



Queensland

Transport Legislation and Another Act Amendment Act 2007

Act No. 6 of 2007



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Queensland

Transport Legislation and Another Act Amendment Act 2007

Act No. 6 of 2007

**An Act to amend particular Acts administered by the Minister
for Transport and Minister for Main Roads, and for other
purposes**

[Assented to 28 February 2007]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Transport Legislation and Another Act Amendment Act 2007*.

2 Commencement

This Act, other than the following provisions, commences on a date to be fixed by proclamation—

- part 9 heading
- part 9, division 1 heading
- section 48
- section 52
- section 53(2).

Part 1A Amendment of Criminal Code

2A Code amended in part 1A

This part amends the Criminal Code.

2B Amendment of s 328A (Dangerous operation of a vehicle)

Section 328A(5), definition *prescribed offence*, paragraph (c), after '(2),'—

insert—

'(2AA)',.

Part 2 Amendment of Maritime and Other Legislation Amendment Act 2006

3 Act amended in pt 2

This part amends the *Maritime and Other Legislation Amendment Act 2006*.

4 Amendment of s 91 (Insertion of new pt 15, divs 2–4 of Act No.14 of 1994)

Section 91, inserted section 202K(7), ‘section 202D(4)’—
omit, insert—
‘section 202D(6)’.

Part 3 Amendment of Police Powers and Responsibilities Act 2000

5 Act amended in pt 3

This part amends the *Police Powers and Responsibilities Act 2000*.

6 Amendment of s 60 (Stopping vehicles for prescribed purposes)

- (1) Section 60(3)(e) and (5), after ‘test’—
insert—
‘or saliva test’.
- (2) Section 60(5), examples, after ‘breath’—
insert—
‘or saliva’.

7 **Amendment of s 69A (Meaning of type 1 and type 2 vehicle related offences)**

Section 69A—

insert—

- ‘(4) A reference in subsection (2) to an offence against section 78(1) or 80(22D) of the Road Use Management Act does not include an offence relating to a suspension that could in law only be imposed because section 80 had been amended by the amendment.
- ‘(5) A reference in subsection (2) to an offence against section 80(5A) or (11) of the Road Use Management Act does not include an offence that in the circumstances could in law only be committed, or that the person could in law only be taken to be guilty of, because section 80 of the Road Use Management Act had been amended by the amendment.
- ‘(6) In this section—

amendment means the *Transport Legislation and Another Act Amendment Act 2007*, section 57.

Note for subsections (4) and (5)—

These subsections effectively exclude anything associated with saliva testing and saliva analysis under the Road Use Management Act from the operation of subsection (2).’.

8 **Amendment of sch 6 (Dictionary)**

Schedule 6—

insert—

‘***saliva analysis*** see the Road Use Management Act, section 80(1).

saliva test see the Road Use Management Act, section 80(1).’.

Part 4 **Amendment of Tow Truck Act 1973**

9 **Act amended in pt 4**

This part amends the *Tow Truck Act 1973*.

10 **Amendment of s 4 (Definitions)**

- (1) Section 4, ‘In this Act’—

omit, insert—

‘The dictionary in schedule 2 defines particular words used in this Act.’.

- (2) Section 4—

insert—

‘*driver licence* has the meaning given by the *Transport Operations (Road Use Management) Act 1995*, schedule 4.’.

- (3) Section 4, definition *disqualifying offence*, ‘paragraph (a)’—

omit, insert—

‘paragraph (b)’.

- (4) Section 4, definition *tow truck*, paragraph (a), at the end—

insert—

‘or’.

- (5) Section 4, definitions—

relocate to schedule 2, as inserted by this Act.

11 **Amendment of s 4A (Further provision for definition *motor vehicle*)**

Section 4A, ‘section 4’—

omit, insert—

‘schedule 2’.

12 Amendment of s 4C (Who is an appropriate person)

(1) Section 4C(1)(d)(iii)—

omit.

