - (b) must ensure there is a responsible operator during the registration of the vehicle.
  - (9) If for any reason there ceases to be a responsible operator for a vehicle, the chief executive may nominate a responsible operator

## **171 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made prescribing offences for a contravention of a regulation and fixing a maximum penalty of not more than 80 penalty units for a contravention.

*Transport Operations (Road Use Management) Act  
1995*

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- (3) A regulation may—
- (a) prescribe fees payable for a transport Act and the effect of non-payment; or
  - (b) allow the chief executive to refund fees completely or partly or provide concessions; or
  - (c) prescribe circumstances in which roads may be closed; or
  - (d) prescribe offences for misuse of roads; or
  - (f) require the collection, keeping or production of records; or
  - (g) establish requirements for the certification of instruments (within the meaning of section 61);<sup>22</sup> or
  - (ga) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of busway land—
    - (i) buses operating on a busway established on the busway land;
    - (ii) persons having the permission of the chief executive to be on the busway land; or
  - (gb) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of light rail land—
    - (i) light rail vehicles operating on a light rail established on the light rail land;
    - (ii) persons having the permission of the chief executive or a light rail manager for the light rail to be on the light rail land; or
  - (h) exempt a person or vehicle from a provision of this Act.

*Example of subsection (3)(d)—*

offences for throwing rocks or other things onto roads

- (4) If the Commonwealth has enacted a law for the scheme to create uniform or consistent national road transport legislation envisaged by the agreements scheduled to the *National Road Transport Commission Act 1991* (Cwlth), a regulation may

enact provisions for the State that are the same as, or substantially similar to, the law.

- (5) For the provisions mentioned in subsection (4), a regulation may—
- (a) confer powers on the chief executive, the commissioner, an authorised officer or an accredited person; or
  - (b) make transitional provisions.

## **Chapter 7      Transitional provisions**

### **Part 1                      Transitional provisions for Transport Operations (Road Use Management) Act 1995**

#### **172      Reference provisions operate only after repeal of relevant Act**

To remove any doubt, it is declared that sections 173 to 178 apply to an Act mentioned in them only after the Act is, or the relevant provisions of the Act are, repealed.

*Example—*

A reference to the *Carriage of Dangerous Goods by Road Act 1984* or a provision of that Act is not taken to be a reference to this Act until the repeal of the *Carriage of Dangerous Goods by Road Act 1984* or the provision of that Act.

#### **173      Carriage of Dangerous Goods by Road Act 1984 references**

A reference to the *Carriage of Dangerous Goods by Road Act 1984* may, if the context permits, be taken to be a reference to this Act.

**174 Main Roads Act 1920 references**

A reference to the *Main Roads Act 1920* may, other than in relation to transport infrastructure or another matter dealt with under the *Transport Infrastructure Act 1994*, and the context otherwise permits, be taken to be a reference to this Act.

**175 Motor Vehicles Control Act 1975 references**

A reference to the *Motor Vehicles Control Act 1975* may, if the context permits, be taken to be a reference to this Act.

**176 Motor Vehicles Safety Act 1980 references**

A reference to the *Motor Vehicles Safety Act 1980* may, if the context permits, be taken to be a reference to this Act.

**177 State Transport Act 1960 references**

A reference to the *State Transport Act 1960* may, other than a reference (whether express or implied) to a provision of that Act repealed by the *Transport Operations (Passenger Transport) Act 1994* and if the context otherwise permits, be taken to be a reference to this Act.

**178 Transport Infrastructure (Roads) Act 1991 references**

A reference to the *Transport Infrastructure (Roads) Act 1991* may, other than in relation to transport infrastructure or another matter dealt with under the *Transport Infrastructure Act 1994*, and the context otherwise permits, be taken to be a reference to this Act.

**179 Transitional provisions for Motor Vehicle Driving Instruction School Act 1969**

- (1) A person licensed as a driving instructor under the *Motor Vehicle Driving Instruction School Act 1969* immediately before the commencement is taken to have provisional approval as a driver trainer under this Act.

- (2) The approval is, to the greatest practicable extent, subject to the same conditions that applied to the licence immediately before the commencement.
- (3) However, the approval—
  - (a) does not authorise a matter that cannot be authorised under an approval granted under this Act; and
  - (b) may be renewed once only.

## **Part 2**

# **Transitional provisions for Transport Legislation Amendment Act 1998**

### **182 Transitional provisions for Motor Vehicles Control Act 1975 about local laws**

- (1) This section applies to a local law made under the repealed *Motor Vehicles Control Act 1975*, section 35,<sup>23</sup> and in force immediately before the commencement of this section.
- (2) The law remains in force, until amended or repealed under the *Local Government Act 1993*.

### **183 Transport Infrastructure (Roads) Regulation 1991**

For section 56,<sup>24</sup> a certificate of registration under the *Transport Infrastructure (Roads) Regulation 1991* is a document to which section 56 does not apply.

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23 *Motor Vehicles Control Act 1975*, section 35 (Function of local government to execute Act)

24 Section 56 (Using documents voided for non-payment)

**184 Carriage of Dangerous Goods by Road Regulation  
1989—transition of approvals**

- (1) An approval of something given under the code that was in force immediately before 7 August 1998 is taken to be an approval of the thing under the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998*.
- (2) The approval is subject to the same conditions that applied immediately before the commencement of this section.
- (3) In this section—

*code* means the code under the *Carriage of Dangerous Goods by Road Regulation 1989*.

**185 Carriage of Dangerous Goods by Road Act  
1984—exemptions**

- (1) This section applies to an exemption given under the repealed *Carriage of Dangerous Goods by Road Act 1984*, section 24,<sup>25</sup> that was in force immediately before the repeal of that Act.
- (2) The exemption is taken to be an exemption under section 153 that exempts the person to whom it was given from complying with a provision of the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998* that most closely corresponds to the provision stated in the exemption.
- (3) Subsection (2) applies even though section 153 had not commenced on the repeal.
- (4) The exemption—
  - (a) is, to the greatest practicable extent, subject to the same conditions that applied immediately before the repeal; and
  - (b) despite paragraph (a), expires on 31 January 1999.

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<sup>25</sup> *Carriage of Dangerous Goods by Road Act 1984*, section 24 (Exemption from complying with this Act)

## Part 3

# Transitional provisions for Road Transport Reform Act 1999

### 186 Definitions for pt 3

In this part—

*relocated provision* means a provision of the Traffic Act that is relocated to this Act by the Road Transport Reform Act.

*Road Transport Reform Act* means the *Road Transport Reform Act 1999*.

*Traffic Act* means the *Traffic Act 1949*.

### 187 Relocation of Traffic Act provisions

- (1) To remove any doubt, it is declared that the relocated provisions were not re-enacted by the Road Transport Reform Act, but merely moved (without re-enactment) to this Act.
- (2) Without limiting subsection (1) and to further remove any doubt, it is also declared that the relocation did not—
  - (a) impliedly repeal or amend, or otherwise affect the operation of, the existing provisions of this Act, the relocated provisions or the provisions of any other law; or
  - (b) affect the meaning or effect that the existing or relocated provisions, or the provisions of the other law, had because of the respective times when they were enacted.
- (3) However, definitions in this Act apply to all provisions of this Act.
- (4) Further, it is declared that anything made or done or not made or done under a relocated provision before it is relocated is taken, after it is relocated, to have been made or done or not made or done under the provision as relocated.
- (5) In an Act or document, a reference to a provision of the Traffic Act that is relocated to this Act by the Road Transport

Reform Act may, if the context permits, be taken to be a reference to the relocated provision in this Act.

### **188 Person's traffic history**

From the commencement of this section—

- (a) a person's traffic history is not affected by the relocation and renumbering of provisions from the Traffic Act to this Act by the Road Transport Reform Act; and
- (b) anything done or not done, including any conviction recorded, under a relocated provision, before it is relocated, is taken, after it is relocated, to have been done or not done under the provision as relocated.

### **189 Licence references**

- (1) In this Act, a reference to—
  - (a) a learner licence includes a reference to a learner's permit issued under the Traffic Act; and
  - (b) a probationary licence includes a reference to a provisional licence issued, under the Traffic Act, after a period of disqualification from holding or obtaining a driver's licence; and
  - (c) a restricted licence includes a reference to a provisional licence issued to give effect to a court order made under section 20A of the Traffic Act; and
  - (d) a provisional licence includes a reference to a provisional licence issued under the Traffic Act, other than a provisional licence mentioned in paragraph (b) or (c); and
  - (e) an open licence includes a reference to an open licence issued under the Traffic Act.
- (2) A reference in a document to a learner's permit, whether made before or after the commencement of this section, includes a reference to a learner licence for the purposes of this Act.

- (3) A reference in a document to a provisional licence, whether made before or after the commencement of this section—
  - (a) for a provisional licence issued to a person after a period of disqualification from holding or obtaining a driver licence—includes a reference to a probationary licence for the purposes of this Act; or
  - (b) for a provisional licence issued to a person to give effect to a court order made under section 20A of the Traffic Act—includes a reference to a restricted licence for the purposes of this Act.
- (4) A reference in a document to a driver's licence, whether made before or after the commencement of this section, includes a reference to a driver licence for the purposes of this Act.

## **190 Traffic Regulation 1962**

The *Traffic Regulation 1962* continues in force after the repeal of the Traffic Act as if it had been made under this Act.

## **191 Acts or authorities under Traffic Act continue under this Act**

- (1) This section applies to an appointment, approval, certificate, decision, delegation, direction, exemption, licence, notice, notification, order, permit, registration or other act or authority (the *act or authority*) that—
  - (a) was granted, issued, made and published, given or done under the Traffic Act; and
  - (b) was in force immediately before 1 December 1999.
- (2) The act or authority continues in force as if granted, issued, made and published, given or done under this Act until the time when it would have expired under the Traffic Act.

## **192 Fees**

All fees prescribed under the Traffic Act to be paid are, from 1 December 1999, prescribed under this Act and continue to be payable as prescribed.

### **193 Application of Acts Interpretation Act, s 20**

The *Acts Interpretation Act 1954*, section 20 applies to—

- (a) the amendment of the *Traffic Act 1949* by the relocation of provisions to this Act; and
- (b) the repeal of the *Traffic Act 1949*.

### **194 Wheeled recreational devices and wheeled toys**

- (1) To remove doubt, it is declared that a wheeled recreational device, pedal car, scooter, tricycle or similar toy is, and always has been, a vehicle within the meaning of the definition *vehicle* in schedule 4.
- (2) Subsection (1) is not effective to impose criminal liability retrospectively.

## **Part 4 Transitional provisions for Transport Operations (Road Use Management) Amendment Act 2002**

### **195 Provision for particular disqualifications**

- (1) This section applies to a person if—
  - (a) during the period starting on 3 December 2001 and ending on the commencement of this section—
    - (i) the person committed an offence against section 78(1) as in force immediately before the commencement of this section; and
    - (ii) the person was convicted of the offence and was disqualified under section 78(3) from holding or obtaining a Queensland driver licence for 6 months; and

*Transport Operations (Road Use Management) Act  
1995*

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- (b) when the person committed the offence, the person was not disqualified from holding or obtaining a driver licence; and
  - (c) the person's driver licence for the motor vehicle that the person was driving when the offence was committed had expired no more than 5 years before the person committed the offence.
- (2) The person is no longer disqualified under section 78(3) from holding or obtaining a Queensland driver licence and any order of a court of any jurisdiction of the State, to the extent that it gives effect to the disqualification, is of no effect.
  - (3) No compensation is payable to the person in relation to the period of disqualification served by the person before the disqualification ended.

**196 Persons affected by amendment Act**

- (1) This section applies to a person if—
  - (a) during the period starting on 3 December 2001 and ending on the commencement of this section, the person is alleged to have contravened section 78(1) as in force immediately before the commencement of this section; and
  - (b) the person has not been dealt with for the alleged contravention before the commencement of this section.
- (2) If prosecuted for the contravention, the person must be dealt with for the contravention as if the person had contravened section 78(1), unaffected by the definition *any court order*, as in force immediately after the commencement.





*Transport Operations (Road Use Management) Act  
1995*

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- (b) the court that convicts the person decides, under the *Penalties and Sentences Act 1992*, section 187,<sup>26</sup> to disqualify the person from holding or obtaining a driver licence for a period; and
  - (c) the driving at excessive speed for which the person is convicted happened before the commencement.
- (2) Section 129B(2) applies to the conviction of the person as if the driving at excessive speed had happened after the commencement.

## 202 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of a section 132 regulation to the operation of a section 150(1A) regulation.
- (2) Without limiting subsection (1), a transitional regulation may provide that—
  - (a) an appeal under a section 132 regulation is taken to be an application for an order under a section 150(1A) regulation; or
  - (b) a court may make an order, under a section 150(1A) regulation, in relation to the suspension of a licence that occurred before the commencement of the regulation.
- (3) This section and a transitional regulation expire 5 years after the commencement of this section.
- (4) In this section—

*section 132 regulation* means a regulation made under section 132, as in force before the commencement of this section.

*section 150(1A) regulation* means a regulation under section 150(1A).

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<sup>26</sup> *Penalties and Sentences Act 1992*, section 187 (Disqualification from holding driver licence)

## **203 Transitional power for authorised schemes and crossing supervisors**

- (1) If, immediately before the commencement, a scheme to help children safely cross roads was an authorised scheme under repealed section 138, on the commencement the scheme, with necessary changes, is taken to be an authorised scheme under chapter 5, part 7A as if it had been authorised under section 122A(1)(a).
- (2) If, immediately before the commencement, a person was a crossing supervisor under repealed section 138, on the commencement the person is taken to be a crossing supervisor under chapter 5, part 7A as if the person had been authorised under section 122A(1)(b).
- (3) An application under repealed section 138 to authorise a scheme, or authorise a person to perform a function or exercise a power under the scheme, made, but not decided, before the commencement may be decided under chapter 5, part 7A as if it were an application made under that part to authorise a scheme or authorise a person to perform a role.
- (4) In this section—

*commencement* means the commencement of this section.

*repealed section 138* means section 138, as in force immediately before the commencement of this section.

## **Part 8 Transitional provisions for Maritime and Other Legislation Amendment Act 2006**

### **204 Transitional provision for ss 79B–79D**

- (1) This section applies if, after the commencement of this section—
  - (a) a person is charged with an offence as mentioned in section 79B(1); and

*Transport Operations (Road Use Management) Act*  
1995

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- (b) the act constituting the offence happened before the commencement.
- (2) To remove any doubt, it is declared that sections 79B to 79D do not apply to the person in relation to the charge.

## **Schedule 2      Disqualifying offences under the Criminal Code—crossing supervisors**

section 122, definition *disqualifying offence*, paragraph (b)

section 226 (Supplying drugs or instruments to procure abortion)

section 227 (Indecent acts)

section 307 (Accessory after the fact to murder)

section 308 (Threats to murder in document)

section 314 (Concealing the birth of children)

section 320 (Grievous bodily harm)

section 321 (Attempting to injure by explosive or noxious substances)

section 321A (Bomb hoaxes)

section 323 (Wounding and similar acts)

section 327 (Setting mantraps)

section 328 (Negligent acts causing harm)

section 335 (Common assault)

section 339 (Assaults occasioning bodily harm)

section 340 (Serious assaults)

section 355 (Deprivation of liberty)

section 356 (False certificates by officers charged with duties relating to liberty)

section 359 (Threats)

section 359E (Punishment of unlawful stalking)

## **Schedule 3      Reviewable decisions**

section 65

<b>Section</b>	<b>Description of decision</b>	<b>Court</b>
15	Approving alternative compliance schemes	Magistrates
19	Amending suspending or cancelling approvals	Magistrates
19A	Cancelling suspended approvals	Magistrates
43	Forfeiture of seized things	Magistrates
122C	Refusing to authorise a person	Magistrates
122D	Imposing conditions on an authority	Magistrates
122K(1)	Amending, suspending or cancelling an authority	Magistrates
122M(1)	Immediately suspending an authority	Magistrates

## Schedule 4      Dictionary

### section 5

***accredited person*** means a person who holds an appointment as an accredited person under section 21.<sup>27</sup>

***address*** means place of residence or, in the case of the owner of a vehicle in respect of which a licence has issued under this Act, the owner's place of residence or the place at which the owner carries on business or, in the case of a corporation, its registered office or, if the registered office is not in Queensland, the principal place where it carries on business in Queensland, and includes all such information and particulars as will enable such place of residence or of business to be readily and exactly located.

***air cushion vehicle*** means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle.

***alternative compliance scheme*** see section 15.

***analyst*** means a person who is appointed as a State analyst under the *Health Act 1937*, section 153Z.

***animal*** means any animal of any sex or age belonging to a species to which any of the following animals belong, namely, horse, cow, mule, donkey, camel, sheep, pig, dog, or goat.

***applicant***, for chapter 5, part 7A, see section 122.

***approval*** for chapter 3, part 1A, see section 17A.

***approved form*** see section 169.

***arrest***, used with reference to persons, means arrest without any warrant other than this Act and the taking of such person to a police station, there to be detained (unless the person is released on an attendance notice, bail or recognisance) until

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<sup>27</sup> Section 21 (Appointment of accredited persons)

### Schedule 4 (continued)

the person can be brought before a court to be dealt with according to law.

***articulated motor vehicle*** means a combination of a prime mover and a semitrailer.

***Australian court*** means a court of the State or another State or of the Commonwealth.

***Australian driver licence*** means—

- (a) a Queensland driver licence; or
- (b) a corresponding document to a Queensland driver licence issued under a corresponding law to the provision of this Act under which a Queensland driver licence is issued.

***authorised officer*** means a person who holds an appointment as an authorised officer under section 20.<sup>28</sup>

***authorised scheme***, for chapter 5, part 7A, see section 122A(1)(a).

***authority***, for chapter 5, part 7A, see section 122.

***B-double*** means a combination consisting of a prime mover towing 2 semitrailers, with 1 semitrailer supported at the front by, and connected to, the other semitrailer.

***bicycle*** means a vehicle with 2 or more wheels that is built to be propelled by human power through a belt, chain or gears, whether or not it has an auxiliary motor, and—

- (a) includes a pedicab, penny-farthing and tricycle; but
- (b) does not include a wheelchair, wheeled recreational device, wheeled toy, or any vehicle with an auxiliary motor capable of generating a power output over 200 watts whether or not the motor is operating.

***breath analysing instrument*** see section 80.

### Schedule 4 (continued)

**bus**, for section 79(2C),<sup>29</sup> means a motor vehicle built or fitted to carry more than 12 adults, including the driver.

**car** means a motor vehicle (other than a motorbike) that—

- (a) is not more than 4.5t gross vehicle mass; and
- (b) is built or fitted to carry no more than 12 adults, including the driver.

**chassis number**, of a motor vehicle, means an identification number of the chassis that is permanently marked on the chassis or another part of the motor vehicle, but does not include the motor vehicle's VIN.

**coin** means a coin made and issued under the *Currency Act 1965* (Cwlth).

**combination** means a motor vehicle connected to 1 or more trailers.

**commercial vehicle**, in relation to stopping in a loading zone, means—

- (a) any horse drawn vehicle constructed fitted or equipped for the carriage of goods;
- (b) any motor vehicle (excluding any car or motorbike) constructed fitted or equipped for the carriage of goods;
- (c) any motor vehicle constructed fitted or equipped for the carriage of persons to which is affixed a form of identification as an approved commercial vehicle—
  - (i) issued by a local government under a local law made under section 103(4); and
  - (ii) conforming in all respects (whether as to design or otherwise) with the directions in relation thereto contained in the Manual of Uniform Traffic Control Devices.