(2) Section 4C(2), definition *criminal history*—

relocate to schedule 2, as inserted by this Act.

13 Amendment of s 6 (Application for licence)

Section 6(2)(a) and (b)—

omit, insert—

‘(a) if the applicant is an individual—the applicant’s criminal history; or

(b) if the applicant is a body corporate—the criminal history of every director, manager and public officer of the body corporate.’.

14 Amendment of s 14 (Application for driver’s or assistant’s certificate)

Section 14(2), ‘fame and character’—

omit, insert—

‘criminal history’.

15 Amendment of s 28 (Review of and appeals against decisions)

Section 28(1), ‘the schedule’—

omit, insert—

‘schedule 1’.

16 Insertion of new ss 36–36C

After section 35—

insert—

‘36 Chief executive’s notification to commissioner of the police service about a person

‘Without limiting sections 6(2) and 14(2), the chief executive’s notification to the commissioner of the police service may include the following information—

- (a) the person’s name and any other name the chief executive believes the person may use or may have used;
- (b) the person’s gender and date and place of birth;
- (c) details of the person’s licence, driver licence, driver’s certificate or assistant’s certificate.

‘36A Notice of change in police information about a person

‘(1) This section applies if—

- (a) the commissioner of the police service reasonably suspects a person is the holder of—
 - (i) a licence; or
 - (ii) a driver’s certificate; or
 - (iii) an assistant’s certificate; and
- (b) the person’s criminal history changes.

‘(2) The commissioner may notify the chief executive that the person’s criminal history has changed.

‘(3) The commissioner’s notice to the chief executive must state the following—

- (a) the person’s name and any other name the commissioner believes the person may use or may have used;
- (b) the person’s gender and date and place of birth;
- (c) whether the change is—
 - (i) a charge made against the person for an offence; or
 - (ii) a conviction of the person;
- (d) details of the charge or conviction.

‘36B Chief executive may enter into arrangement about giving and receiving information with commissioner of the police service

- ‘(1) This section applies only to the extent another provision of this Act allows the chief executive to give information to the commissioner of the police service or the commissioner to give information to the chief executive.
- ‘(2) The chief executive and the commissioner may enter into a written arrangement by which the information is given or received.
- ‘(3) Without limiting subsection (2), the arrangement may provide for the electronic transfer of information, including on a daily basis.
- ‘(4) However, if information is to be electronically transferred and, under this Act, there is a limitation on who may access the information or the purposes for which the information may be used, the arrangement must provide for the limitation.

‘36C Confidentiality

- ‘(1) A person must not disclose, record or use information 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) in a proceeding before a court or tribunal 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.’.

17 **Amendment of schedule (Reviewable decisions)**

Schedule—

renumber as schedule 1.

18 **Insertion of new sch 2**

After schedule 1—

insert—

‘Schedule 2 Dictionary

section 4’.

Part 5 Amendment of Transport Infrastructure Act 1994

19 **Act amended in pt 5 and sch 1**

This part and schedule 1 amend the *Transport Infrastructure Act 1994*.

20 **Insertion of new s 239AH**

Chapter 7, part 7, before section 239A—

insert—

‘239AH Definitions for pt 7

‘In this part—

registered interest means an interest registered in the leasehold land register, other than a mortgage.

unregistered right, in relation to land held under a lease or sublease, means a right to use the land that has not been registered or can not be registered in the leasehold land register.’.

21 Insertion of new ss 240A—240D

After section 240—

insert—

‘240A Registered interests in rail corridor land

- ‘(1) This section applies if—
- (a) a railway manager surrenders the railway manager’s sublease for a section of rail corridor land; and
 - (b) there is a registered interest in the railway manager’s sublease for that section of rail corridor land.
- ‘(2) After the surrender, the registered interest in the sublease continues on the same terms as a registered interest in the lease for the section of the non-rail corridor land, with the State as lessee substituted for the railway manager as a party to the registered interest.

Note—

By definition, rail corridor land becomes non-rail corridor land on surrender of the sublease.

- ‘(3) Subsection (2) applies despite the *Land Act 1994*, section 372.

‘240B Unregistered rights in rail corridor land

- ‘(1) This section applies if—
- (a) a railway manager surrenders the railway manager’s sublease for a section of rail corridor land; and
 - (b) there is an unregistered right in the railway manager’s sublease for that section of rail corridor land.

- ‘(2) At least 3 months before the railway manager intends to surrender the railway manager’s sublease for the section of rail corridor land, the railway manager must give the chief executive details of all unregistered rights in the railway manager’s sublease of rail corridor land for the section of land that is to be surrendered.
- ‘(3) After the surrender, an unregistered right in the railway manager’s sublease for that section of rail corridor land continues on the same terms as an unregistered right in the lease for the section of the non-rail corridor land, with the State as lessee substituted for the railway manager as a party to the unregistered right.
- ‘(4) The chief executive may at any time revoke an unregistered right that is continued under subsection (3) if the chief executive considers—
- (a) the use of the right would affect the safety or operational integrity of the land as a railway or would adversely affect another transport purpose; or
 - (b) the holder of the right has not complied with any conditions imposed on the right by the railway manager or the chief executive; or
 - (c) the right is being used in a way that is contrary to the provisions of—
 - (i) the perpetual lease of the land to the State; or
 - (ii) the *Land Act 1994*.
- ‘(5) A person whose interest is affected by the chief executive’s decision under subsection (4)(a) is entitled to be paid compensation by the State for the loss for the unexpired portion of the unregistered right, but only if—
- (a) the person had paid the railway manager for the unregistered right; or
 - (b) the person is the owner of land adjacent to the section of rail corridor land that has been surrendered and, as part of the acquisition agreement or settlement of that section of the rail corridor land from the person or a previous owner of the land, the unregistered right mentioned in subsection (3) was granted.

- ‘(6) The person is entitled to be paid, because of the revocation of the right, the reasonable compensation that is agreed between the person and the chief executive, or failing agreement, that is decided by a court.
- ‘(7) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of a debt equal to the amount of compensation claimed.
- ‘(8) Subsection (5) does not prevent an *ex gratia* payment from being made to a person under the *Financial Administration and Audit Act 1977*.

‘240C Lease of non-rail corridor land to railway manager

- ‘(1) This section applies if the chief executive subleases a section of non-rail corridor land to a railway manager.
- ‘(2) When the registrar of titles registers the sublease in the leasehold land register—
 - (a) the sublease is taken to be the next vested right to, or be next in priority to, the perpetual lease of the section of the land to the State; and
 - (b) the railway manager as sublessee is substituted for the State as a party to any lesser registered interest.
- ‘(3) Also, when the registrar of titles registers the sublease in the leasehold land register—
 - (a) the State’s rights and obligations in an unregistered right in the section of the land are taken to be vested in the railway manager as sublessee; and
 - (b) the railway manager is substituted for the State as a party to the unregistered right.
- ‘(4) Subsection (2) applies despite the *Property Law Act 1974*, section 115 and the *Land Act 1994*, section 298.

‘240D Lease of non-rail corridor land to local government or government entity

- ‘(1) This section applies if the chief executive subleases a section of non-rail corridor land to a local government or government entity that is not a railway manager.
- ‘(2) When the registrar of titles registers the sublease in the leasehold land register—
- (a) the sublease is taken to be the next vested right to, or be next in priority to, the perpetual lease of the section of the land to the State; and
 - (b) the local government or government entity as sublessee is substituted for the State as a party to any lesser registered interest.
- ‘(3) However, subsection (2) does not apply to a registered interest that was registered before the sublease is registered if, when the sublease is registered, a provision in the sublease states that subsection (2) does not apply to the registered interest.
- ‘(4) Also, when the registrar of titles registers the sublease in the leasehold land register—
- (a) the State’s rights and obligations in an unregistered right in the section of the land are taken to be vested in the local government or government entity as sublessee; and
 - (b) the local government or government entity is substituted for the State as a party to the unregistered right.
- ‘(5) Subsections (2) and (3) apply despite the *Property Law Act 1974*, section 115 and the *Land Act 1994*, section 298.’.