**commissioner** means the commissioner of the police service.

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<sup>29</sup> Section 79 (Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood or breath)

### Schedule 4 (continued)

**complaint** includes information, information and complaint before justices, and charge.

**compliance plate** means a plate authorised to be placed on a vehicle, or taken to have been placed on a motor vehicle, under the *Motor Vehicle Standards Act 1989* (Cwlth).

**convicting** a person includes—

- (a) a court finding the person guilty, or accepting the person's plea of guilty, whether or not a conviction is recorded; and
- (b) the person paying a penalty under the *State Penalties Enforcement Act 1999*.

**corresponding document** to a document issued under a provision of this Act means a document issued under a corresponding law to the provision.

**corresponding law**, to an Act or provision of an Act, means a law of the Commonwealth or another State that provides for the same matter as—

- (a) for an Act—the Act or a provision of the Act; or
- (b) for a provision of an Act—the provision.

**court** means a Magistrates Court constituted under the *Justices Act 1886*.

**criminal history**—

- (a) for section 17B—see section 17B(5); and
- (b) for chapter 5, part 7A—see section 122.

**crossing supervisor**, for chapter 5, part 7A, see section 122A(1)(b).

**current driver licence receipt** means a receipt that—

- (a) is issued to a person who has successfully applied for an Australian driver licence; and
- (b) has not been superseded by the issue of the licence.

**dangerous goods** means goods prescribed under a regulation to be dangerous goods.

### Schedule 4 (continued)

***dangerous situation*** means a situation involving the transportation of dangerous goods by road that is causing or is likely to cause imminent risk of—

- (a) death of, or significant injury to, a person; or
- (b) significant harm to the environment; or
- (c) significant damage to property.

***dangerous situation notice*** see section 51D.

***deal with*** includes sell, dispose of and destroy.

***declared road*** means a busway or State-controlled road under the *Transport Infrastructure Act 1994*.

***designated parking space*** means a space on a road or off-street regulated parking area that is defined by an official traffic sign to be a designated parking space, and includes a metered space or a parkatarea space.

***disqualifying offence***—

- (a) for chapter 5, part 7A—see section 122; and
- (b) otherwise—means an offence against the Criminal Code.

***doctor*** means—

- (a) a medical practitioner; or
- (b) a person registered as a medical practitioner under a law of the Commonwealth or another State corresponding to the *Medical Practitioners Registration Act 2001*.

***driver*** means the person driving or in charge of any vehicle, tram, train, vessel, or animal, and, in relation to a trailer, the person driving or in charge of the vehicle to or by which that trailer is attached or drawn, and includes the rider of a vehicle or animal and in applying it so as to include the rider of a vehicle or animal the word ‘drive’ and derivatives of that word shall, where used in this Act in relation to a vehicle or animal, be read as including ‘ride’ or, as the case requires, the corresponding derivative of ‘ride’.

Schedule 4 (continued)

***driver licence*** means—

- (a) an Australian driver licence; or
- (b) a foreign driver licence.

***drug*** means every substance or article which is a dangerous drug under and within the meaning of the *Drugs Misuse Act 1986* or any other substance, article, preparation or mixture (with the exception of liquor) whether gaseous, liquid, solid, or in any other form which, when consumed or used by any person, deprives the person either temporarily or permanently of any of the person's normal mental or physical faculties.

***engine number***, of a motor vehicle, means an identification number of the engine that is permanently marked on the engine of the motor vehicle, but does not include the motor vehicle's VIN.

***escort vehicle*** means a vehicle that—

- (a) travels with an oversize vehicle to warn other road users of the oversize vehicle's presence; and
- (b) under a regulation, is required to be driven by an escort vehicle driver.

***escort vehicle driver*** means a person who holds an appointment under a regulation as an accredited person with the functions of an escort vehicle driver.

***executive officer***, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director, or the person's position is given the name of executive officer.

***fee*** includes a tax.

***fixed hours***, in relation to a designated parking space, means the hours during, and days on, which paid parking only is permitted in the designated parking space.

***footpath*** means an area open to the public that is designated for, or has as 1 of its main uses, use by pedestrians.

### Schedule 4 (continued)

***foreign driver licence*** means a licence to drive a motor vehicle issued under the law of another country.

***for sale*** for a vehicle, means—

- (a) offered or available for exchange or sale; or
- (b) displayed or exhibited for exchange or sale.

*Examples of paragraph (b)—*

A sign stating any of the following is attached to, or placed near, the vehicle—

- \$5000 ono ph 1234 5678
- For sale phone 1234 5678
- Buy me—\$7000 call at 123 City St.

***general alcohol limit*** see section 79A.

***goods*** includes any wares, merchandise, chattels, money, stone, timber, metal, fluid, and any other article, substance, or material whatsoever, and also includes animals.

***government entity*** means a government department or an agency, authority, commission, corporation, instrumentality, office or other entity, established under an Act for a public or official purpose and includes part of a government entity.

***grievous bodily harm*** means—

- (a) the loss of a distinct part or an organ of the body; or
- (b) serious disfigurement; or
- (c) any bodily injury of such a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health;

whether or not treatment is or could have been available.

***GVM*** (gross vehicle mass) means the maximum loaded mass of a vehicle—

- (a) stated on the vehicle's compliance plate; or
- (b) stated in a way prescribed under a regulation.

Schedule 4 (continued)

**heavy vehicle** means—

- (a) a vehicle with a GVM of more than 4.5t; or
- (b) a public passenger vehicle; or
- (c) another vehicle providing services on a road for which a licence is required under a transport Act; or
- (d) a vehicle transporting dangerous goods—
  - (i) for reward; or
  - (ii) if the amount of dangerous goods is greater than the amount prescribed under a regulation; or
- (e) a vehicle used for driver training for reward.

**high alcohol limit** see section 79A.

**holder** for chapter 3, part 1A, means the holder of an approval.

**horse** includes any horse, mare, gelding, ass, mule or other draught animal or beast of burden.

**identifying number**, of a motor vehicle, means the motor vehicle's—

- (a) chassis number; or
- (b) engine number; or
- (c) VIN.

**in** a place or vehicle includes on the place or vehicle.

**indication** given by an official traffic sign includes—

- (a) a direction on an official traffic sign; and
- (b) a direction, indication or requirement that, under a regulation, is prescribed as being given or imposed, because of an official traffic sign.

**interstate licence** means—

- (a) an Australian driver licence that is not a Queensland driver licence; or

Schedule 4 (continued)

- (b) a driver licence granted in an external Territory that corresponds to a Queensland driver licence.

**interstate scheme** see section 15(8).

**learner licence** means a licence to drive a motor vehicle, while receiving driver training, issued under this Act.

**left** for a person means—

- (a) the person's left hand side; or  
(b) for a line, sign or something else—the left hand side of the line, sign or other thing when viewed from the person's perspective.

**licence** means a licence, permit or certificate under a transport Act, and includes—

- (a) a renewal of the licence, permit or certificate; and  
(b) an endorsement on the licence, permit or certificate.

**liquor** means wines, spirits, beer, ale, porter, stout, cider, perry, or any other spirituous or fermented fluid containing  $3\frac{1}{2}\%$  or more than  $3\frac{1}{2}\%$  of proof spirit by volume, or any spirituous or fermented fluid whatever of an intoxicating nature.

**loading zone** means a length of road to which a loading zone sign applies.

**metered space** means a space on a road or off-street regulated parking area defined by an official traffic sign to be a metered space.

**motorbike** means—

- (a) a 2 wheeled motor vehicle, whether or not a sidecar is attached to it; and  
(b) a 3 wheeled motor vehicle that is ridden in the same way as a 2 wheeled motor vehicle.

**motor vehicle** means a vehicle propelled by a motor that forms part of the vehicle, and includes a trailer attached to the vehicle.

### Schedule 4 (continued)

**MUTCD** means the Manual of Uniform Traffic Control Devices issued by the chief executive.

**no alcohol limit** see section 79A.

**non-Queensland driver licence** means—

- (a) an interstate licence; or
- (b) a foreign driver licence.

**number plate** means a plate or other device designed to be attached to a vehicle to identify the vehicle.

**occupier** of a place includes a person who reasonably appears to be the occupier, or in charge, of the place.

**officer in charge of a police station** means the police officer who is in charge of a police station at the relevant time.

**official traffic sign** means a sign, marking, light or device placed or erected to regulate, warn or guide traffic.

**off-street regulated parking area** see section 104.

**on** a place includes within, under and over the place.

**open licence** means a licence to drive a motor vehicle issued under this Act that is not—

- (a) a learner, probationary, provisional or restricted licence; or
- (b) a current driver licence receipt for a learner, probationary, provisional or restricted licence.

**operator** see section 15(1).

**oversize vehicle** has the meaning given under a regulation.

**owner** includes—

- (a) for a seized thing—the person from whom the thing was seized unless the chief executive or commissioner is aware of the actual owner; or
- (b) for a vehicle—
  - (i) each person who is the owner, joint owner or part owner of the vehicle; or

### Schedule 4 (continued)

- (ii) a person who has the use or control of the vehicle under a hiring agreement, hire purchase agreement or leasing arrangement; or
- (iii) the person in whose name the vehicle is registered under a transport Act or a corresponding law;

but does not include the driver of a vehicle when the driver has been provided as part of a hiring agreement for the vehicle.

***paid parking*** means parking in a designated parking space during the fixed hours on payment of a prescribed parking fee.

***park*** a vehicle includes stop the vehicle and allow the vehicle to stay, whether or not the driver leaves the vehicle.

***parkatarea*** includes the stand on which the parkatarea is installed.

***parkatarea space*** means a space on a road or off-street regulated parking area defined by an official traffic sign to be a parkatarea space.

***parking bay*** means—

- (a) an area for parking a single vehicle (other than a combination) that is indicated by—
  - (i) an official traffic sign; or
  - (ii) a different road surface; or
- (b) a designated parking space; or
- (c) a parkatarea space.

***parking meter*** includes the stand on which the meter is erected.

***parking permit for people with disabilities*** means a permit issued under this Act, or a corresponding law to this Act, with a people with disabilities symbol.

***passenger*** includes any person carried on a vehicle, train, animal, vessel or tram, other than the driver or conductor thereof.

#### Schedule 4 (continued)

**pedestrian** includes—

- (a) a person in a motorised wheelchair that can not travel over 10km/h; and
- (b) a person in a non-motorised wheelchair; and
- (c) a person pushing a motorised or non-motorised wheelchair; and
- (d) a person in or on a wheeled recreational device or wheeled toy.

**people with disabilities symbol** means a picture of a person seated in a wheelchair, as prescribed under a regulation.

**performance standard** see section 15.

**permit** means any permit, including any renewal thereof, issued under this Act and in force at any material time.

**person in control** of a vehicle includes—

- (a) the driver of the vehicle; or
- (b) the person who reasonably appears to be the driver; or
- (c) the person who appears to be, claims to be or acts as if he or she is in control of a vehicle.

**pilot vehicle** means a vehicle that—

- (a) travels with an oversize vehicle to warn other road users of the oversize vehicle's presence; and
- (b) under a regulation, is required to be driven by a pilot vehicle driver or an escort vehicle driver.

**pilot vehicle driver** means a person who holds an appointment under a regulation as an accredited person with the functions of a pilot vehicle driver.

**place** includes land, premises and water, but does not include a vehicle.

**police station** includes a police office, watch-house, station house and lockup.

**prevent** includes minimise and remove.

Schedule 4 (continued)

***previously convicted*** means in relation to a conviction (the ***later conviction***), convicted before the later conviction, whether the offence the subject of the later conviction was committed before the earlier conviction or after it.

***prime mover*** means a motor vehicle built to tow a semitrailer.

***private vehicle*** means a vehicle other than a heavy vehicle.

***probationary licence*** means a licence to drive a motor vehicle issued under this Act that is first issued after the person has, under an order made by an Australian court, served a period of disqualification from holding or obtaining a licence.

***proposed action*** see section 122J.

***provisional licence*** means a licence to drive a motor vehicle issued under this Act that is subject to conditions, including restrictions, imposed because of the holder's age or limited driving experience.

***public passenger vehicle*** has the same meaning as in the *Transport Operations (Passenger Transport) Act 1994*.

***public place*** means a place—

- (a) of public resort open to or used by the public as of right; or
- (b) for the time being—
  - (i) used for a public purpose; or
  - (ii) open to access by the public; whether on payment or otherwise; or
- (c) open to access by the public by the express or tacit consent or sufferance of the owner of that place, whether the place is or is not always open to the public;

but does not include—

- (d) a track that at the material time is being used as a course for racing or testing motor vehicles and from which other traffic is excluded during that use; or
- (e) a road; or

Schedule 4 (continued)

- (f) a place declared under a regulation not to be a public place.

***Queensland driver licence*** means any of the following licences—

- (a) a learner, probationary, provisional, open or restricted licence issued under this Act;
- (b) a current driver licence receipt issued under this Act for a learner, probationary, provisional, open or restricted licence.

***railway*** means—

- (a) a railway within the meaning of the *Transport Infrastructure Act 1994*; or
- (b) a railway on a cane railway easement under the *Sugar Industry Act 1999*, chapter 2, part 4.<sup>30</sup>

***reasonably believe*** means believe on reasonable grounds.

***registered*** means registered in a register of vehicles kept by the chief executive under a transport Act.

***registered operator*** means a person—

- (a) in whose name the vehicle is registered under a transport Act or a corresponding law; or
- (b) who has given notice to the chief executive for the purpose of having the vehicle registered in the person's name under a transport Act.

***regulated parking*** means parking that is regulated by a local government by an official traffic sign under chapter 5, part 6.

***remedial action notice*** see section 50A.

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<sup>30</sup> *Sugar Industry Act 1999*, chapter 2 (Supply contracts and cane access rights), part 4 (Cane access, harvesting and mill supply)

### Schedule 4 (continued)

***restricted licence*** means a licence to drive a motor vehicle, issued under this Act to give effect to a court order under section 87,<sup>31</sup> that authorises the holder to drive only in stated circumstances directly connected with the person's means of earning a living.

***reviewed decision*** see section 65.

***right*** for a person means—

- (a) the person's right hand side; or
- (b) for a line, sign or something else—the right hand side of the line, sign or other thing when viewed from the person's perspective.

***road***—

- (a) includes a busway under the *Transport Infrastructure Act 1994*; and
- (b) includes an area that is—
  - (i) open to or used by the public and is developed for, or has as 1 of its uses, the driving or riding of motor vehicles, whether on payment of a fee or otherwise; or
  - (ii) dedicated to public use as a road; but
- (c) does not include an area declared under a regulation not to be a road.

*Example of an area that is a road*—

a bridge, cattle grid, culvert, ferry, ford, railway crossing, shopping centre car park, tunnel or viaduct

***roadside vending*** means—

- (a) the commercial supply of goods or services from a place on a road; or
- (b) the setting up on, or bringing onto, a road of a stall, vehicle, equipment or other thing for the commercial

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31 Section 87 (Issue of restricted licence to disqualified person)

#### Schedule 4 (continued)

supply of goods or services;

but does not include roadside vending for a religious, charitable, educational or political purpose.

**road train** means a combination consisting of a motor vehicle towing 2 or more trailers, that is not a B-double.

**semitrailer** means a trailer built to be—

- (a) supported at the front by, and connected to, a prime mover; and
- (b) supported at the back by its own wheels.

**stop** when applied to or in respect of any person, vehicle, tram, train, or animal, means to halt and remain halted while thereunto required by lawful authority.

**superintendent** means a superintendent of traffic.

**superintendent of traffic** means the chief executive or commissioner.

**tare** means the weight of any vehicle equipped for travelling on a road, but not including any load.

**traffic** includes the use by any person of any road or off-street regulated parking area, or the presence therein or thereon of any person, vehicle, tram, train, animal, or other movable article or thing whatsoever.

**traffic area** means all roads and parts of roads and off-street regulated parking areas in any area defined or deemed to be defined pursuant to this Act, as a traffic area.

**traffic history** of a person means the history of—

- (a) the contraventions for which the person has been dealt with under this Act, including by the recording of demerit points under a regulation; or
- (b) the contraventions of the Criminal Code, section 328A for which the person has been dealt with.

#### Schedule 4 (continued)

**trailer** means a vehicle that is built to be towed, or is towed, by a motor vehicle, but does not include a motor vehicle being towed.

**train** means any conveyance or group of connected conveyances borne upon a rail or rails of a railway.

**tram** means any conveyance or group of connected conveyances used or designed for use upon a tramway.

**tramcar** means any tram fitted or equipped for the conveyance of passengers.

**transport**, in relation to dangerous goods, includes—

- (a) the packing, loading and unloading of the goods, and transferring them to or from a vehicle, for their transport; and
- (b) the marking of packages and unit loads containing dangerous goods;
- (c) the placarding of containers and vehicles in which dangerous goods are transported; and
- (d) anything else incidental to their transport.

**transport Act** means—

- (a) this Act; or
- (b) another Act, or a provision of another Act, administered by the Minister that is prescribed under a regulation; or
- (c) the *Motor Accident Insurance Act 1994* for the following provisions of this Act—
  - section 31 (Power to stop private vehicles)
  - section 32 (Power to stop heavy vehicles)
  - section 47 (Power to set up checkpoints)
  - section 48 (Power to require name and address)
  - section 49 (Power to require documents to be produced)

### Schedule 4 (continued)

- a provision of this Act that is prescribed under a regulation.

***transport coordination plan*** means the transport coordination plan developed under the *Transport Planning and Coordination Act 1994*.

***tricycle*** means any vehicle having 3 wheels and designed for propulsion wholly by human power.

***truck*** means a motor vehicle with a GVM over 4.5t, other than a bus, tractor or tram.

***unsafe***, for a thing, means the thing is likely to cause loss of life, bodily injury or damage to property if used in a normal way.

***vehicle*** includes any type of transport that moves on wheels and a hovercraft but does not include a train or tram.

***vessel*** means any ship, boat, punt, ferry, air cushion vehicle and every other kind of vessel used or apparently designed for use in navigation whatever may be the means of its propulsion.

***VIN***, of a motor vehicle, means the unique vehicle identification number assigned to the motor vehicle.

***wheelchair***—

- (a) means a chair on wheels that is built to transport a person who is unable to walk or has difficulty in walking; but
- (b) does not include a pram, stroller or trolley.

***wheeled recreational device*** means a wheeled device, built to transport a person, propelled by human power or gravity, and ordinarily used for recreation and play, and—

- (a) includes rollerblades, rollerskates, a skateboard, scooter, unicycle or similar wheeled device; but
- (b) does not include a golf buggy, pram, stroller or trolley, a motor-assisted device (whether or not the motor is operating), or a bicycle, wheelchair or wheeled toy.

Schedule 4 (continued)

**wheeled toy** means a child's pedal car, scooter or tricycle or a similar toy, but only when it is being used by a child who is under 12 years old.