22 Replacement of s 247 (Integrated Planning Act consent for rail corridor land and non-rail corridor land)

Section 247—

omit, insert—

‘247 Chief executive taken to be owner of rail corridor land and non-rail corridor land for particular circumstances under Integrated Planning Act

- ‘(1) This section applies if, under the *Integrated Planning Act 1997*—
- (a) land that is rail corridor land or non-rail corridor land is to be designated for community infrastructure; or
 - (b) an application requires notice to be given to an owner of adjoining land and the land is rail corridor land or non-rail corridor land; or
 - (c) the consent of an owner of land that is rail corridor land or non-rail corridor land is otherwise required.
- ‘(2) For the purposes of the *Integrated Planning Act 1997*, the chief executive is taken to be the owner of the land that is rail corridor land or non-rail corridor land.’.

23 Amendment of s 253 (Extending roads through or over rail corridor land)

Section 253—

insert—

- ‘(3A) After the permission is granted—
- (a) the chief executive must immediately give a copy of the permission to the registrar of titles; and
 - (b) the registrar of titles must record the permission on the relevant lease of the rail corridor land to the State and any affected sublease in the leasehold land register.’.

24 Amendment of s 258A (Impact of change of management of local government road on railways)

- (1) Section 258A(5)—
omit.
- (2) Section 258A(6) and (7)—
renumber as section 258A(5) and (6).

25 Amendment of s 483 (Proceedings for offences)

Section 483—

insert—

- ‘(3) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant’s knowledge.’.

26 Amendment of sch 3 (Reviews and appeals)

Schedule 3—

insert—

- | | | |
|----------|--|----------------------------|
| ‘240B(4) | Decision of chief executive to revoke continued unregistered right in non-rail corridor land | Planning and Environment’. |
|----------|--|----------------------------|

27 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definition *non-rail corridor land*—

omit.

- (2) Schedule 6—

insert—

‘**leasehold land register** means the leasehold land register kept under the *Land Act 1994*, section 276(a).

non-rail corridor land means land leased to the State in perpetuity that was—

- (a) old QR land declared to be non-rail corridor land; or
- (b) rail corridor land for which the sublease previously granted to a railway manager has been surrendered.’.
- (3) Schedule 6, definition *new rail corridor land*, ‘leased’—
- omit, insert—*
- ‘subleased’.

Part 6 **Amendment of Transport Operations (Marine Pollution) Act 1995**

28 **Act amended in pt 6**

This part amends the *Transport Operations (Marine Pollution) Act 1995*.

29 **Amendment of s 126 (Limitation on time for starting summary proceedings)**

Section 126—

insert—

- ‘(2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant’s knowledge.’

Part 7 **Amendment of Transport Operations (Marine Safety) Act 1994**

30 **Act amended in pt 7**

This part amends the *Transport Operations (Marine Safety) Act 1994*.

31 **Amendment of s 199 (Limitation on time for starting summary proceedings)**

Section 199—

insert—

- ‘(2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant’s knowledge.’

32 Amendment of s 205A (Inquiries about person’s suitability to conduct examinations or conduct training programs)

- (1) Section 205A—

insert—

- ‘(1B) For subsection (1A), the chief executive’s or general manager’s request may include the following information—

- (a) the person’s name and any other name the chief executive or general manager believes the person may use or may have used;
- (b) the person’s gender and date and place of birth;
- (c) details of the person’s driver licence under the *Transport Operations (Road Use Management) Act 1995*;
- (d) details of the application for approval or approval of—
 - (i) the person; or
 - (ii) the corporation or unincorporated body for which the person is a nominee; or
 - (iii) the corporation of which the person is an executive officer.’