## Endnotes

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated. . . . .	273
3 Key . . . . .	274
4 Table of reprints . . . . .	274
5 Tables in earlier reprints. . . . .	275
6 List of legislation . . . . .	275
7 List of annotations . . . . .	288
8 List of forms notified or published in the gazette . . . . .	316

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 28 February 2007. Future amendments of the Transport Operations (Road Use Management) Act 1995 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prev	= previous	unnum	= unnumbered
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1995 Act No. 32	1 July 1995	7 July 1995
2	1995 Act No. 58	15 December 1995	24 January 1996
2A	1996 Act No. 62	6 December 1996	21 March 1997
2B	1997 Act No. 9	15 May 1997	18 July 1997
3	1997 Act No. 66	1 January 1998	6 March 1998
3A	1997 Act No. 66	2 July 1998	31 July 1998
3B	1998 Act No. 33	23 September 1998	20 November 1998
4	1999 Act No. 51	1 December 1999	1 December 1999
4A	2000 Act No. 6	1 July 2000	25 August 2000
4B	2000 Act No. 46	25 October 2000	8 November 2000
4C	2000 Act No. 62	27 November 2000	8 December 2000
5	2001 Act No. 45	15 July 2001	5 October 2001
5A	2001 Act No. 79	3 December 2001	14 December 2001
5B	2001 Act No. 79	21 December 2001	4 January 2002
5C	2002 Act No. 4	13 March 2002	27 March 2002
5D	2002 Act No. 13	17 May 2002	31 May 2002

*Transport Operations (Road Use Management) Act  
1995*

Reprint No.	Amendments to	Effective	Reprint date
5E	2002 Act No. 13	7 June 2002	21 June 2002
Reprint No.	Amendments included	Effective	Notes
5F	2001 Act No. 78	1 August 2002	
5G	2002 Act No. 48	24 September 2002	
5H	2000 Act No. 40	14 October 2002	
5I	2002 Act No. 71	13 December 2002	
5J	2002 Act No. 71	17 April 2003	
5K	2003 Act No. 19 2003 Act No. 22	9 May 2003	R5K withdrawn, see R6
6	—	9 May 2003	
6A	2003 Act No. 22 2003 Act No. 29	1 July 2003	
6B	2003 Act No. 69	22 October 2003	
6C	2004 Act No. 9	20 May 2004	
6D rv	2004 Act No. 40	27 October 2004	
6E rv	2004 Act No. 53	29 November 2004	
6F rv	2005 Act No. 4	21 March 2005	
6G rv	2005 Act No. 10	29 April 2005	R6G rv withdrawn, see R7
7	—	29 April 2005	
7A rv	2005 Act No. 49	2 November 2005	
7B	2005 Act No. 49	7 July 2006	
7C	2004 Act No. 43	19 November 2006	
7D	2006 Act No. 21	27 November 2006	
7E	2006 Act No. 21 (amd 2006 Act No. 57) 2006 Act No. 57	15 December 2006	
7F	2007 Act No. 6	28 February 2007	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	2, 5

## 6 List of legislation

### **Transport Operations (Road Use Management) Act 1995 No. 9**

date of assent 5 April 1995

ss 1–2, s 92 sch 1 commenced on date of assent

s 93(7) commenced 12 May 1995 (1995 SL No. 124)

remaining provisions commenced 1 July 1995 (1995 SL No. 206)

*Transport Operations (Road Use Management) Act  
1995*

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amending legislation—

**Transport Infrastructure Amendment (Rail) Act 1995 No. 32 ss 1–2, 23 sch**

date of assent 14 June 1995

commenced on date of assent (see s 2(1))

**Transport Planning and Coordination Amendment Act 1995 No. 48 pts 1, 5**

date of assent 22 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 15 December 1995 (1995 SL No. 365)

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 2**

date of assent 28 November 1995

s 4 sch 2 amdt 2 commenced 5 April 1995

remaining provisions commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Motor Accident Insurance Legislation Amendment Act 1996 No. 53 pts 1, 3**

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 6 December 1996 (1996 SL No. 362)

**Transport Legislation Amendment Act 1996 No. 62 pts 1, 4**

date of assent 9 December 1996

ss 1–2 commenced on date of assent

s 18 commenced 2 July 1998 (see s 2(1) and 1995 No. 9 s 93)

remaining provisions commenced 1 May 1997 (1997 SL No. 23)

**Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 ss 1–2(1), pt 25**

date of assent 15 May 1997

commenced on date of assent

**Transport Legislation Amendment Act 1997 No. 66 pts 1, 8 (this Act is amended, see amending legislation below)**

date of assent 1 December 1997

ss 1–2 commenced on date of assent

ss 109–112, 125–128, 129 (so far as it relates to the ins of ch 5A), 130, 134, 136(1), (2) (other than for the ins of the defs “dangerous goods”, “dangerous situation”, “dangerous situation notice” and “remedial action notice”), (3) commenced 12 December 1997 (1997 SL No. 439)

ss 113–116, 120–124, 129 (so far as it ins ch 5 pt 5), 136(2) (so far as it ins defs “dangerous goods”, “dangerous situation”, “dangerous situation notice” and “remedial action notice”) commenced 7 August 1998 (1998 SL No. 223)

s 132 (so far as it ins s 92B), 133 commenced 1 January 1998 (1997 SL No. 484)

s 132 (so far as it ins ss 92–92A) never proclaimed into force and om 1998 No. 33 s 18

s 135 commenced 19 December 1997 (1997 SL No. 484)

*Transport Operations (Road Use Management) Act  
1995*

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remaining provisions commenced 2 December 1998 (automatic commencement under AIA s 15DA(2))

amending legislation—

**Transport Legislation Amendment Act 1998 No. 33 ss 1, 2(3), pt 3 (amends 1997 No. 66 above)**

date of assent 23 September 1998

commenced on date of assent (see s 2(3))

**Explosives Act 1999 No. 15 ss 1–2, 137 sch 1 (amends 1997 No. 66 above) (amdt could not be given effect)**

date of assent 22 April 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 11 June 1999 (1999 SL No. 108)

**Transport Legislation Amendment Act 1998 No. 33 ss 1–2(2)–(4) pt 4**

date of assent 23 September 1998

ss 1–2, 20–21, 24(4), 25–26 commenced on date of assent (see s 2(3))

s 24(3) commenced 7 August 1998 (see s 2(2))

remaining provisions commenced 1 July 1998 (see s 2(4))

**Criminal Code (Stalking) Amendment Act 1999 No. 18 pts 1, 3 sch**

date of assent 30 April 1999

commenced on date of assent

**Radiation Safety Act 1999 No. 20 ss 1–2, 235 (this Act is amended, see amending legislation below)**

date of assent 30 April 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2000 (1999 SL No. 329)

amending legislation—

**Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 2(2), 3 sch amd 9 (amends 1999 No. 20 above)**

date of assent 25 October 2000

ss 1–2 commenced on date of assent

commenced immediately before 1 January 2000 (see s 2(2))

**Financial Administration Legislation Amendment Act 1999 No. 29 ss 1–2, 50 sch**

date of assent 16 June 1999

ss 1–2, 50 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 122 and see 1999 SL No. 119, 1999 SL No. 70 s 2(3))

**List of legislation to Traffic Act 1949 13 Geo 6 No. 26—before relocation of provisions to Transport Operations (Road Use Management) Act 1995**

**Traffic Act 1949 13 Geo 6 No. 26**

date of assent 22 April 1949

commenced 1 February 1950 (proc pubd gaz 7 January 1950 p 37)

amending legislation—

**Main Roads Acts and Another Act Amendment Act 1952 1 Eliz 2 No. 14 pt 3**

date of assent 22 April 1952

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 1952 (proc pubd gaz 23 August 1952 p 2786)

**Traffic Acts Amendment Act 1953 2 Eliz 2 No. 11**

date of assent 19 November 1953

commenced on date of assent

**Traffic Acts and Another Act Amendment Act 1956 5 Eliz 2 No. 26 pts 1–2**

date of assent 28 November 1956

commenced on date of assent

**Traffic Acts and Another Act Amendment Act 1957 6 Eliz 2 No. 13 pts 1–2**

date of assent 18 April 1957

s 5(1) commenced 1 July 1957 (see s 5(2))

remaining provisions commenced on date of assent

**Traffic Acts and Another Act Amendment Act (No. 2) 1957 6 Eliz 2 No. 34 pts 1–2**

date of assent 17 December 1957

commenced on date of assent

**State Transport Facilities Acts and Another Act Amendment Act 1959 8 Eliz 2 No. 21  
s 27 sch**

date of assent 10 April 1959

commenced 6 July 1959 (proc pubd gaz 4 July 1959 p 1724)

**Traffic Acts and Another Act Amendment Act 1959 8 Eliz 2 No. 55 pts 1–2**

date of assent 21 December 1959

commenced on date of assent

**Traffic Acts Amendment Act 1960 9 Eliz 2 No. 44**

date of assent 16 December 1960

s 9 commenced 16 August 1965 (proc pubd gaz 7 August 1965 p 1809)

remaining provisions commenced on date of assent

**Traffic Acts Amendment Act 1961 10 Eliz 2 No. 27**

date of assent 3 November 1961

commenced on date of assent

**Traffic Acts Amendment Act 1962 No. 23**

date of assent 10 December 1962

commenced on date of assent

**Traffic Acts and Other Acts Amendment Act 1965 No. 26 pts 1–2**

date of assent 29 April 1965

commenced 19 July 1965 (proc pubd gaz 12 June 1965 p 971)

**Traffic Acts Amendment Act 1967 No. 44**

date of assent 19 December 1967

commenced on date of assent

*Traffic Operations (Road Use Management) Act  
1995*

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**Traffic Acts Amendment Act 1968 No. 22**

date of assent 22 April 1968

ss 6–7 commenced 1 August 1968 (proc pubd gaz 6 July 1968 p 1108)

remaining provisions commenced on date of assent

**Traffic Act Amendment Act 1968 (No. 2) No. 36**

date of assent 27 November 1968

commenced on date of assent

**Traffic Act Amendment Act 1969 No. 22**

date of assent 17 December 1969

commenced 19 January 1970 (proc pubd gaz 20 December 1969 p 1736)

**Traffic Act and Another Act Amendment Act 1971 No. 33 pts 1–2**

date of assent 27 April 1971

commenced on date of assent

**Metric Conversion Act 1972 No. 31 pt 2 sch 1**

date of assent 21 December 1972

commenced 1 July 1974 (proc pubd gaz 15 June 1974 p 997)

**Traffic Act Amendment Act 1974 No. 18 (this Act is amended, see amending legislation below)**

date of assent 24 April 1974

ss 1–2, 7–8, 9 but only so far as it enacts s 16A(1)–(9), (11), (15)–(16), (18)–(25), 10(a)–(c), (e)–(g) only, 11–12, 14, 16(d) only, 19–20, 22(c) only, 24, 28(b) only, 30(b)–(c), (h) only, 31(2)–(4) commenced 1 September 1974 (proc pubd gaz 3 August 1974 p 1933)

s 3 commenced 23 June 1975 (proc pubd gaz 21 June 1975 p 1006)

s 6(b) commenced 13 October 1975 (proc pubd gaz 11 October 1975 p 499)

s 6(c) commenced 1 March 1976 (proc pubd gaz 14 February 1976 p 551)

ss 4–5, 6(a), 10(d), 13, 15, 16(a)–(c), 18, 21, 26–27, 28(a), 29, 30(a), (d)–(e), (g) never proclaimed into force and rep 1984 No. 102 s 37

remaining provisions never proclaimed into force and rep 1994 No. 7 s 46

amending legislation—

**Traffic Acts Amendment Act 1977 No. 26 s 9 (amends 1974 No. 18 above)**

date of assent 21 April 1977

commenced on date of assent

**Traffic Acts Amendment Act 1982 No. 52 s 9 (amends 1974 No. 18 above)**

date of assent 8 November 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 20 December 1982 (proc pubd gaz 11 December 1982 p 1719)

**Traffic Acts Amendment Act 1984 No. 102 pt 3 (amends 1974 No. 18 above)**

date of assent 6 December 1984

s 37 commenced on date of assent (see s 2(1))

remaining provisions commenced 4 March 1985 (proc pubd gaz 23 February 1985 p 943)

**Traffic Amendment Act 1994 No. 7 ss 1, 2(4), 46 (amends 1974 No. 18 above)**

date of assent 7 March 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1994 (1994 SL No. 231)

**Traffic Act Amendment Act 1975 No. 13**

date of assent 15 May 1975

commenced on date of assent

**Traffic Act Amendment Act 1975 (No. 2) No. 69**

date of assent 12 December 1975

commenced on date of assent

**Traffic Acts Amendment Act 1977 No. 26**

date of assent 21 April 1977

commenced on date of assent

**Traffic Act Amendment Act 1977 No. 35**

date of assent 19 September 1977

commenced on date of assent

**Bail Act 1980 No. 35 s 4(1) sch 1**

date of assent 14 May 1980

commenced 1 July 1980 (proc pubd gaz 28 June 1980 p 1634)

**Traffic Act Amendment Act 1982 No. 15**

date of assent 20 April 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 1982 (proc pubd gaz 24 July 1982 p 2422)

**Traffic Acts Amendment Act 1982 No. 52**

date of assent 8 November 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 20 December 1982 (proc pubd gaz 11 December 1982 p 1719)

**Traffic Acts Amendment Act 1984 No. 102 pts 1–2**

date of assent 6 December 1984

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 4 March 1985 (proc pubd gaz 23 February 1985 p 943)

**Motor Vehicles Safety Act and Other Acts Amendment Act 1985 No. 30 pts 1, 8**

date of assent 17 April 1985

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 1986 (proc pubd gaz 18 January 1986 p 126)

**Traffic Act Amendment Act 1988 No. 94**

date of assent 1 December 1988

commenced on date of assent

*Transport Operations (Road Use Management) Act  
1995*

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**Bail Act and Other Acts Amendment Act 1988 No. 105 pts 1, 4**

date of assent 14 December 1988

ss 1–2 commenced on date of assent

remaining provisions commenced 4 December 1989 (proc pubd gaz 11 November 1989 p 1961)

**Traffic Act Amendment Act 1989 No. 76**

date of assent 24 August 1989

commenced on date of assent

**Traffic Act Amendment Act 1990 No. 19**

date of assent 25 May 1990

commenced on date of assent

**Public Service (Administrative Arrangements) Act 1990 No. 73 s 3 sch 5**

date of assent 10 October 1990

commenced 24 November 1990 (proc pubd gaz 24 November 1990 p 1450)

**Traffic Act and Another Act Amendment Act 1990 No. 103 pts 1–2 (this Act is amended, see amending legislation below)**

date of assent 12 December 1990

ss 1.1–1.2 commenced on date of assent

ss 2.6, 2.11, 2.23, 2.25(a)–(b) commenced 1 July 1991 (proc pubd gaz 29 June 1991 p 1201)

s 2.25(c) never proclaimed into force and om 1993 No. 61 s 4

remaining provisions commenced 1 January 1991 (proc pubd gaz 22 December 1990 p 2274)

amending legislation—

**Transport Legislation Amendment Act (No. 2) 1993 No. 61 ss 1–2, pt 2 (amends 1990 No. 103 above)**

date of assent 23 November 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 1994 (1993 SL No. 469)

**Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 3 sch 1**

date of assent 17 December 1991

commenced on date of assent

**Traffic Amendment Act 1992 No. 19**

date of assent 22 May 1992

commenced on date of assent

**Offence Notices Legislation Amendment Act 1992 No. 23 pts 1, 3**

date of assent 1 June 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1992 (1992 SL No. 195)

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 s 3 sch 1**

date of assent 7 December 1992

commenced on date of assent

*Transport Operations (Road Use Management) Act  
1995*

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**Statute Law (Miscellaneous Provisions) Act 1993 No. 32 s 3 sch 1**

date of assent 3 June 1993  
commenced on date of assent

**Local Government Act 1993 No. 70 s 804 sch**

date of assent 7 December 1993  
commenced 26 March 1994 (see s 2(5))

**Traffic Amendment Act 1994 No. 7 pts 1–3, s 3 sch (this Act is amended, see amending legislation below)**

date of assent 7 March 1994  
ss 1–2 commenced on date of assent  
s 6(6) commenced 15 August 1987 (see s 2(1))  
s 6(10) commenced 26 March 1994 (see s 2(2))  
s 12 (except s 12(7), (13)) commenced on date of assent (see s 2(3))  
pt 3 never proclaimed into force and on 1995 No. 9 s 93(7) sch 2 pt 2 (as from 5 April 1995 (see s 93(7)) (as amd 1995 No. 57 s 4 sch 2 (as from 5 April 1995 (see s 2(1) sch 2))))  
remaining provisions commenced 1 July 1994 (1994 SL No. 231)  
amending legislation—

**Statute Law (Miscellaneous Provisions) Act (No. 1) 1994 No. 15 ss 1–3 sch 1 (amends 1994 No. 7 above)**

date of assent 10 May 1994  
commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2 (amends 1994 No. 7 above)**

date of assent 1 December 1994  
commenced on date of assent

**Transport Operations (Road Use Management) Act 1995 No. 9 ss 1–2, 93(7) sch 2 pt 2 (repeals 1994 No. 7 above) (this Act is amended, see amending legislation below)**

date of assent 5 April 1995  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1995 (1995 SL No. 206)  
amending legislation—

**Statute Law Revision Act 1995 No. 57 ss 1–2(1), 4 sch 2 (amends 1995 No. 9 above)**

date of assent 28 November 1995  
s 4 sch 2 amd 2 commenced 5 April 1995 (see s 2(1) sch 2)  
remaining provisions commenced on date of assent

**Offence Notices Legislation Amendment Act 1994 No. 10 pts 1, 4**

date of assent 7 March 1994  
ss 1–2 commenced on date of assent  
remaining provisions commenced 12 December 1994 (1994 SL No. 430)

*Transport Operations (Road Use Management) Act  
1995*

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**Transport Operations (Passenger Transport) Act 1994 No. 43 s 143 sch 3**

date of assent 14 September 1994

commenced 7 November 1994 (1994 SL No. 378)

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 s 3 sch 1**

date of assent 1 December 1994

commenced on date of assent

**Transport Operations (Road Use Management) Act 1995 No. 9 s 92 sch 1**

date of assent 5 April 1995

commenced on date of assent (see s 2(1))

**Transport Legislation Amendment Act 1996 No. 62 pts 1–2**

date of assent 9 December 1996

ss 1–2 commenced on date of assent

s 13 commenced 7 February 1997 (1997 SL No. 23)

remaining provisions commenced 1 May 1997 (1997 SL No. 23)

**Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 ss 1–2(1), pt 22**

date of assent 15 May 1997

commenced on date of assent

**Transport Legislation Amendment Act 1997 No. 66 pts 1, 3 (this Act is amended, see amending legislation below)**

date of assent 1 December 1997

ss 1–2 commenced on date of assent

s 19 commenced 2 February 1998 (1997 SL No. 439)

ss 16(6), 27 commenced 2 December 1998 (automatic commencement under AIA s 15DA(2))

ss 28–29 never proclaimed into force and om 1999 No. 42 s 40

remaining provisions commenced 12 December 1997 (1997 SL No. 439)

amending legislation—

**Road Transport Reform Act 1999 No. 42 ss 1, 2(3) pt 2 div 3 (amends 1997 No. 66 above)**

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 22 November 1999 (see s 2(3), 1999 SL No. 285)

**Police Powers and Responsibilities Act 1997 No. 67 ss 1–2, 139 sch 2**

date of assent 1 December 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 6 April 1998 (see s 2)

**Transport Legislation Amendment Act (No. 2) 1998 No. 43 ss 1–2(1) pt 2**

date of assent 27 November 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 29 October 1999 (1999 SL No. 245)

*Transport Operations (Road Use Management) Act  
1995*

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**Road Transport Reform Act 1999 No. 42 pts 1–2 div 1, pt 3 div 1, ss 54(1) sch pt 1, 55**

date of assent 2 September 1999

ss 1–2 commenced on date of assent

ss 3–11, 19, 21–25 commenced 22 November 1999 (1999 SL No. 285)

ss 14, 16, 17 commenced 30 November 1999 (1999 SL No. 285)

ss 12–13, 15, 18 and 20 commenced 1 December 1999 (1999 SL No. 285)

s 55 commenced 1 August 2000 (2000 SL No. 194)

remaining provisions commenced 1 December 1999 (see s 2(1)–(2))

**List of legislation to Transport Operations (Road Use Management) Act 1995 No. 9—after relocation of Traffic Act 1949 13 Geo 6 No. 26**

**Road Transport Reform Act 1999 No. 42 pts 1–2 div 2, pt 3 div 2, s 54(2) sch pt 2**

date of assent 2 September 1999

ss 1–2 commenced on date of assent

pt 2 div 2 commenced 22 November 1999 (see s 2(3), 1999 SL No. 285)

s 54(2) sch amdt 191 (to the extent it renum s 93) could not be given effect

remaining provisions commenced 1 December 1999 (see s 2(1)–(2))

**Sugar Industry Act 1999 No. 51 ss 1, 2(2), 228 sch 1 (this Act is amended, see amending legislation below)**

date of assent 18 November 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2000 (see s 2(2))

amending legislation—

**Sugar Industry Amendment Act 2000 No. 25 ss 1, 2(2), 3(1), sch 1 item 35 (amends 1999 No. 51 above)**

date of assent 27 June 2000

ss 1, 2(2), 3(1) commenced on date of assent

remaining provision commenced immediately before 1 January 2000 (see s 2(2))

**State Penalties Enforcement Act 1999 No. 70 ss 1–2, 166 sch 1**

date of assent 6 December 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 27 November 2000 (2000 SL No. 274)

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3**

date of assent 23 March 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Transport Legislation Amendment Act 2000 No. 6 s 1 pt 6 s 78 sch**

date of assent 20 April 2000

commenced on date of assent

**Transport (Busway and Light Rail) Amendment Act 2000 No. 40 pts 1, 4**

date of assent 13 October 2000

ss 1–2 commenced on date of assent

*Transport Operations (Road Use Management) Act  
1995*

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remaining provisions commenced 14 October 2002 (automatic commencement under AIA s 15DA(2) (2001 SL No. 183 s 2))

**Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch**

date of assent 25 October 2000  
commenced on date of assent

**Property Agents and Motor Dealers Act 2000 No. 62 ss 1–2, 601 sch 2**

date of assent 24 November 2000  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2001 (2001 SL No. 54)

**Motor Vehicles Securities and Other Acts Amendment Act 2001 No. 38 ss 1–2(1), 46(1) sch 1**

date of assent 7 June 2001  
ss 1–2 commenced on date of assent  
remaining provisions never proclaimed into force and rep 2003 No. 22 s 31

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 schs 2, 3**

date of assent 28 June 2001  
ss 1–2 commenced on date of assent  
sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)  
remaining provisions commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Health Legislation Amendment Act 2001 No. 78 ss 1–2, 237 sch 4**

date of assent 15 November 2001  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 August 2002 (2002 SL No. 183)

**Transport Legislation Amendment Act 2001 No. 79 ss 1–2(3), pt 11**

date of assent 29 November 2001  
ss 1–2 commenced on date of assent  
ss 96, 109–109A commenced 3 December 2001 (see s 2(2))  
pt 11 hdg, ss 90–95, 97–101, 107–108, 110–115 commenced 21 December 2001 (2001 SL No. 279)  
remaining provisions commenced 17 May 2002 (2002 SL No. 104)

**Transport Operations (Road Use Management) Amendment Act 2002 No. 4**

date of assent 13 March 2002  
commenced on date of assent

**Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2002 No. 13 ss 1, 2(3), 124 sch**

date of assent 24 April 2002  
ss 1–2, 124 commenced on date of assent  
remaining provisions commenced 7 June 2002 (2002 SL No. 133)

*Transport Operations (Road Use Management) Act  
1995*

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**Transport Operations (Road Use Management) Amendment Act (No. 2) 2002 No. 48**

date of assent 24 September 2002

commenced on date of assent

**Transport Legislation Amendment Act (No. 2) 2002 No. 71 pts 1, 5**

date of assent 13 December 2002

ss 1–2 commenced on date of assent

ss 21–22, 25–26 (to the extent it ins s 197(3)–(4)) commenced 17 April 2003 (2003 SL No. 63)

remaining provisions commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 2003 No. 19 ss 1, 3 sch**

date of assent 9 May 2003

commenced on date of assent

**Motor Vehicles Securities and Other Acts Amendment Act 2003 No. 22 ss 1–2, 30 sch**

date of assent 9 May 2003

ss 1–2, 30 commenced on date of assent (see s 2(1))

remaining provisions commenced 1 July 2003 (2003 SL No. 115)

**Gas Supply Act 2003 No. 29 ss 1–2, ch 8 pt 8**

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 121)

**Transport Operations (Road Use Management) and Another Act Amendment Act 2003 No. 69 ss 1, 2(1), pt 2**

date of assent 22 October 2003

commenced on date of assent

**Transport and Other Legislation Amendment Act 2004 No. 9 s 1, pt 5, s 58 sch**

date of assent 20 May 2004

commenced on date of assent

**Transport and Other Legislation Amendment Act (No. 2) 2004 No. 40 pts 1, 4**

date of assent 27 October 2004

commenced on date of assent (see s 2)

**Justice and Other Legislation Amendment Act 2004 No. 43 ss 1–2, pt 25**

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 19 November 2006 (automatic commencement under AIA s 15DA(2) (2005 SL No. 250 s 2))

**Statute Law (Miscellaneous Provisions) Act 2004 No. 53**

date of assent 29 November 2004

commenced on date of assent

**Summary Offences Act 2005 No. 4 ss 1–2, 30 sch 1**

date of assent 3 March 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 21 March 2005 (2005 SL No. 34)

**Health Legislation Amendment Act 2005 No. 10 pt 1, s 50 sch**

date of assent 1 April 2005

ss 1–2 commenced on date of assent

s 50 sch amdt 2 commenced 29 April 2005 (amdt could not be given effect)

remaining provisions commenced 29 April 2005 (2005 SL No. 72)

**Transport Legislation Amendment Act 2005 No. 49 pts 1, 6**

date of assent 2 November 2005

ss 1–2 commenced on date of assent

ss 58, 62–64, 67–68, 71 (to the extent it ins ss 200 and 203), 72–74 commenced 7 July 2006 (2006 SL No. 180)

s 66 not yet proclaimed into force (automatic commencement under AIA s 15DA(2) deferred to 3 November 2007 (2006 SL No. 258 s 2))

remaining provisions commenced on date of assent

**Maritime and Other Legislation Amendment Act 2006 No. 21 pts 1, 5 div 3 (this Act is amended, see amending legislation below)**

date of assent 17 May 2006

ss 1–2 commenced on date of assent

pt 5 div 3 hdg, ss 140, 142, 143A commenced 27 November 2006 (2006 SL No. 276)

ss 141, 143, 144, 146 (other than to the extent it ins s 205) commenced 15 December 2006 (2006 SL No. 304)

remaining provisions not yet proclaimed into force (see s 2)

amending legislation—

**Police Powers and Responsibilities and Other Legislation Amendment Act 2006 No. 57 s 1, 4 (amends 2006 No. 21 above)**

date of assent 7 December 2006

commenced on date of assent

**Police Powers and Responsibilities and Other Legislation Amendment Act 2006 No. 57 ss 1, 2(2), pt 6**

date of assent 7 December 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 15 December 2006 immediately after the commencement of s 141 of the Maritime and Other Legislation Amendment Act 2006 No. 21 (see s 2(2) and 2006 SL No. 304)

**Transport Legislation and Another Act Amendment Act 2007 No. 6 pts 1, 9, s 66 schs 2–3**

date of assent 28 February 2007

ss 1–2, pt 9 hdg, pt 9 div 1 hdg, ss 48, 52, 53(2) commenced on date of assent (see s 2)

remaining provisions not yet proclaimed into force (see s 2)

## **7 List of annotations**

### **Commencement**

**s 2** om R2 (see RA s 37)

### **Objectives**

**s 3** amd 1997 No. 66 s 110

### **Definitions—the dictionary**

**s 5** amd 1999 No. 42 s 54(2) sch amdt 168

### **Contents of strategies**

**s 8** amd 1995 No. 48 s 15

## **CHAPTER 3—ROAD USER PERFORMANCE AND COMPLIANCE**

### **PART 1—ALTERNATIVE COMPLIANCE**

**pt hdg** sub 1998 No. 33 s 20

### **Alternative ways of complying with Act**

**s 15** sub 1998 No. 33 s 20

### **Approving alternative compliance schemes operating interstate**

**s 16** om 1998 No. 33 s 20

### **Specified provisions of Act do not apply while scheme complied with**

**s 17** om 1998 No. 33 s 20

### **PART 1A—APPROVALS**

**pt hdg** ins 1997 No. 66 s 111

### **Definition**

**s 17A** ins 1997 No. 66 s 111  
amd 1999 No. 42 ss 27, 48; 2005 No. 49 s 58

### **Granting, renewing or refusing approval**

**s 17B** ins 1997 No. 66 s 111  
amd 2001 No. 79 s 91

### **Grounds for amending, suspending or cancelling approvals**

**s 18** sub 1997 No. 66 s 111  
amd 1998 No. 33 s 21; 1999 No. 42 s 28; 2001 No. 79 s 92; 2002 No. 71 s 15;  
2004 No. 40 s 11

### **Procedure for amending, suspending or cancelling approvals**

**s 19** amd 1997 No. 66 s 112; 2004 No. 9 s 59; 2005 No. 49 s 59

### **Cancelling suspended approval for failing to take remedial action**

**s 19A** ins 2004 No. 9 s 60

### **Appointment of authorised officers**

**s 20** amd 2000 No. 5 s 461 sch 3

### **Production or display of identity cards**

**s 25** amd 2000 No. 5 s 461 sch 3

**PART 3—POWERS OF AUTHORISED OFFICERS**

**Entry to places**

**s 26**            amd 1997 No. 66 s 113

**Power to stop private vehicles**

**s 31**            amd 2000 No. 5 s 461 sch 3; 2004 No. 40 s 12

**Power to stop heavy vehicles**

**s 32**            amd 2001 No. 79 s 93; 2004 No. 9 s 61; 2004 No. 40 s 13

**Power to require vehicles to be moved**

**s 33**            amd 1997 No. 66 s 114

**Power to inspect vehicles**

**s 34**            amd 1997 No. 66 s 115

**Power to enter vehicles etc. other than for vehicle inspection**

**s 35**            amd 1997 No. 66 s 116

**Power to require vehicle inspections**

**s 36**            amd 2000 No. 6 s 78 sch s 1

**Power to prohibit use of vehicles**

**s 37**            amd 1997 No. 66 s 117; 1999 No. 42 s 29; 2000 No. 6 s 78 sch ss 2–3; 2004  
No. 53 s 2 sch

**Power to prohibit persons driving**

**s 38**            amd 1999 No. 42 s 30; 2004 No. 53 s 2 sch

**Additional power for Explosives Act 1999 for particular authorised officers**

**s 39A**           ins 2004 No. 40 s 14

**Forfeiture of seized things**

**s 43**            amd 1997 No. 66 s 118

**Division 3A—Additional seizure powers for certain vehicles for sale**

**div hdg**        ins 1997 No. 66 s 119

**Seizing certain vehicles for sale**

**s 46A**           ins 1997 No. 66 s 119  
amd 2000 No. 62 s 601 sch 2

**Power to set up checkpoints**

**s 47**            amd 2004 No. 40 s 15

**Power to require name and address**

**s 48**            amd 2000 No. 5 s 461 sch 3; 2004 No. 53 s 2 sch

**Power to require information**

**s 50**            amd 1997 No. 66 s 120; 1999 No. 42 s 54(2) sch s 169; 2002 No. 71 s 16

**Power to require information**

**s 50AA**        ins 2002 No. 71 s 17  
amd 2003 No. 69 s 3

**Division 5—Remedial action notices**

**div hdg**        ins 1997 No. 66 s 121

**Power to give remedial action notices**

s 50A ins 1997 No. 66 s 121

**PART 4—ADDITIONAL POWERS OF POLICE OFFICERS**

pt hdg om 2000 No. 5 s 461 sch 3

**Power of arrest**

s 51 om 2000 No. 5 s 461 sch 3

**PART 4A—ADDITIONAL POWERS OF AUTHORISED OFFICERS TO PREVENT DANGEROUS SITUATION**

pt 4A (ss 51A–51E) ins 1997 No. 66 s 122

**False or misleading statements**

s 52 amd 1999 No. 42 s 31

**False or misleading documents**

prov hdg amd 1999 No. 42 s 32(1)

s 53 amd 1995 No. 57 s 4 sch 2; 1997 No. 66 s 123; 1999 No. 42 s 32(2)

**Proof of giving false and misleading statements and documents**

s 53A ins 2004 No. 9 s 62

**Obstructing authorised officers or accredited persons**

s 54 sub 2002 No. 71 s 18

**Using documents voided for non-payment**

s 56 amd 1998 No. 33 s 22

**Executive officers must ensure corporation complies with transport Act**

s 57 sub 1997 No. 66 s 124

**Responsibility for acts or omissions of representatives**

s 57A ins 1997 No. 66 s 124

**Further liability provisions for extended liability offences**

s 57B ins 1997 No. 66 s 124

amd 2000 No. 6 s 78 sch s 4; 2002 No. 71 s 19; 2003 No. 69 s 4

**Evidentiary aids**

s 60 amd 2000 No. 6 s 78 sch s 5; 2001 No. 79 s 94

**Instruments**

s 61 amd 1999 No. 42 s 49; 2002 No. 71 s 20

**Black and white reproductions of words in colour**

s 62A ins 1999 No. 42 s 50

**Notice of damage**

s 63 amd 2000 No. 6 s 78 sch s 6

**Compensation**

s 64 amd 2004 No. 53 s 2 sch

**CHAPTER 4—REVIEW OF AND APPEALS AGAINST DECISIONS**

ch hdg sub 1997 No. 66 s 125

**PART 1—REVIEW OF DECISIONS**

**pt hdg** om 1997 No. 66 s 125

**Review of and appeals against decisions**

**s 65** sub 1997 No. 66 s 125  
amd 1999 No. 42 s 51; 2000 No. 6 s 78 sch s 6

**PART 2—APPEALS**

**pt hdg** om 1997 No. 66 s 125

**CHAPTER 5—ROAD USE****PART 1—LOCAL GOVERNMENT FUNCTIONS**

**pt hdg** sub 1999 No. 42 s 54(2) sch s 170

**Local laws etc.**

**s 66** prev s 66 om 1997 No. 66 s 125  
pres s 66 (prev 1949 13 Geo 6 No. 26 s 5) amd 1953 2 Eliz 2 No. 11 s 2; 1961  
10 Eliz 2 No. 27 s 3; 1965 No. 26 s 6; 1990 No. 103 s 2.3; 1991 No. 97 s 3  
sch 1; 1993 No. 70 s 804 sch; 1994 No. 7 s 4(2)–(8); 1997 No. 66 s 15;  
1999 No. 42 s 44, s 54(1) sch ss 1–5  
reloc 1999 No. 42 s 54(1) sch s 6  
amd 2002 No. 13 s 124 sch; 2004 No. 9 s 63

**PART 2—OFFICIAL TRAFFIC SIGNS**

**pt hdg** prev pt 2 hdg om 1999 No. 42 s 54(2) sch s 171  
pres pt 2 hdg ins 1999 No. 42 s 54(2) sch s 170

**Definitions**

**s 67** prev s 67 om 1997 No. 66 s 125  
pres s 67 (prev 1949 13 Geo 6 No. 26 s 12A) ins 1959 8 Eliz 2 No. 55 s 7  
sub 1965 No. 26 s 11  
amd 1999 No. 42 s 54(1) sch s 21  
reloc 1999 No. 42 s 54(1) sch s 28

**Chief executive may install or remove official traffic signs**

**s 68** prev s 68 om 1997 No. 66 s 125  
pres s 68 (prev 1949 Geo 6 No. 26 s 12B) ins 1959 8 Eliz 2 No. 55 s 7  
sub 1965 No. 26 s 11  
amd 1971 No. 33 s 6  
sub 1994 No. 7 s 8  
amd 1999 No. 42 s 5  
reloc 1999 No. 42 s 54(1) sch s 28

**Local government may install or remove official traffic signs**

**s 69** prev s 69 om 1997 No. 66 s 125  
pres s 69 (prev 1949 Geo 6 No. 26 s 12BA) ins 1994 No. 7 s 8  
reloc 1999 No. 42 s 54(1) sch s 28

**Notice to install or remove an official traffic sign**

**s 70** prev s 70 om 1997 No. 66 s 125  
pres s 70 (prev 1949 Geo 6 No. 26 s 12C) ins 1959 8 Eliz 2 No. 55 s 8  
sub 1965 No. 26 s 11

amd 1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 28

**Installation of official traffic signs in case of danger**

**s 71** prev s 71 om 1997 No. 66 s 125  
pres s 71 (prev 1949 Geo 6 No. 26 s 12D) ins 1959 8 Eliz 2 No. 55 s 8  
sub 1965 No. 26 s 11  
amd 1971 No. 33 s 7; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch s 22  
reloc 1999 No. 42 s 54(1) sch s 28

**Installation of official traffic signs by prescribed persons**

**s 72** prev s 72 om 1997 No. 66 s 125  
pres s 72 (prev 1949 Geo 6 No. 26 s 12DA) ins 1990 No. 103 s 2.5  
amd 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch s 23  
reloc 1999 No. 42 s 54(1) sch s 28

**Way to install official traffic sign**

**s 72A** ins 2001 No. 79 s 95

**Obstruction of prescribed officer and destruction of official traffic signs to be an offence**

**s 73** prev s 73 om 1997 No. 66 s 125  
pres s 73 (prev 1949 Geo 6 No. 26 s 12E) ins 1959 8 Eliz 2 No. 55 s 9  
sub 1965 No. 26 s 11  
amd 1971 No. 33 s 8; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch ss 24–25  
reloc 1999 No. 42 s 54(1) sch s 28

**Contravention of official traffic sign an offence**

**s 74** (prev 1949 Geo 6 No. 26 s 12F) ins 1959 8 Eliz 2 No. 55 s 9  
sub 1965 No. 26 s 11; 1994 No. 7 s 9  
amd 1994 No. 87 s 3 sch 1; 1999 No. 42 s 54(1) sch ss 26–27  
reloc 1999 No. 42 s 54(1) sch s 28

**Unlawful installation of official traffic signs**

**s 75** (prev 1949 Geo 6 No. 26 s 12G) ins 1959 8 Eliz 2 No. 55 s 10  
sub 1965 No. 26 s 11  
amd 1971 No. 33 s 9; 1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 28

**Injury to official traffic signs**

**s 76** (prev 1949 Geo 6 No. 26 s 12H) ins 1959 8 Eliz 2 No. 55 s 10  
amd 1960 9 Eliz 2 No. 44 s 2; 1961 10 Eliz 2 No. 27 s 6; 1962 No. 23 s 2  
sub 1965 No. 26 s 11  
amd 1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 28

**PART 3—DRIVING OF VEHICLES AND ANIMALS**

**pt hdg** prev pt 3 hdg om 1999 No. 42 s 54(2) sch s 173  
pres pt 3 hdg ins 1999 No. 42 s 54(2) sch s 170

*Transport Operations (Road Use Management) Act  
1995*

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**Restricted release of Queensland driver licence and traffic history information**

- prov hdg** (prev 1949 13 Geo 6 No. 26 s 14A prov hdg) sub 1999 No. 42 s 6  
amd 1999 No.42 s 54(1) sch s 30
- s 77** (prev 1949 13 Geo 6 No. 26 s 14A) ins 1965 No. 26 s 13  
amd 1982 No. 15 s 5  
sub 1994 No. 7 s 11; 1999 No. 42 s 6  
amd 1999 No. 42 s 54(1) sch ss 31–32  
reloc 1999 No. 42 s 54(1) s 89

**Driving of motor vehicle without a driver licence prohibited**

- prov hdg** (prev 1949 13 Geo 6 No. 26 s 15 prov hdg) amd 1999 No. 42 s 54(1) sch s 33
- s 78** (prev 1949 13 Geo 6 No. 26 s 15) amd 1959 8 Eliz 2 No. 55 s 12; 1961 10 Eliz  
2 No. 27 s 9; 1965 No. 26 s 14; 1974 No. 18 s 7 (amd 1984 No. 102 s 36);  
1975 No. 13 s 3; 1984 No. 102 s 33; 1990 No. 103 s 2.26; 1994 No. 7 s 3  
sch; 1999 No. 42 s 54(1) sch ss 33–35  
reloc 1999 No. 42 s 54(1) sch s 89  
amd 1999 No. 70 s 166 sch 1  
sub 2001 No. 79 s 96  
amd 2002 No. 4 s 3; 2002 No. 71 s 21; 2003 No. 69 s 5; 2005 No. 49 s 60;  
2006 No. 21 s 141

**Permit to drive—recently expired driver licence**

- s 78A** ins 2002 No. 4 s 4  
amd 2002 No. 71 s 22

**Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood or breath**

- prov hdg** amd 2003 No. 69 s 6(1)
- s 79** prev s 79 om 1999 No. 42 s 54(2) sch s 180  
pres s 79 (prev 1949 13 Geo 6 No. 26 s 16) amd 1959 8 Eliz 2 No. 55 s 13;  
1961 10 Eliz 2 No. 27 s 10; 1965 No. 26 s 15; 1968 No. 22 s 6  
sub 1974 No. 18 s 8  
amd 1977 No. 26 ss 3, 4; 1980 No. 35 s 4(1) sch 1; 1982 No. 15 s 6; 1982 No.  
52 s 4; 1984 No. 102 ss 8, 33; 1988 No. 94 s 2; 1988 No. 105 s 32; 1990  
No. 103 ss 2.7, 2.26; 1994 No. 7 s 3 sch; 1994 No. 43 s 143 sch 3; 1997 No.  
81 s 3 sch; 1999 No. 42 s 7, s 54(1) sch ss 36–44  
reloc 1999 No. 42 s 54(1) sch s 89  
amd 2001 No. 79 s 97; 2003 No. 69 s 6(2)–(9); 2004 No. 53 s 2 sch; 2006 No.  
57 s 54

**Provisions applying to supervisor of a learner**

- s 79AA** ins 2006 No. 21 s 142

**When is a person over the limit**

- s 79A** ins 2003 No. 69 s 7

**Immediate suspension or disqualification**

- s 79B** ins 2006 No. 21 s 143 (amd 2006 No. 57 s 47)

**When person is charged for s 79B**

- s 79C** ins 2006 No. 21 s 143

**Notice to be given of suspension or disqualification**

**s 79D** ins 2006 No. 21 s 143

**Court may allow particular person whose licence is suspended under s 79B to drive**

**s 79E** ins 2006 No. 57 s 55

**Replacement licence if there is an order under s 79E**

**s 79F** ins 2006 No. 57 s 55

**Provisions with respect to breath tests and laboratory tests**

**s 80** (prev 1949 13 Geo 6 No. 26 s 16A) ins 1968 No. 22 s 7  
 amd 1969 No. 22 s 5  
 sub 1974 No. 18 s 9 (amd 1977 No. 26 s 9(1)(a); 1982 No. 52 s 9(1)(a); 1984 No. 102 s 35)  
 amd 1975 No. 13 s 4; 1975 No. 69 ss 2–11; 1977 No. 26 ss 5, 6; 1982 No. 15 s 7; 1982 No. 52 s 5; 1984 No. 102 ss 9, 33; 1988 No. 94 s 3; 1990 No. 103 ss 2.8, 2.26  
 sub 1992 No. 68 s 3 sch 1  
 amd 1994 No. 7 s 12; 1994 No. 87 s 3 sch 1; 1997 No. 66 s 19; 1999 No. 42 s 8, s 54(1) sch ss 45–50  
 reloc 1999 No. 42 s 54(1) sch s 89  
 amd 2000 No. 46 s 3 sch; 2001 No. 79 s 98; 2002 No. 48 s 3; 2003 No. 69 s 8; 2006 No. 21 s 143A

**Obstructing the taking of a blood specimen**

**s 80A** ins 2002 No. 48 s 4

**Interstate exchange of information**

**s 80B** ins 2002 No. 48 s 4

**Notices to offenders for certain first offences**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 16B prov hdg) amd 1974 No. 18 s 10(a)  
**s 81** (prev 1949 13 Geo 6 No. 26 s 16B) ins 1969 No. 22 s 6  
 amd 1974 No. 18 s 10(b)–(g) (amd 1977 No. 26 s 9(1)(b); 1982 No. 52 s 9(1)(b); 1984 No. 102 s 37); 1977 No. 26 s 7; 1982 No. 52 s 6  
 om 1984 No. 102 s 10  
 ins 1991 No. 80 s 3  
 amd 1994 No. 87 s 3 sch 1; 1999 No. 42 s 9, s 54(1) sch ss 51–57  
 reloc 1999 No. 42 s 54(1) sch s 89  
 amd 2003 No. 69 s 9; 2006 No. 57 s 56

**Offenders may be ordered to attend training programs**

**s 82** (prev 1949 13 Geo 6 No. 26 s 16C) ins 1982 No. 52 s 7  
 amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 3 sch; 1994 No. 87 s 3 sch 1  
 sub 1997 No. 66 s 20  
 amd 1999 No. 42 s 54(1) sch ss 58–59  
 reloc 1999 No. 42 s 54(1) sch s 89

**Careless driving of motor vehicles**

**s 83** (prev 1949 13 Geo 6 No. 26 s 17) amd 1974 No. 18 s 11; 1994 No. 7 s 3 sch  
 reloc 1999 No. 42 s 54(1) sch s 89

*Transport Operations (Road Use Management) Act  
1995*

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**Dangerous driving of vehicles (other than motor vehicles) etc.**

**s 84** (prev 1949 13 Geo 6 No. 26 s 18) amd 1965 No. 26 s 16; 1990 No. 103 s 2.26;  
1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 89

**Racing and speed trials on roads**

**s 85** (prev 1949 13 Geo 6 No. 26 s 19) amd 1956 5 Eliz 2 No. 26 s 6; 1961 10 Eliz  
2 No. 27 s 11; 1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 89  
amd 2005 No. 49 s 61

**Disqualification of drivers of motor vehicles for certain offences**

**s 86** (prev 1949 13 Geo 6 No. 26 s 20) amd 1959 8 Eliz 2 No. 55 s 14; 1961 10 Eliz  
2 No. 27 s 12; 1965 No. 26 s 17; 1968 No. 22 s 8  
sub 1974 No. 18 s 12  
amd 1982 No. 15 s 8; 1982 No. 52 s 8; 1984 No. 102 s 11; 1990 No. 103 s 2.9;  
1992 No. 68 s 3 sch 1; 1994 No. 7 s 3 sch; 1999 No. 42 s 10, s 54(1) sch ss  
60–67  
reloc 1999 No. 42 s 54(1) sch s 89  
amd 2003 No. 69 s 10; 2006 No. 21 s 144; 2006 No. 57 s 57

**Issue of restricted licence to disqualified person**

**s 87** (prev 1949 13 Geo 6 No. 26 s 20A) ins 1984 No. 102 s 12  
amd 1990 No. 19 s 3; 1990 No. 103 s 2.10; 1994 No. 87 s 3 sch 1; 1997 No. 66  
s 21; 1999 No. 42 s 11, s 54(1) sch ss 68–80  
reloc 1999 No. 42 s 54(1) sch s 89  
amd 2000 No. 6 s 78 sch ss 7–9; 2001 No. 79 s 99; 2003 No. 69 s 11

**Variation of conditions**

**s 88** (prev 1949 13 Geo 6 No. 26 s 20B) ins 1990 No. 19 s 4  
amd 1997 No. 66 s 22; 1999 No. 42 s 54(1) sch ss 81–83  
reloc 1999 No. 42 s 54(1) sch s 89

**Power to disqualify person from holding or obtaining Queensland driver licence though acquitted of certain indictable offences**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 21 prov hdg) amd 1999 No. 42 s 54(1) sch s 84  
**s 89** (prev 1949 13 Geo 6 No. 26 s 21) amd 1999 No. 42 s 54(1) sch s 84  
reloc 1999 No. 42 s 54(1) sch s 89

**Power to disqualify person from holding or obtaining Queensland driver licence though complaint dismissed**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 22 prov hdg) amd 1999 No. 42 s 54(1) sch s 85  
**s 90** (prev 1949 13 Geo 6 No. 26 s 22) amd 1999 No. 42 s 54(1) sch ss 85–86  
reloc 1999 No. 42 s 54(1) sch s 89

**Chief executive to be advised of persons disqualified from holding Queensland driver licences etc.**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 23 prov hdg) amd 1990 No. 73 s 3 sch 5; 1994  
No. 7 s 3 sch; 1999 No. 42 s 54(1) sch s 87  
**s 91** (prev 1949 13 Geo 6 No. 26 s 23) amd 1961 10 Eliz 2 No. 27 s 13; 1990 No.  
73 s 3 sch 5; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch s 88  
reloc 1999 No. 42 s 54(1) sch s 89

*Transport Operations (Road Use Management) Act  
1995*

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**PART 4—ROAD INCIDENTS**

**pt hdg** prev pt 4 hdg om 1999 No. 42 s 54(2) sch s 177  
pres pt 4 hdg ins 1999 No. 42 s 54(2) sch s 170

**Duties and liabilities of drivers involved in road incidents**

**s 92** prev s 92 om R1 (see RA s 40)  
pres s 92 (prev 1949 13 Geo 6 No. 26 s 31) amd 1957 6 Eliz 2 No. 13 s 5(1)  
sub 1957 6 Eliz 2 No. 34 s 6  
amd 1960 9 Eliz 2 No. 44 s 3; 1961 10 Eliz 2 No. 27 s 14; 1984 No. 102 s 33;  
1990 No. 103 s 2.11; 1994 No. 7 s 3 sch; 1999 No. 42 s 46, s 54(1) sch ss  
90–91  
reloc 1999 No. 42 s 54(1) sch s 92

**Police officers may make inquiries etc. into certain road incidents**

**s 93** prev s 93 amd R1 (see RA s 40); 1997 No. 9 s 93(2)  
exp 1 July 1999 (see s 93(6)) (1999 No. 42 s 54(2) sch s 191 (to the extent it  
renum s 93) could not be given effect)  
pres s 93 (prev 1949 13 Geo 6 No. 26 s 33) amd 1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 92  
om 2000 No. 5 s 461 sch 3

**Scheme to facilitate supply of information as to road incidents**

**s 94** (prev 1949 13 Geo 6 No. 26 s 34) sub 1961 10 Eliz 2 No. 27 s 16  
amd 1965 No. 26 s 18; 1968 No. 22 s 9; 1977 No. 26 s 8; 1990 No. 73 s 3 sch  
5; 1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 92

**PART 5—POWERS AND FUNCTIONS OF POLICE OFFICERS**

**pt hdg** prev pt 5 hdg ins 1997 No. 66 s 129  
om 1999 No. 42 s 54(2) sch s 181  
pres pt 5 hdg ins 1999 No. 42 s 54(2) sch s 170

**General powers, functions, and duties of police**

**s 95** (prev 1949 13 Geo 6 No. 26 s 35) amd 1953 2 Eliz 2 No. 11 s 4; 1971 No. 33 s  
10; 1997 No. 67 s 139 sch 2  
reloc 1999 No. 42 s 54(2) sch s 101  
om 2000 No. 5 s 461 sch 3

**Diversion of traffic**

**s 96** (prev 1949 13 Geo 6 No. 26 s 37) sub 1961 10 Eliz 2 No. 27 s 17  
amd 1965 No. 26 s 19; 1984 No. 102 s 14; 1994 No. 7 s 3 sch; 1997 No. 66 s  
23; 1997 No. 67 s 139 sch 2; 1999 No. 42 s 54(1) sch ss 93–94  
reloc 1999 No. 42 s 54(1) sch s 101

**Driver to stop and supply name etc. when required**

**s 97** (prev 1949 13 Geo 6 No. 26 s 39) sub 1961 10 Eliz 2 No. 27 s 18  
amd 1967 No. 44 s 2; 1969 No. 22 s 7; 1974 No. 18 s 14; 1988 No. 94 s 4;  
1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch ss 95–99  
reloc 1999 No. 42 s 54(1) sch s 101  
om 2000 No. 5 s 461 sch 3

*Transport Operations (Road Use Management) Act  
1995*

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**Power to require information respecting identity of drivers of vehicles etc.**

**s 98** (prev 1949 13 Geo 6 No. 26 s 41) amd 1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 101  
om 2000 No. 5 s 461 sch 3

**Powers of entry**

**s 99** (prev 1949 13 Geo 6 No. 26 s 43) amd 1990 No. 103 s 2.12  
reloc 1999 No. 42 s 54(1) sch s 101  
om 2000 No. 5 s 461 sch 3

**Removal of things from roads**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44 prov hdg) sub 1994 No. 7 s 13(1)  
**s 100** (prev 1949 13 Geo 6 No. 26 s 44) amd 1961 10 Eliz 2 No. 27 s 21; 1965 No.  
26 s 21; 1994 No. 7 s 13(2)–(5); 1997 No. 66 s 24; 1998 No. 43 s 4; 1999  
No. 42 s 54(1) sch s 100  
reloc 1999 No. 42 s 54(1) sch s 101  
amd 2000 No. 5 s 461 sch 3; 2001 No. 79 s 100

**PART 6—REGULATED PARKING**

**pt hdg** ins 1999 No. 42 s 54(2) sch s 170

**Who may regulate parking**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44A prov hdg) amd 1999 No. 42 s 12(1)  
**s 101** (prev 1949 13 Geo 6 No. 26 s 44A) ins 1956 5 Eliz 2 No. 26 s 8  
sub 1960 9 Eliz 2 No. 44 s 4  
amd 1965 No. 26 s 23  
sub 1994 No. 7 s 14  
amd 1999 No. 42 s 12(2)–(3)  
reloc 1999 No. 42 s 54(1) sch s 111  
amd 2004 No. 9 s 64

**Parking regulation involves installing official traffic signs**

**s 102** (prev 1949 13 Geo 6 No. 26 s 44B) ins 1956 5 Eliz 2 No. 26 s 8  
amd 1957 6 Eliz 2 No. 13 s 6; 1957 6 Eliz 2 No. 34 s 7; 1960 9 Eliz 2 No. 44 s  
5  
sub 1965 No. 26 s 24  
amd 1968 No. 36 s 3; 1971 No. 33 s 11; 1982 No. 15 s 9; 1984 No. 102 s 16;  
1989 No. 76 s 2; 1990 No. 103 s 2.13; 1992 No. 19 s 3  
sub 1994 No. 7 s 14  
amd 1997 No. 66 s 25; 1999 No. 42 s 13  
reloc 1999 No. 42 s 54(1) sch s 111  
amd 2001 No. 79 s 101; 2004 No. 9 s 65

**Examples of how parking may be regulated**

**s 103** (prev 1949 13 Geo 6 No. 26 s 44BA) ins 1994 No. 7 s 14  
amd 1995 No. 9 s 92 sch 1; 1999 No. 42 s 14, s 54(1) sch ss 102–103  
reloc 1999 No. 42 s 54(1) sch s 111  
amd 2004 No. 9 s 66

**Off-street regulated parking areas**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44BB prov hdg) sub 1999 No. 42 s 15(1)  
**s 104** (prev 1949 13 Geo 6 No. 26 s 44BB) ins 1997 No. 66 s 26

*Transport Operations (Road Use Management) Act  
1995*

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amd 1999 No. 42 s 15(2)–(3)  
reloc 1999 No. 42 s 54(1) sch s 111

**Paid parking**

**s 105** (prev 1949 13 Geo 6 No. 26 s 44C) ins 1956 5 Eliz 2 No. 26 s 9  
amd 1957 6 Eliz 2 No. 34 s 8; 1959 8 Eliz 2 No. 55 s 17; 1960 9 Eliz 2 No. 44  
s 6; 1965 No. 26 s 25; 1989 No. 76 s 3  
sub 1992 No. 19 s 4  
amd 1994 No. 7 s 15  
reloc 1999 No. 42 s 54(1) sch s 111  
amd 2004 No. 9 s 67

**Paid parking offences**

**s 106** (prev 1949 13 Geo 6 No. 26 s 44D) ins 1956 5 Eliz 2 No. 26 s 9  
amd 1957 6 Eliz 2 No. 13 s 7; 1957 No. 34 s 9; 1959 8 Eliz 2 No. 55 s 18;  
1965 No. 26 s 26; 1984 No. 102 s 17; 1989 No. 76 s 4  
sub 1992 No. 19 s 5  
amd 1994 No. 7 s 16; 1997 No. 66 s 27; 1999 No. 42 s 54(1) sch s 104  
reloc 1999 No. 42 s 54(1) sch s 111  
amd 1999 No. 70 s 166 sch 1

**Owner responsible for offence**

**s 107** (prev 1949 13 Geo 6 No. 26 s 44E) ins 1956 5 Eliz 2 No. 26 s 9  
amd 1957 6 Eliz 2 No. 34 s 10; 1965 No. 26 s 27; 1994 No. 7 s 17; 1999 No.  
42 s 16, s 54(1) sch s 105  
reloc 1999 No. 42 s 54(1) sch s 111

**Local laws about minor traffic offences**

**s 108** (prev 1949 13 Geo 6 No. 26 s 44F) ins 1956 5 Eliz 2 No. 26 s 10  
amd 1957 6 Eliz 2 No. 34 s 11; 1960 9 Eliz 2 No. 44 s 7; 1962 No. 23 s 3;  
1965 No. 26 s 28; 1982 No. 15 s 10; 1984 No. 102 s 18; 1989 No. 76 s 5;  
1994 No. 7 s 18 (amd 1994 No. 15 s 3 sch 1)  
sub 1999 No. 42 s 17  
amd 1999 No. 42 s 54(1) sch s 106  
reloc 1999 No. 42 s 54(1) sch s 111  
amd 1999 No. 70 s 166 sch 1; 2004 No. 9 s 68

**Agreement with local government on costs of administration**

**s 109** (prev 1949 13 Geo 6 No. 26 s 44J) ins 1956 5 Eliz 2 No. 26 s 11  
amd 1960 9 Eliz 2 No. 44 s 8; 1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 111

**Notice restricting parking in special circumstances**

**s 110** (prev 1949 13 Geo 6 No. 26 s 44M) ins 1965 No. 26 s 33(b)  
sub 1992 No. 19 s 8  
amd 1994 No. 87 s 3 sch 1; 1999 No. 42 s 54(1) sch s 107  
reloc 1999 No. 42 s 54(1) sch s 111  
sub 2000 No. 5 s 461 sch 3

*Transport Operations (Road Use Management) Act  
1995*

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**Parking permits for people with disabilities**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44N prov hdg) sub 1999 No. 42 s 54(1) sch s 108

**s 111** (prev 1949 13 Geo 6 No. 26 s 44N) ins 1982 No. 15 s 11  
amd 1984 No. 102 s 20  
sub 1990 No. 103 s 2.15; 1994 No. 7 s 19  
amd 1999 No. 42 s 54(1) sch ss 109–110  
reloc 1999 No. 42 s 54(1) sch s 111

**PART 7—DETECTION DEVICES**

**pt hdg** ins 1999 No. 42 s 54(2) sch s 170

**Division 1—Speed detection devices**

**div hdg** ins 1999 No. 42 s 54(2) sch s 170  
sub 2005 No. 49 s 62

**Use of speed detection devices**

**s 112** (prev 1949 13 Geo 6 No. 26 s 44O) ins 1990 No. 19 s 5  
sub 1994 No. 7 s 21  
amd 1994 No. 87 s 3 sch 1; 1999 No. 42 s 19  
reloc 1999 No. 42 s 54(1) sch s 112  
sub 2005 No. 49 s 62

**Division 2—Photographic detection devices**

**div hdg** ins 1999 No. 42 s 54(2) sch s 170

**Definitions for div 2**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44P prov hdg) sub 1999 No. 42 s 54(1) sch s 113

**s 113** (prev 1949 13 Geo 6 No. 26 s 44P) ins 1990 No. 19 s 5  
amd 1994 No. 7 s 23; 1999 No. 42 s 54(1) sch s 114  
reloc 1999 No. 42 s 54(1) sch s 120  
def “**camera-detected offence**” sub 1996 No. 62 s 4(1)  
amd 1999 No. 70 s 166 sch 1  
def “**corresponding transport law**” ins 1996 No. 62 s 4(2)  
def “**owner**” ins 1996 No. 62 s 4(2)  
om 2001 No. 79 s 102(1)  
def “**person in charge**” ins 2001 No. 79 s 102(2)  
def “**photographic detection device**” amd 2001 No. 79 s 102(3)  
def “**prescribed offence**” sub 1996 No. 62 s 4(1)  
def “**responsible operator**” ins 1996 No. 62 s 4(2)  
amd 2001 No. 79 s 102(4)  
def “**transport Act**” ins 1996 No. 62 s 4(2)  
sub 1997 No. 9 s 82

**Offences detected by photographic detection device**

**s 114** (prev 1949 13 Geo 6 No. 26 s 44Q) ins 1990 No. 19 s 5  
amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 25  
sub 1996 No. 62 s 5  
reloc 1999 No. 42 s 54(1) sch s 120  
amd 1999 No. 70 s 166 sch 1; 2001 No. 79 s 103; 2002 No. 71 s 23

*Transport Operations (Road Use Management) Act  
1995*

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**Limitation of prosecution period extended in particular circumstances**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44R prov hdg) amd 1994 No. 7 s 26(1)  
**s 115** (prev 1949 13 Geo 6 No. 26 s 44R) ins 1990 No. 19 s 6  
 amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 26(2)–(3)  
 sub 1996 No. 62 s 6  
 reloc 1999 No. 42 s 54(1) sch s 120

**Notice accompanying summons**

**s 116** (prev 1949 13 Geo 6 No. 26 s 44S) ins 1990 No. 19 s 6  
 amd 1990 No. 73 s 3 sch 5  
 sub 1994 No. 7 s 27  
 amd 1996 No. 62 s 7; 1999 No. 42 s 54(1) sch ss 115–117  
 reloc 1999 No. 42 s 54(1) sch s 120  
 amd 2001 No. 79 s 104

**Use of penalties collected for camera detected offences**

**s 117** (prev 1949 13 Geo 6 No. 26 s 44T) ins 1990 No. 19 s 6  
 amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 28  
 sub 1996 No. 62 s 8  
 reloc 1999 No. 42 s 54(1) sch s 120

**Photographic evidence—inspection and challenges**

**s 118** (prev 1949 13 Geo 6 No. 26 s 44U) ins 1990 No. 19 s 7  
 amd 1990 No. 73 s 3 sch 5  
 sub 1994 No. 7 s 29  
 amd 1996 No. 62 s 9  
 reloc 1999 No. 42 s 54(1) sch s 120

**Notice of dispute about traffic control device or sign**

**s 119** (prev 1949 13 Geo 6 No. 26 s 44V) ins 1992 No. 23 s 6  
 amd 1994 No. 10 s 10  
 sub 1996 No. 62 s 10  
 reloc 1999 No. 42 s 54(1) sch s 120

**Evidentiary provisions**

**s 120** (prev 1949 13 Geo 6 No. 26 s 44W) ins 1994 No. 7 s 30  
 amd 1996 No. 62 s 11  
 reloc 1999 No. 42 s 54(1) sch s 120  
 amd 2001 No. 79 s 105; 2002 No. 71 s 24

**Application of the State Penalties Enforcement Act 1999**

**s 121** (prev 1949 13 Geo 6 No. 26 s 44X) ins 1996 No. 62 s 12  
 amd 1999 No. 42 s 54(1) sch ss 118–119  
 reloc 1999 No. 42 s 54(1) sch s 120  
 sub 1999 No. 70 s 166 sch 1  
 amd 2001 No. 79 s 106

**PART 7A—CROSSING SUPERVISOR SCHEME**

**pt hdg** ins 2005 No. 49 s 63

**Division 1—Definitions**

**div hdg** ins 2005 No. 49 s 63

**Definitions for pt 7A**

**s 122** (prev s 122 (prev 1949 13 Geo 6 No. 26 s 47) reloc 1999 No. 42 s 54(1) sch s 131  
om 2000 No. 5 s 461 sch 3  
pres s 122 ins 2005 No. 49 s 63

**Division 2—Scheme and authorisation of persons under scheme**

**div 2 (ss 122A–122E)** ins 2005 No. 49 s 63

**Division 3—Criminal history**

**div hdg** ins 2005 No. 49 s 63

**Criminal history to be disclosed by applicants and crossing supervisors**

**s 122F** ins 2005 No. 49 s 63

**Crossing supervisor may surrender authority**

**s 122G** ins 2005 No. 49 s 63

**Chief executive may ask commissioner for criminal history**

**s 122H** ins 2005 No. 49 s 63  
exp 7 July 2007 (see s 122H(4))

**Division 4—Amendment, suspension and cancellation of authorities**

**div 4 (ss 122I–122P)** ins 2005 No. 49 s 63

**PART 8—PROCEEDINGS AND EVIDENCE**

**pt hdg** ins 1999 No. 42 s 54(2) sch s 170

**Records**

**s 123** (prev 1949 13 Geo 6 No. 26 s 48) amd 1952 1 Eliz 2 No. 14 s 16; 1953 2 Eliz 2 No. 11 s 7; 1961 10 Eliz 2 No. 27 s 26; 1971 No. 33 s 12; 1994 No. 7 s 3 sch  
sub 1997 No. 66 s 30  
amd 1999 No. 42 s 54(1) sch s 121  
reloc 1999 No. 42 s 54(1) sch s 131

**Facilitation of proof**

**s 124** (prev 1949 13 Geo 6 No. 26 s 49) amd 1953 2 Eliz 2 No. 11 s 8; 1959 8 Eliz 2 No. 21 s 27 sch; 1960 9 Eliz 2 No. 44 s 10; 1961 10 Eliz 2 No. 27 s 27; 1965 No. 26 s 36; 1971 No. 33 s 13; 1974 No. 18 s 16 (amd 1984 No. 102 s 37); 1975 No. 13 s 5; 1982 No. 15 s 13; 1984 No. 102 s 21; 1985 No. 30 s 74; 1990 No. 73 s 3 sch 5; 1994 No. 7 s 32 (amd 1994 No. 15 s 3 sch 1); 1996 No. 62 s 13; 1997 No. 66 s 31; 1999 No. 42 s 21, s 54(1) sch ss 122–128  
reloc 1999 No. 42 s 54(1) sch s 131  
amd 2001 No. 79 s 107; 2005 No. 49 s 64

**When offences not to be dealt with summarily**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 51 prov hdg) amd 1999 No. 42 s 54(1) sch s 129  
**s 125** (prev 1949 13 Geo 6 No. 26 s 51) amd 1999 No. 42 s 54(1) sch s 130  
reloc 1999 No. 42 s 54(1) sch s 131

**PART 9—GENERAL**

**pt hdg** ins 1999 No. 42 s 54(2) sch s 170

**Fraud and unlawful possession of licences**

**s 126** (prev 1949 13 Geo 6 No. 26 s 53) amd 1961 10 Eliz 2 No. 27 s 29; 1984 No. 102 s 22; 1990 No. 73 s 3 sch 5; 1990 No. 103 s 2.16; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch s 132  
reloc 1999 No. 42 s 54(1) sch s 153

**Effect of disqualification**

**s 127** (prev 1949 13 Geo 6 No. 26 s 55) amd 1953 2 Eliz 2 No. 11 s 10; 1961 10 Eliz 2 No. 27 s 31; 1971 No. 33 s 14; 1974 No. 18 s 20 (amd 1984 No. 102 s 36); 1975 No. 13 s 6(1); 1984 No. 102 s 24; 1990 No. 103 ss 2.18, 2.26; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch ss 133–139  
reloc 1999 No. 42 s 54(1) sch s 153  
amd 2006 No. 57 s 58

**Effect of disqualification on subsequent issue of Queensland driver licence**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 55A prov hdg) amd 1999 No. 42 s 54(1) sch s 140

**s 128** (prev 1949 13 Geo 6 No. 26 s 55A) ins 1971 No. 33 s 15  
amd 1984 No. 102 s 25; 1988 No. 94 s 5; 1990 No. 103 s 2.19; 1999 No. 42 s 54(1) sch ss 141–146  
reloc 1999 No. 42 s 54(1) sch s 153

**Effect of cancellation pursuant to regulations**

**s 129** (prev 1949 13 Geo 6 No. 26 s 55B) ins 1990 No. 103 s 2.20  
amd 1994 No. 87 s 3 sch 1; 1999 No. 42 s 54(1) sch s 147  
reloc 1999 No. 42 s 54(1) sch s 153  
om 2001 No. 79 s 108

**Effect of suspension of licence under State Penalties Enforcement Act 1999**

**s 129A** ins 1999 No. 70 s 166 sch 1

**Disqualification period for person driving more than 40km/h over speed limit**

**s 129B** ins 2005 No. 49 s 65

**Delivery of cancelled or surrendered licences, or licences for endorsement**

**prov hdg** amd 2001 No. 79 s 109(1)

**s 130** (prev 1949 13 Geo 6 No. 26 s 56) amd 1961 10 Eliz 2 No. 27 s 32; 1974 No. 18 s 22(c) (amd 1984 No. 102 s 36); 1990 No. 103 ss 2.21, 2.26; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch ss 147–148  
reloc 1999 No. 42 s 54(1) sch s 153  
amd 2001 No. 79 s 109(2)–(4)

**Appeals with respect to issue of licences etc.**

**s 131** (prev 1949 13 Geo 6 No. 26 s 57) amd 1961 10 Eliz 2 No. 27 s 33; 1968 No. 22 s 10; 1977 No. 35 s 2; 1982 No. 15 s 14; 1990 No. 103 s 2.22; 1994 No. 7 s 3 sch; 1994 No. 87 s 3 sch 1; 1997 No. 66 s 32; 1999 No. 42 s 54(1) sch s 149  
reloc 1999 No. 42 s 54(1) sch s 153  
amd 1999 No. 70 s 166 sch 1; 2002 No. 71 s 25

**Removing absolute disqualification imposed before 13/3/2**

**s 131A** ins 2004 No. 43 s 116

*Transport Operations (Road Use Management) Act  
1995*

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**Appeals against licence suspension under regulations**

**prov hdg** amd 2001 No. 79 s 109A(1)

**s 132** (prev 1949 13 Geo 6 No. 26 s 57B) ins 1990 No. 103 s 2.23  
reloc 1999 No. 42 s 54(1) sch s 153  
amd 2001 No. 79 s 109A(2)–(3)

**Occupiers of garages etc. to keep register of repairs**

**s 133** (prev 1949 13 Geo 6 No. 26 s 58) amd 1994 No. 7 s 3 sch; 1997 No. 66 s 33  
reloc 1999 No. 42 s 54(1) sch s 153  
amd 2000 No. 5 s 461 sch 3

**Altering, defacing or removing identifying numbers**

**prov hdg** sub 2005 No. 49 s 67(1)

**s 134** (prev 1949 13 Geo 6 No. 26 s 59) amd 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1)  
sch s 150  
reloc 1999 No. 42 s 54(1) sch s 153  
amd 2005 No. 49 s 67(2)–(9)

**Unlawfully interfering with, or detaining, vehicles etc.**

**s 135** (prev 1949 13 Geo 6 No. 26 s 60) amd 1974 No. 18 s 24; 1994 No. 7 s 3 sch  
sub 1997 No. 66 s 34  
amd 1999 No. 42 s 22, s 54(1) sch ss 151–152  
reloc 1999 No. 42 s 54(1) sch s 153  
amd 2003 No. 22 s 30 sch

**Agreements for detaining vehicles**

**s 136** (prev 1949 13 Geo 6 No. 26 s 72) ins 1997 No. 66 s 36  
amd 1999 No. 42 s 54(1) sch ss 163–164  
reloc 1999 No. 42 s 54(1) sch s 165

**Injurious matter on roads**

**s 137** (prev 1949 13 Geo 6 No. 26 s 61) amd 1953 2 Eliz 2 No. 11 s 11; 1994 No. 7 s  
3 sch; 1999 No. 42 s 54(1) sch ss 154–155  
reloc 1999 No. 42 s 54(1) sch s 162

**Scheme to facilitate children crossing streets**

**s 138** (prev 1949 13 Geo 6 No. 26 s 63) orig om 1959 8 Eliz 2 No. 21 s 27 sch  
pres ins 1961 10 Eliz 2 No. 27 s 35  
amd 1968 No. 22 s 11; 1984 No. 102 s 26; 1990 No. 73 s 3 sch 5; 1994 No. 7  
s 3 sch  
sub 1999 No. 42 s 23  
reloc 1999 No. 42 s 54(1) sch s 162  
amd 2005 No. 4 s 30 sch 1  
om 2005 No. 49 s 68

**Service of determinations, notices, orders, and directions of the commissioner or the chief executive**

**prov hdg** amd 1999 No. 70 s 166 sch 1

**s 139** (prev 1949 13 Geo 6 No. 26 s 64) amd 1999 No. 42 s 54(1) sch ss 156–157  
reloc 1999 No. 42 s 54(1) sch s 162  
amd 1999 No. 70 s 166 sch 1

*Transport Operations (Road Use Management) Act  
1995*

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**Service if address unknown etc.**

- s 140** (prev 1949 13 Geo 6 No. 26 s 65) amd 1961 10 Eliz 2 No. 27 s 36; 1982 No. 15 s 15; 1984 No. 102 s 27; 1990 No. 73 s 3 sch 5  
sub 1994 No. 7 s 3 sch  
amd 1999 No. 42 s 54(1) sch s 158  
reloc 1999 No. 42 s 54(1) sch s 162

**Instruments not affected by error**

- s 141** (prev 1949 13 Geo 6 No. 26 s 66) amd 1961 10 Eliz 2 No. 27 s 37; 1984 No. 102 s 28; 1990 No. 73 s 3 sch 5  
sub 1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 162

**Health professional's disclosure not breach of confidence**

- s 142** (prev 1949 13 Geo 6 No. 26 s 67A) ins 1999 No. 42 s 24  
amd 1999 No. 42 s 54(1) sch s 160  
reloc 1999 No. 42 s 54(1) sch s 162  
amd 2004 No. 53 s 2 sch; 2005 No. 10 s 50 sch

**Confidentiality**

- s 143** (prev 1949 13 Geo 6 No. 26 s 67B) ins 1999 No. 42 s 24  
reloc 1999 No. 42 s 54(1) sch s 162

**Act does not apply to police officer in course of duty**

- s 144** (prev 1949 13 Geo 6 No. 26 s 68) amd 1961 10 Eliz 2 No. 27 s 39; 1965 No. 26 s 38; 1968 No. 22 s 13; 1990 No. 73 s 3 sch 5  
sub 1994 No. 7 s 34  
amd 1999 No. 42 s 54(1) sch s 161  
reloc 1999 No. 42 s 54(1) sch s 162

**PART 10—FEES AND REGULATIONS**

- pt hdg** ins 1999 No. 42 s 54(2) sch s 170

**Fees for road use**

- s 145** (prev s 74) renum 1999 No. 42 s 54(2) sch s 179

**Regulating vehicle operations and road rules**

- prov hdg** (prev s 75 prov hdg) sub 1999 No. 42 s 54(2) sch s 172  
**s 146** (prev s 75) amd 1997 No. 66 s 125; 1999 No. 42 s 33  
renum 1999 No. 42 s 54(2) sch s 179  
amd 2000 No. 6 s 78 sch s 10

**Regulating vehicles etc. in public places**

- s 147** (prev s 79M) ins 1997 No. 66 s 129  
renum 1999 No. 42 s 54(2) sch s 186  
amd 2000 No. 6 s 78 sch s 11; 2001 No. 79 s 110

**Regulating vehicle standards**

- prov hdg** (prev s 76 prov hdg) sub 1999 No. 42 s 54(2) sch s 174  
**s 148** (prev s 76) sub 1997 No. 66 s 127  
renum 1999 No. 42 s 54(2) sch s 179  
amd 2000 No. 6 s 78 sch s 12

**Regulating identification of vehicles**

**prov hdg** (prev s 77 prov hdg) sub 1999 No. 42 s 54(2) sch s 175  
**s 149** (prev s 77) 1999 No. 42 s 54(2) sch s 179

**Regulating driver management**

**prov hdg** (prev s 78 prov hdg) sub 1999 No. 42 s 54(2) sch s 178  
**s 150** (prev s 78) amd 1997 No. 66 s 128; 1999 No. 42 s 35  
 renum 1999 No. 42 s 54(2) sch s 179  
 amd 2005 No. 49 s 69

**Regulating young drivers**

**s 150AA** ins 2007 No. 6 s 52

**Regulating form of licence**

**s 150A** ins 2005 No. 49 s 70

**CHAPTER 5A—TRANSPORTING DANGEROUS GOODS**

**ch hdg** prev ch 5A hdg ins 1997 No. 66 s 129  
 om 1999 No. 42 s 54(2) sch s 185  
 pres ch 5A hdg ins 1999 No. 42 s 54(2) sch s 181

**Application of ch 5A**

**prov hdg** sub 2004 No. 9 s 58 sch  
**s 151** (prev s 79A) ins 1997 No. 66 s 129 (amd 1999 No. 15 s 137 sch 1 (amdt could  
 not be given effect))  
 renum 1999 No. 42 s 54(2) sch s 184  
 amd 1999 No. 20 s 235 (amd 2000 No. 46 s 3 sch amdt 9); 2001 No. 79 s 111;  
 2003 No. 29 s 387; 2004 No. 9 s 58 sch

**Regulations about dangerous goods**

**s 152** (prev s 79B) ins 1997 No. 66 s 129  
 renum 1999 No. 42 s 54(2) sch s 184

**Exemptions**

**s 153** (prev s 79C) ins 1997 No. 66 s 129  
 renum 1999 No. 42 s 54(2) sch s 184  
 amd 2001 No. 79 s 112

**Failure to hold licence etc.**

**s 154** (prev s 79D) ins 1997 No. 66 s 129  
 renum 1999 No. 42 s 54(2) sch s 184

**Goods too dangerous to be transported**

**s 155** (prev s 79E) ins 1997 No. 66 s 129  
 renum 1999 No. 42 s 54(2) sch s 184

**Duties when transporting dangerous goods**

**s 156** (prev s 79F) ins 1997 No. 66 s 129  
 renum 1999 No. 42 s 54(2) sch s 184

**Additional evidentiary aids for transporting dangerous goods**

**s 157** (prev s 79G) ins 1997 No. 66 s 129  
 renum 1999 No. 42 s 54(2) sch s 184

**Recovery of costs from convicted person**

**s 158** (prev s 79H) ins 1997 No. 66 s 129  
renum No. 42 s 54(2) sch s 184

**Recovery of costs of government action**

**s 159** (prev s 79I) ins 1997 No. 66 s 129  
amd 1999 No. 42 s 54(2) sch s 182  
renum 1999 No. 42 s 54(2) sch s 184

**Prohibition from involvement in the transport of dangerous goods by road**

**s 160** (prev s 79J) ins 1997 No. 66 s 129  
renum 1999 No. 42 s 54(2) sch s 184

**Forfeiting dangerous goods**

**s 161** (prev s 79K) ins 1997 No. 66 s 129  
renum 1999 No. 42 s 54(2) sch s 184

**Helping in emergencies or accidents**

**s 162** (prev s 79L) ins 1997 No. 66 s 129  
amd 1999 No. 42 s 54(2) sch s 183  
renum 1999 No. 42 s 54(2) sch s 184

**CHAPTER 5B—EXTREME OVERLOADING**

**ch hdg** ins 1999 No. 42 s 36

**Forfeiture on conviction**

**s 163** (prev s 79N) ins 1999 No. 42 s 36  
renum 1999 No. 42 s 54(2) sch s 187

**Court orders for payment**

**s 164** (prev s 80) renum 1999 No. 42 s 54(2) sch s 188

**Special provision for serving documents**

**s 165** (prev s 81) renum 1999 No. 42 s 54(2) sch s 188  
amd 2000 No. 6 s 78 sch s 13

**Official traffic sign approvals**

**s 166** (prev s 82) renum 1999 No. 42 s 54(2) sch s 188  
amd 2001 No. 79 s 113

**Protection from liability**

**s 167** (prev s 83) renum 1999 No. 42 s 54(2) sch s 188  
amd 2002 No. 48 s 5

**Effect of failure to comply with ch 2**

**s 168** (prev s 84) renum 1999 No. 42 s 54(2) sch s 188

**Approval of forms**

**s 169** (prev s 84A) ins 1997 No. 66 s 130  
renum 1999 No. 42 s 54(2) sch s 188

**Nomination of responsible operator**

**s 170** (prev s 77A) ins 1996 No. 62 s 18  
amd 1999 No. 42 s 34

*Transport Operations (Road Use Management) Act  
1995*

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renum 1999 No. 42 s 54(2) sch s 176  
amd 2000 No. 6 s 78 sch ss 14–17; 2001 No. 45 s 29 sch 3

**Regulation-making power**

**prov hdg** (prev s 85 prov hdg) sub 1998 No. 33 s 23(1)  
**s 171** (prev s 85) amd 1997 No. 66 s 131; 1998 No. 33 s 23(2)  
renum 1999 No. 42 s 54(2) sch s 188  
amd 2000 No. 40 s 32

**CHAPTER 7—TRANSITIONAL PROVISIONS**

**ch hdg** amd 2002 No. 4 s 5(1)

**PART 1—TRANSITIONAL PROVISIONS FOR TRANSPORT OPERATIONS  
(ROAD USE MANAGEMENT) ACT 1995**

**pt hdg** ins 1998 No. 33 s 24(1)

**Reference provisions operate only after repeal of relevant Act**

**s 172** (prev s 85A) ins 1995 No. 58 s 4 sch 1  
amd 1999 No. 42 s 54(2) sch s 189  
renum 1999 No. 42 s 54(2) sch s 191

**Carriage of Dangerous Goods by Road Act 1984 references**

**s 173** (prev s 86) amd 1995 No. 58 s 4 sch 1  
renum 1999 No. 42 s 54(2) sch s 191

**Main Roads Act 1920 references**

**s 174** (prev s 87) amd 1995 No. 58 s 4 sch 1  
renum 1999 No. 42 s 54(2) sch s 191

**Motor Vehicles Control Act 1975 references**

**s 175** (prev s 88) amd 1995 No. 58 s 4 sch 1  
renum 1999 No. 42 s 54(2) sch s 191

**Motor Vehicles Safety Act 1980 references**

**s 176** (prev s 89) amd 1995 No. 58 s 4 sch 1  
renum 1999 No. 42 s 54(2) sch s 191

**State Transport Act 1960 references**

**s 177** (prev s 90) amd 1995 No. 58 s 4 sch 1  
renum 1999 No. 42 s 54(2) sch s 191

**Transport Infrastructure (Roads) Act 1991 references**

**s 178** (prev s 91) amd 1995 No. 58 s 4 sch 1  
renum 1999 No. 42 s 54(2) sch s 191

**Transitional provisions for Motor Vehicle Driving Instruction School Act 1969**

**s 179** (prev s 92B) ins 1997 No. 66 s 132  
renum 1999 No. 42 s 54(2) sch s 191

**Exemption of regulations from expiry**

**s 181** (prev s 93A) prev s 181 ins 1997 No. 66 s 133  
exp 1 January 1999 (see s 93A(2))  
pres s 181 ins 1999 No. 29 s 50 sch  
amd 1999 No. 42 s 54(2) sch s 190

*Transport Operations (Road Use Management) Act  
1995*

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renum 1999 No. 42 s 54(2) sch s 191  
om 2004 No. 53 s 2 sch

**PART 2—TRANSITIONAL PROVISIONS FOR TRANSPORT LEGISLATION  
AMENDMENT ACT 1998**

**pt hdg** ins 1998 No. 33 s 24(2)

**Transitional provisions for Motor Vehicles Control Act 1975 about local laws**

**s 182** (prev s 94) prev s 182 ins 1995 No. 32 s 23 sch  
exp 14 June 1994 (see s 94(4))  
AIA s 20A applies (see s 94(3) as ins 1995 No. 32 s 23 sch)  
pres s 182 ins 1998 No. 33 s 24(2)  
renum 1999 No. 42 s 54(2) sch s 193

**Transport Infrastructure (Roads) Regulation 1991**

**s 183** (prev s 95) ins 1998 No. 33 s 24(2)  
renum 1999 No. 42 s 54(2) sch s 193

**Carriage of Dangerous Goods by Road Regulation 1989—transition of approvals**

**s 184** (prev s 96) ins 1998 No. 33 s 24(3)  
renum 1999 No. 42 s 54(2) sch s 193

**Carriage of Dangerous Goods by Road Act 1984—exemptions**

**s 185** (prev s 97) ins 1998 No. 33 s 24(4)  
amd 1999 No. 42 s 54(2) sch s 192  
renum 1999 No. 42 s 54(2) sch s 193

**PART 3—TRANSITIONAL PROVISIONS FOR ROAD TRANSPORT REFORM  
ACT 1999**

**pt hdg** ins 1999 No. 42 s 52

**Definitions for pt 3**

**s 186** ins 1999 No. 42 s 52  
def “**Traffic Act**” amd 2000 No. 6 s 78 sch s 18

**Relocation of Traffic Act provisions**

**s 187** ins 1999 No. 42 s 52

**Person’s traffic history**

**s 188** ins 1999 No. 42 s 52

**Licence references**

**s 189** ins 1999 No. 42 s 52

**Traffic Regulation 1962**

**s 190** ins 1999 No. 42 s 52

**Acts or authorities under Traffic Act continue under this Act**

**s 191** ins 1999 No. 42 s 52

**Fees**

**s 192** ins 1999 No. 42 s 52

**Application of Acts Interpretation Act, s 20**

**s 193** ins 1999 No. 42 s 52

**Wheeled recreational devices and wheeled toys**

**s 194** ins 2000 No. 6 s 78 sch s 19

**PART 4—TRANSITIONAL PROVISIONS FOR TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) AMENDMENT ACT 2002**

**pt 4** (ss 195–196) ins 2002 No. 4 s 5(2)

**PART 5—TRANSITIONAL PROVISIONS FOR TRANSPORT LEGISLATION AMENDMENT ACT (No. 2) 2002**

**pt 5** (s 197) ins 2002 No. 71 s 26

**PART 6—TRANSITIONAL PROVISIONS FOR THE TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) AND ANOTHER ACT AMENDMENT ACT 2003**

**pt 6** (s 198) ins 2003 No. 69 s 12

**PART 7—TRANSITIONAL PROVISIONS FOR THE TRANSPORT LEGISLATION AMENDMENT ACT 2005**

**pt hdg** ins 2005 No. 49 s 71

**Transitional provision for offences against s 85**

**s 199** ins 2005 No. 49 s 71

**Transitional provision for evidentiary certificates under s 124**

**s 200** ins 2005 No. 49 s 71

**Transitional provision for s 129B**

**s 201** ins 2005 No. 49 s 71

**Transitional regulation-making power**

**s 202** ins 2005 No. 49 s 71  
exp 2 November 2010 (see s 202(3))

**Transitional power for authorised schemes and crossing supervisors**

**s 203** ins 2005 No. 49 s 71

**PART 8—TRANSITIONAL PROVISIONS FOR MARITIME AND OTHER LEGISLATION AMENDMENT ACT 2006**

**pt hdg** ins 2006 No. 21 s 146

**Transitional provision for ss 79B–79D**

**s 204** ins 2006 No. 21 s 146

**SCHEDULE 1—DISQUALIFYING OFFENCES—APPROVALS**

**sch hdg** sub 1999 No. 42 s 54(2) sch s 194

**sch 1** prev sch 1 amd 1995 No. 9 s 94 (as ins 1995 No. 32 s 23 sch)  
om R1 (see RA s 40)  
pres sch 1 ins 1997 No. 66 s 134  
amd 1999 No. 18 s 6 sch; 1999 No. 42 s 37  
om 2001 No. 79 s 114

**SCHEDULE 2—DISQUALIFYING OFFENCES UNDER THE CRIMINAL CODE—CROSSING SUPERVISORS**

prev sch 2 amd R1 (see RA s 40); 1995 No. 9 s 93(7); 1995 No. 57 s 4 sch 2  
om 1999 No. 42 s 54(2) sch s 195

pres sch 2 (prev 1949 13 Geo 6 No. 26 sch 2) ins 1999 No. 42 s 25  
 amd 1999 No. 42 s 54(1) sch s 166  
 reloc 1999 No. 42 s 54(1) sch s 167  
 amd 2003 No. 19 s 3 sch  
 sub 2005 No. 49 s 72

### **SCHEDULE 3—REVIEWABLE DECISIONS**

(prev sch 2A) ins 1997 No. 66 s 135  
 amd 1998 No. 33 s 25  
 renum 1999 No. 42 s 54(2) sch s 202  
 amd 2004 No. 9 s 69; 2005 No. 49 s 73

### **SCHEDULE 4—DICTIONARY**

(prev sch 3) renum 1999 No. 42 s 54(2) sch s 202  
 def “**address**” (prev 1949 13 Geo 6 No. 26 s 9) amd 1961 10 Eliz 2 No. 27 s 4(a)–(b)  
 reloc 1999 No. 42 s 54(1) sch s 20  
 amd 2001 No. 45 s 29 sch 2  
 def “**air cushion vehicle**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1971 No. 33 s 4(a)  
 reloc 1999 No. 42 s 54(1) sch s 20  
 def “**analyst**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1968 No. 22 s 4(a)  
 reloc 1999 No. 42 s 54(1) sch s 20  
 sub 2001 No. 78 s 237 sch 4  
 def “**animal**” (prev 1949 13 Geo 6 No. 26 s 9, def) sub 1961 10 Eliz 2 No. 27 s 4(c)  
 reloc 1999 No. 42 s 54(1) sch s 20  
 def “**applicant**” ins 2005 No. 49 s 74(2)  
 def “**approval**” ins 1997 No. 66 s 136(2)  
 def “**approved form**” sub 1997 No. 66 s 136(1)–(2)  
 amd 1999 No. 42 s 54(2) s 198  
 def “**arrest**” (prev 1949 13 Geo 6 No. 26 s 9, def) amd 1999 No. 42 s 4(3)  
 reloc 1999 No. 42 s 54(1) sch s 20  
 def “**articulated motor vehicle**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1990 No. 103 s 2.4(a)  
 reloc 1999 No. 42 s 54(1) sch s 20  
 def “**Australian court**” ins 1999 No. 42 s 53  
 def “**Australian driver licence**” ins 1999 No. 42 s 53  
 def “**authorised scheme**” ins 2005 No. 49 s 74(2)  
 def “**authority**” ins 2005 No. 49 s 74(2)  
 def “**B-double**” ins 1999 No. 42 s 38  
 def “**bicycle**” ins 1999 No. 42 s 53  
 sub 2005 No. 49 s 74  
 def “**breath analysing instrument**” prev def om 1999 No. 42 s 54(2) sch s 196  
 pres def ins 1999 No. 42 s 53  
 def “**bus**” ins 1999 No. 42 s 53

*Transport Operations (Road Use Management) Act  
1995*

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- def **“car”** (prev 1949 13 Geo 6 No. 26 s 9, def “motor car”) sub 1990 No. 103 s 2.4(k); 1994 No. 7 s 6(2)–(3)  
 amd 1999 No. 42 s 54(1) sch ss 12, 13  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“chassis number”** ins 2005 No. 49 s 74(2)
- def **“coin”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1956 5 Eliz 2 No. 26 s 5(ii)  
 sub 1990 No. 103 s 2.4(e); 1994 No. 7 s 6(2)–(3)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“combination”** ins 1999 No. 42 s 38
- def **“commercial vehicle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1968 No. 36 s 2(a)  
 amd 1994 No. 7 s 6(4)–(5), 1999 No. 42 s 54(1) sch ss 7–9  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“complaint”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“convicted”** ins 1997 No. 66 s 136(2)  
 om 1999 No. 42 s 54(2) sch s 196
- def **“convicting”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42 s 4(2)  
 reloc 1999 No. 42 s 54(1) sch s 20  
 amd 2002 No. 71 s 27(2)
- def **“corresponding document”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1994 No. 7 s 6(3)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“corresponding law”** prev def om 1999 No. 42 s 54(2) sch s 197  
 pres def ins 1999 No. 42 s 54(2) sch s 196
- def **“court”** (prev 1949 13 Geo 6 No. 26 s 9, def) sub 1968 No. 22 s 4(c)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“criminal history”** ins 2001 No. 79 s 115(2)  
 sub 2005 No. 49 s 74
- def **“crossing supervisor”** ins 2005 No. 49 s 74(2)
- def **“current driver licence receipt”** ins 1999 No. 42 s 53
- def **“dangerous goods”** ins 1997 No. 66 s 136(2)
- def **“dangerous situation”** ins 1997 No. 66 s 136(2)  
 sub 2001 No. 79 s 115(1)–(2)
- def **“dangerous situation notice”** ins 1997 No. 66 s 136(2)
- def **“declared road”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1965 No. 26 s 9(d)  
 sub 1994 No. 7 s 6(2)–(3)  
 reloc 1999 No. 42 s 54(1) sch s 20  
 amd 2001 No. 79 s 115(3)
- def **“designated parking space”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1992 No. 19 s 2  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“disqualifying offence”** ins 1997 No. 66 s 136(2)  
 amd 1999 No. 42 s 54(2) sch ss 199–201; 2001 No. 79 s 115(4)  
 sub 2005 No. 49 s 74

*Transport Operations (Road Use Management) Act  
1995*

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- def **“doctor”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42 s 4(2)  
 reloc 1999 No. 42 s 54(1) sch s 20  
 amd 2004 No. 53 s 2 sch; 2005 No. 10 s 50 sch (amdt could not be given effect)
- def **“driver”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“driver licence”** ins 1999 No. 42 s 53
- def **“drug”** (prev 1949 13 Geo 6 No. 26 s 9, def) amd 1961 10 Eliz 2 No. 27 s 4(e); 1994 No. 7 s 6(6)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“engine number”** ins 2005 No. 49 s 74(2)
- def **“escort vehicle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42 s 4(2)  
 amd 1999 No. 42 s 54(1) sch s 10  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“escort vehicle driver”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42 s 4(2)  
 amd 1999 No. 42 s 54(1) sch s 11  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“executive officer”** ins 1997 No. 66 s 136(2)
- def **“fixed hours”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1956 5 Eliz 2 No. 26 s 5(iii)  
 sub 1965 No. 26 s 9(e)  
 amd 1961 10 Eliz 2 No. 27 s 4(f)  
 sub 1992 No. 19 s 2  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“footpath”** ins 1999 No. 42 s 53
- def **“foreign driver licence”** ins 1999 No. 42 s 53
- def **“for sale”** ins 1997 No. 66 s 136(2)
- def **“general alcohol limit”** ins 2003 No. 69 s 13
- def **“goods”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“government entity”** ins 1997 No. 66 s 136(2)
- def **“grievous bodily harm”** ins 1997 No. 66 s 136(2)
- def **“GVM”** amd 1995 No. 48 s 16
- def **“heavy vehicle”** sub 1997 No. 66 s 136(1)–(2)
- def **“high alcohol limit”** ins 2003 No. 69 s 13
- def **“holder”** ins 1997 No. 66 s 136(2)
- def **“horse”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1956 5 Eliz 2 No. 26 s 5(iv)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“identifying number”** ins 2005 No. 49 s 74(2)
- def **“indication”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1994 No. 7 s 6(3)  
 amd 1997 No. 66 s 16(3)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“interstate licence”** ins 2002 No. 71 s 27(1)
- def **“interstate scheme”** sub 1998 No. 33 s 26
- def **“learner licence”** ins 1999 No. 42 s 53
- def **“left”** ins 1999 No. 42 s 53

- def **“liquor”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“loading zone”** ins 1999 No. 42 s 53
- def **“metered space”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1956 5 Eliz 2 No. 26 s 5(v)  
sub 1965 No. 26 s 9(h)  
amd 1971 No. 33 s 4(c)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“motorbike”** ins 1999 No. 42 s 53
- def **“MUTCD”** prev def om 1999 No. 42 s 54(2) sch s 197  
pres def ins 1999 No. 42 s 54(2) sch s 196  
sub 2001 No. 79 s 115(1)–(2)
- def **“no alcohol limit”** ins 2003 No. 69 s 13
- def **“non-Queensland driver licence”** ins 2002 No. 71 s 27(1)
- def **“officer in charge of a police station”** (prev 1949 13 Geo 6 No. 26 s 9)  
sub 1994 No. 7 s 6(2)–(3)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“official traffic sign”** prev def om 1999 No. 42 s 54(2) sch s 197  
pres def ins 1999 No. 42 s 54(2) sch s 196  
sub 2001 No. 79 s 115(1)–(2)
- def **“off-street regulated parking area”** (prev 1949 13 Geo 6 No. 26 s 9) ins 1971 No. 33 s 4(d)  
amd 1994 No. 7 s 6(9)  
sub 1999 No. 42 s 14(1)–(2)  
amd 1999 No. 42 s 54(1) sch s 14  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“open licence”** ins 1999 No. 42 s 53
- def **“operator”** sub 1998 No. 33 s 26
- def **“oversize vehicle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42 s 4(2)  
amd 1999 No. 42 s 54(1) sch s 15  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“owner”** amd 1997 No. 66 s 136(3)
- def **“paid parking”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1992 No. 19 s 2  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“park”** ins 1999 No. 42 s 53
- def **“parkatarea”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1961 10 Eliz 2 No. 27 s 4(j)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“parkatarea space”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1961 10 Eliz 2 No. 27 s 4(j)  
sub 1965 No. 26 s 9(m)  
amd 1971 No. 33 s 4(e)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“parking bay”** ins 1999 No. 42 s 53
- def **“parking meter”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1956 5 Eliz 2 No. 26 s 5(vi)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“parking permit for people with disabilities”** ins 1999 No. 42 s 53

*Transport Operations (Road Use Management) Act  
1995*

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- def **“passenger”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“pedestrian”** ins 1999 No. 42 s 53
- def **“people with disabilities symbol”** ins 1999 No. 42 s 53
- def **“permit”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“pilot vehicle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42 s 4(2)  
amd 1999 No. 42 s 54(1) sch s 16  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“pilot vehicle driver”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42 s 4(2)  
amd 1999 No. 42 s 54(1) sch s 17  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“police station”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1968 No. 22 s 4(e)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“power-assisted bicycle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1997 No. 66 s 16(2)  
reloc 1999 No. 42 s 54(1) sch s 20  
om 2005 No. 49 s 74(1)
- def **“power-assisted cycle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1997 No. 66 s 16(2)  
reloc 1999 No. 42 s 54(1) sch s 20  
om 2005 No. 49 s 74(1)
- def **“power-assisted tricycle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1997 No. 66 s 16(2)  
reloc 1999 No. 42 s 54(1) sch s 20  
om 2005 No. 49 s 74(1)
- def **“power source”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1997 No. 66 s 16(2)  
reloc 1999 No. 42 s 54(1) sch s 20  
om 2005 No. 49 s 74(1)
- def **“prevent”** ins 1997 No. 66 s 136(2)
- def **“previously convicted”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42 s 4(2)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“prime mover”** ins 1999 No. 42 s 38
- def **“probationary licence”** ins 1999 No. 42 s 53
- def **“proposed action”** ins 2005 No. 49 s 74(2)
- def **“provisional licence”** ins 1999 No. 42 s 53  
sub 2007 No. 6 s 53(2)
- def **“public place”** ins 1997 No. 66 s 136(2)
- def **“Queensland driver licence”** ins 1999 No. 42 s 53
- def **“railway”** (prev 1949 13 Geo 6 No. 26 s 9, def) amd 1990 No. 103 s 2.4(q)  
sub 1994 No. 7 s 6(2)–(3)  
amd 1999 No. 42 s 54(1) sch s 18

*Transport Operations (Road Use Management) Act  
1995*

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- reloc 1999 No. 42 s 54(1) sch s 20  
 amd 1999 No. 51 s 228 sch 1 (amd 2000 No. 25 s 3(1) sch 1)
- def **“registered operator”** ins 2000 No. 6 s 78 sch s 20
- def **“regulated parking”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1965 No. 26 s 9(n)  
 amd 1971 No. 33 s 4(f)  
 sub 1994 No. 7 s 6(2)–(3)  
 amd 1999 No. 42 s 54(1) sch s 19  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“remedial action notice”** ins 1997 No. 66 s 136(2)
- def **“restricted licence”** ins 1999 No. 42 s 53
- def **“reviewed decision”** ins 1997 No. 66 s 136(2)
- def **“right”** ins 1999 No. 42 s 53
- def **“road”** prev def om 1999 No. 42 s 54(2) sch s 196  
 pres def ins 1999 No. 42 s 53  
 amd 2001 No. 79 s 115(5)–(6)
- def **“roadside vending”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1994 No. 7 s 6(3)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“road train”** ins 1999 No. 42 s 38
- def **“semitrailer”** ins 1999 No. 42 s 38
- def **“stop”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“superintendent”** ins 1999 No. 42 s 53
- def **“superintendent of traffic”** ins 1999 No. 42 s 53
- def **“tare”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“traffic”** (prev 1949 13 Geo 6 No. 26 s 9, def) amd 1971 No. 33 s 4(g)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“traffic area”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1961 10 Eliz 2 No. 27 s 4(p)  
 amd 1965 No. 26 s 9(o); 1971 No. 33 s 4(h)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“traffic history”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1994 No. 7 s 6(3)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“train”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“tram”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“tramcar”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“transport”** ins 1997 No. 66 s 136(2)
- def **“transport Act”** amd 1996 No. 53 s 12
- def **“tricycle”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“truck”** ins 1999 No. 42 s 53
- def **“vessel”** (prev 1949 13 Geo 6 No. 26 s 9, def) amd 1977 No. 26 s 2  
 reloc 1999 No. 42 s 54(1) sch s 20

def “**VIN**” ins 2005 No. 49 s 74(2)  
 def “**wheelchair**” ins 1999 No. 42 s 53  
 def “**wheeled recreational device**” ins 2000 No. 6 s 78 sch s 20  
 sub 2005 No. 49 s 74  
 def “**wheeled toy**” ins 2000 No. 6 s 78 sch s 20

## **8 List of forms notified or published in the gazette**

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

**Form 3 Version 3—Guideline for Livestock Loading in Queensland**  
 pubd gaz 7 April 2006 p 1370

**Form 5—Guideline for 14.6m long and 4.6m high semitrailers in Queensland**  
 pubd gaz 7 April 2006 p 1370

**Form 10 Version 3—Guideline for Higher Mass Limits for Vehicles with Road Friendly Suspensions in Queensland**  
 pubd gaz 29 September 2006 p 480

**Form 11 Version 1—Guideline for Operation of Excess Mass Special Purpose Vehicles to 40 tonnes and Vehicles Carrying an Indivisible Item to 49.5 tonnes**  
 pubd gaz 1 September 2006 p 80

**Form 16 Version 2—Guideline for Transporting Cotton Modules in Queensland**  
 pubd gaz 9 February 2007 p 646

**Form 18 Version 1—Guideline for Motor Truck and Dog Trailer combinations up to 50 tonnes total mass in Queensland**  
 pubd gaz 7 April 2006 p 1370

**Form 19 Version 1—Guideline for 14.9m long refrigerated trailers in Queensland**  
 pubd gaz 18 August 2006 p 1817

**Form 20 Version 1—Guideline for increased Front Steer Axle Mass in Queensland**  
 pubd gaz 9 March 2007 p 1103

**Form F1 Version 4 July 2001—Guidelines for Multi-combination Vehicles**  
 pubd gaz 22 June 2001 p 699

**Form F4 Version 2.2—Guideline for Excess Dimension Vehicles Carrying Indivisible Articles, Special Purpose Vehicles in Queensland**  
 pub gaz 12 December 2003 p 1199

**Form F6 Version 1—Performance Guideline for Excess Dimension Special Purpose Vehicles and Vehicles Carrying Indivisible Articles Requiring Pilots/Escorts**  
 pubd gaz 14 September 2001 pp 132–3

- Form F7 Version 2—Performance Guideline for Pilot and Escort Vehicles and Drivers**  
pubd gaz 14 September 2001 pp 132–3
- Form F8 Version 2—Performance Guidelines for “The Use of a Wheelchair Carrier”**  
pubd gaz 12 November 1999 p 1001
- Form F9 Version 1—Performance Guidelines for Queensland Street Rods**  
pubd gaz 14 September 2001 pp 132–3
- Form F10 Version 2—Performance Guideline for Higher Mass Limits for Vehicles with Road Friendly Suspensions**  
pubd gaz 3 January 2003 p 19
- Form F12 Version 1—Performance Guidelines for “School Bus Lights and Signs utilised by school buses required to cross the Queensland/New South Wales border”**  
pubd gaz 30 June 2000 p 718
- Form F13 August 1998—National Driver Log Book**  
pubd gaz 31 July 1998 p 1581
- Form F14 Version 1.3—Guideline for Excess Dimension Agricultural Vehicles and Combinations Vehicles and Drivers**  
pubd gaz 17 April 2003 p 1381
- Form F17 Version 1—Guideline for Conditionally Registered Vehicles**  
pubd gaz 4 April 2003 p 1185
- Form F18 Version 1—Traffic Controller Accreditation Scheme Approved Procedure**  
pub gaz 12 September 2003 p 124
- Form F1267 Version January 2006—Dealer/Trailer Trade Plate Application**  
pubd gaz 2 March 2007 p 981
- Form F1310 Version March 2003—Transfer of Registration—Vehicle Acquisition by a Licensed Dealer**  
pubd gaz 9 May 2003 p 114
- Form F1501 Version February 2003—Prosecution Unit Infringement Notice—First and Final Notice**  
pub gaz 29 August 2003 pp 1433–4
- Form F1501ES Version November 2000—Infringement notice (offence management unit)—first and final notice**  
pubd gaz 24 November 2000 p 1181
- Form F1785—Towing Authority Forms**  
pubd gaz 14 September 2001 pp 132–3
- Form F1853—Certificate of Modification**  
pubd gaz 14 September 2001 pp 132–3
- Form F1855—Approved Person’s Application**  
pubd gaz 14 September 2001 pp 132–3

**Form F1947—Certificate of Inspection**

pubd gaz 14 September 2001 pp 132–3

**Form F2121 Version January 2003—Driver Record Information Request**

pub gaz 29 August 2003 pp 1433–4

**Form F2161—Specialist Driver’s/Assistant’s Application**

pubd gaz 14 September 2001 pp 132–3

**Form F2259—Business Licence/Registration Application**

pubd gaz 14 September 2001 pp 132–3

**Form F2260—Business Licence/Registration/Owner’s Renewal**

pubd gaz 14 September 2001 pp 132–3

**Form F2261—Specialist Driver’s/Assistant’s Renewal**

pubd gaz 14 September 2001 pp 132–3

**Form F2336 Version July 2002—Seasonal Registration Application**

pubd gaz 9 May 2003 p 114

**Form F2421 Version March 2003—Notice of Appeal against Suspension of a Driver Licence**

pub gaz 29 August 2003 pp 1433–4

**Form F2456 Version July 2002—Application for an Order directing the issue of a Restricted Licence**

pub gaz 29 August 2003 pp 1433–4

**Form F2487 Version June 2002—Medical Exemption from providing Specimen of Breath**

pub gaz 29 August 2003 pp 1433–4

**Form F2498—Safety Certificate, Cars or Light Commercial Vehicles**

pubd gaz 14 September 2001 pp 132–3

**Form F2499—Safety Certificate, Caravans and Trailers**

pubd gaz 14 September 2001 pp 132–3

**Form F2500—Safety Certificate, Motorcycle**

pubd gaz 14 September 2001 pp 132–3

**Form F2639 Version February 2000—Application for exemption from holding a learner licence for six months**

pubd gaz 24 November 2000 pp 1179–80

**Form F2869 Version August 2002—Defective Vehicle Notice**

pubd gaz 21 February 2003 p 618

**Form F2877—Seized Documents/Items Receipt**

pubd gaz 14 September 2001 pp 132–3

**Form F2963 Version July 2004—Personalised Number Plate/s Transfer Application**

pubd gaz 4 February 2005 p 355

- Form F2964 Version February 2007—Remove and/or Attach Personalised Number Plates Application**  
pubd gaz 2 March 2007 p 981
- Form F2981 Version July 2002—Application for a Reconsideration of a Decision of the Chief Executive**  
pub gaz 29 August 2003 pp 1433–4
- Form F3000 Version July 2005—Driver Licence Application/Renewal (Learner, P Type and Open licence)**  
pub gaz 9 September 2005 p 141
- Form F3006 Version July 2002—Replacement Licence Application**  
pub gaz 29 August 2003 pp 1433–4
- Form F3113/PT56 Version August 2000—Infringement Notice—First and Final Notice**  
pubd gaz 24 November 2000 p 1181
- Form F3135 Version January 1996—Cancellation of Vehicle Registration Application—Electronic**  
pubd gaz 22 March 1996 p 1334
- Form F3136 Version January 1996—Replacement Standard Plates Application—Electronic**  
pubd gaz 22 March 1996 p 1334
- Form F3138 Version January 1996—Vehicle Registration Transfer Application—Electronic**  
pubd gaz 22 March 1996 p 1334
- Form F3139 Version January 1996—Vehicle Registration Application—(Less than 4 tonne GVM)—Electronic**  
pubd gaz 22 March 1996 p 1334
- Form F3162 July 1997—Prohibition Notice**  
pubd gaz 1 August 1997 p 1551
- Form F3178 Version January 1996—Remove Personalised/Customised Number Plates Application—Electronic**  
pubd gaz 22 March 1996 p 1334
- Form F3179 Version January 1996—transfer of Registration—Vehicle Acquisition by a Licensed Dealer—Electronic**  
pubd gaz 22 March 1996 p 1334
- Form F3181 Version May 2005—Application for an Order directing the issue of a Restricted Licence**  
pub gaz 9 September 2005 p 141
- Form F3182 Version August 2002—Application for an Order Varying Restrictions on a Restricted Licence**  
pub gaz 29 August 2003 pp 1433–4

- Form F3196 Version January 1996—Motorcycle registration Application—Electronic**  
pubd gaz 22 March 1996 p 1334
- Form F3197 Version January 1996—Attach Personalised/Customised Number Plates Application—Electronic**  
pubd gaz 22 March 1996 p 1334
- Form F3272 Version October 2002—Multi-Combination Driving Experience Declaration**  
pubd gaz 3 October 2003 p 379
- Form F32869 Version December 2004—Defective Vehicle Notice**  
pubd gaz 11 February 2005 p 512
- Form F3331 Version June 1996—Seniors Card Concessional Registration Application—for Motor Vehicles (electronic)**  
pubd gaz 20 September 1996 p 253
- Form F3332 Version June 1996—Federal Interstate Vehicle Registration Scheme—(electronic)**  
pubd gaz 20 September 1996 p 253
- Form F3333 Version June 1996—Vehicle Registration Application—(more than 4 tonne GVM) Electronic**  
pubd gaz 20 September 1996 p 253
- Form F3470 Version November 2002—Defect Notice (Road Patrol)-Online**  
pubd gaz 9 March 2007 p 1103
- Form F3471 Version August 1997—Certificate of Inspection/Exemption**  
pubd gaz 9 March 2007 p 1103
- Form F3516 Version August 2002—Vehicle/Recreational Ship Registration Certificate and/or Label Replacement Application**  
pubd gaz 2 March 2007 p 981
- Form F3517 Version February 2007—Vehicle/Recreational Ship Cancellation of Registration Application**  
pubd gaz 2 March 2007 p 981
- Form F3518 Version April 2006—Vehicle Registration Application**  
pubd gaz 2 March 2007 p 981
- Form F3520 Version April 2006—Vehicle Registration Transfer Application**  
pubd gaz 2 March 2007 p 981
- Form F3522 Version February 2005—Release of Information Request for Vehicle/Recreational Ship Registration Records**  
pubd gaz 2 March 2007 p 981
- Form F3523 Version July 2002—Unregistered Vehicle Permit Application**  
pubd gaz 16 May 2003 p 209
- Form F3525 Version May 2006—Recreational Ship Registration Application**  
pubd gaz 2 March 2007 p 981

- Form F3534 Version March 2003—Coloured Personalised Number Plate/s Application**  
pubd gaz 16 May 2003 p 209
- Form F3535 Version June 2004—Prestige Number Plate/s Application**  
pubd gaz 4 February 2005 p 355
- Form F3536 Version July 2004—Customised Number Plate/s Application**  
pubd gaz 4 February 2005 p 355
- Form F3537 Version June 2004—Business/Club Number Plate/s Application**  
pubd gaz 4 February 2005 p 355
- Form F3538 Version July 2004—Traditional Number Plate/s Application**  
pubd gaz 4 February 2005 p 355
- Form F3542 Version July 2004—Personalised Plate/s Replacement Application**  
pubd gaz 4 February 2005 p 355
- Form F3570 Version December 2003—Requirement to present vehicle for inspection (QT inspection)**  
pubd gaz 9 March 2007 p 1103
- Form F3632—Driver Prohibition Notice**  
pubd gaz 14 September 2001 pp 132–3
- Form F3712 Version July 2005—Medical Certificate for Motor Vehicle Driver**  
pub gaz 9 September 2005 p 141
- Form F3759 Version—September 2002—Special Need HC Licence Application**  
pubd gaz 3 October 2003 p 379
- Form F3815 Version April 2003—Conditional Vehicle Registration Application**  
pubd gaz 9 May 2003 p 114
- Form F3859 Version September 2002—Application for reconsideration of a Decision of the Chief Executive or Commissioner**  
pub gaz 29 August 2003 pp 1433–4
- Form F3908 Version March 2003—Theme Personalised Number Plate/s Application**  
pubd gaz 16 May 2003 p 209
- Form F3937 Version February 2007—Registration Concessional Application**  
pubd gaz 2 March 2007 p 981
- Form F3946 Version October 2005—Q-RIDE Registered Service Provider/Renewal Application**  
pubd gaz 9 December 2005 p 1343
- Form F3946ES June 2004—Q-RIDE Registered Service Provider Registration/Renewal Application**  
pubd gaz 16 July 2004 p 851
- Form F3948 Version May 2003—Application for Accreditation as Trainer (Driver or Rider)**  
pub gaz 29 August 2003 pp 1433–4

- Form F3980 Version September 2002—Application for Special Need-Class R Licence**  
pub gaz 29 August 2003 pp 1433–4
- Form F3996 Version July 2001—Code of Conduct for an accredited driver trainer  
and accredited rider trainer**  
pubd gaz 13 July 2001 p 1032
- Form F3997 Version October 2002—Registered Service Provider Standards for  
providing Q-RIDE training**  
pubd gaz 1 November 2002 p 755
- Form F3998 Version July 2001—Competency Standards for a learner undertaking  
Q-RIDE training**  
pubd gaz 13 July 2001 p 1032
- Form F3999 Version October 2005—Q-RIDE Certificate—Competency Declaration  
for Q-RIDE Training**  
pubd gaz 9 December 2005 p 1343
- Form F4053 Version April 2003—Written-off Vehicle Notification (Industry)**  
pubd gaz 9 May 2003 p 114
- Form F4054 Version April 2003—Written-off Vehicle Correction Advice**  
pubd gaz 9 May 2003 p 114
- Form F4055 Version March 2003—Written-off Vehicle Notification  
(Dismantler—Statutory write-off)**  
pubd gaz 9 May 2003 p 114
- Form F4057 Version January 2003—Written-off Vehicle Inspection Checklist**  
pubd gaz 2 March 2007 p 982
- Form F4058 Version April 2003—Written-off Vehicle Notifier  
Registration/Amendment Application**  
pubd gaz 9 May 2003 p 114
- Form F4069 Version June 2003—Written-off Vehicle Notification (Motor Vehicle and  
Motorbike—individual)**  
pubd gaz 2 March 2007 p 982
- Form F4070 Version March 2003—Written-off Vehicle Notification (Caravan and  
Trailer—individual)**  
pubd gaz 9 May 2003 p 114
- Form F4072 Version September 2002—Written-off Vehicle Inspection Application  
for Nominee or Examiner**  
pubd gaz 20 September 2002 p 243
- Form F4073 Version September 2002—Written-off Vehicle Inspection Application  
for Approval of Site**  
pubd gaz 20 September 2002 p 243
- Form F4104 Version December 2006—Conditional Vehicle Registration Transfer  
Application**  
pubd gaz 2 March 2007 p 981

- Form F4115 Version June 2006—Traffic Controller Accreditation Application**  
pubd gaz 23 June 2006 p 895
- Form F4355 Version February 2006—Medical Condition Notification**  
pubd gaz 24 February 2006 p 795
- Form F4358 Version February 2006—Drivers Licence Amendment Agreement**  
pubd gaz 24 February 2006 p 795
- Form F4394 Version 12/06—Notice of Suspension or Disqualification**  
pubd gaz 22 December 2006 p 1957
- Form F4395 Version 12/06—Section 79E Order Application**  
pubd gaz 22 December 2006 p 1957
- Form F4396 Version 12/06—Variation of Section 79E Order**  
pubd gaz 22 December 2006 p 1957
- Form PT56D Version 10 September 2002—Infringement Notice (Photographic  
Detection Device Offence)**  
pubd gaz 3 October 2003 p 379
- Form PT72 Version April 2002—Permit to drive (recently expired driver licence)**  
pubd gaz 5 April 2002 p 1299
- Driver Certification Manual**  
pubd gaz 14 September 2001 pp 132–3
- Heavy Vehicle Driver Log Book**  
pubd gaz 14 September 2001 pp 132–3
- Modification Plate (Heavy Vehicle)**  
pubd gaz 14 September 2001 pp 132–3
- Modification Plate (Motorcycle)**  
pubd gaz 14 September 2001 pp 132–3
- Q-RIDE Registered Service Provider Standards—Version 4**  
pubd gaz 15 December 2006 p 1861
- Q-RIDE Competency Standards—Version 5**  
pubd gaz 15 December 2006 p 1861