- (2) Section 205A(4)(c)—

omit, insert—

- ‘(c) in a proceeding before a court or tribunal in which the information is relevant.’

- (3) Section 205A(5), definition *criminal history*—

relocate to the schedule.

- (4) Section 205A(4) and (5)—

relocate and *renumber* as section 205AC(1) and (2).

33 Insertion of new ss 205AA and 205AB and 205AC hdg

After section 205A—

insert—

‘205AANotice of change in police information about a person

- ‘(1) This section applies if—
- (a) the commissioner of the police service reasonably suspects that a person is the holder, or is a nominee or an executive officer of an entity that is the holder, of an approval—
 - (i) to conduct examinations for issuing licences; or
 - (ii) to conduct training programs in the operation of ships; and
 - (b) the person’s criminal history changes.
- ‘(2) The commissioner may notify the chief executive or the general manager that the person’s criminal history has changed.
- ‘(3) The commissioner’s notice to the chief executive or general manager must state the following—
- (a) the person’s name and any other name the commissioner believes the person may use or may have used;
 - (b) the person’s gender and date and place of birth;
 - (c) whether the change is—
 - (i) a charge made against the person for an offence; or
 - (ii) a conviction of the person;
 - (d) details of the charge or conviction.

‘205ABChief executive or general manager may enter into arrangement about giving and receiving information with commissioner of the police service

- ‘(1) This section applies only to the extent another provision of this Act allows the chief executive or general manager to give information to the commissioner of the police service or the

commissioner to give information to the chief executive or the general manager.

- ‘(2) The chief executive and the commissioner, or the general manager and the commissioner, may enter into a written arrangement by which the information is given or received.
- ‘(3) Without limiting subsection (2), the arrangement may provide for the electronic transfer of information, including on a daily basis.
- ‘(4) However, if information is to be electronically transferred and, under this Act, there is a limitation on who may access the information or the purposes for which the information may be used, the arrangement must provide for the limitation.

‘205ACConfidentiality’.

Part 8 Amendment of Transport Operations (Passenger Transport) Act 1994

34 Act amended in pt 8

This part amends the *Transport Operations (Passenger Transport) Act 1994*.

35 Insertion of new s 4B

Chapter 1, after section 4A—
insert—

‘4B Reference to offence against provision of an Act that is a *disqualifying offence* or a *driver disqualifying offence*

- ‘(1) This section applies to any provision of this Act that defines a particular provision of an Act as a disqualifying offence or a driver disqualifying offence.

- ‘(2) The reference to the particular provision includes the provision as it existed at any time before it was made, even though it was amended from time to time and even though the provision had a different number from time to time.
- ‘(3) Subsection (2) does not limit the *Acts Interpretation Act 1954*, section 14H.’.

36 Amendment of s 20 (Amendment, suspension and cancellation of operator accreditation)

Section 20(3), ‘immediately to suspend’—

omit, insert—

‘to immediately suspend’.

37 Amendment of s 26 (Driver authorisation standards)

Section 26(b)—

omit, insert—

‘(b) include requirements about the medical fitness of applicants for, and holders of, driver authorisation; and’.

38 Amendment of s 32 (Amendment, suspension and cancellation of driver authorisations)

(1) Section 32(1A), after ‘amend’—

insert—

‘, including immediately amend,’.

(2) Section 32(3), ‘immediately to suspend’—

omit, insert—

‘to immediately suspend’.

39 Amendment of s 79 (Suspension and cancellation of taxi service licences)

Section 79(3), ‘to suspend immediately’—

omit, insert—

‘to immediately suspend’.

40 Amendment of s 91 (Suspension and cancellation of limousine service licences)

Section 91(3), ‘to suspend immediately’—

omit, insert—

‘to immediately suspend’.

41 Amendment of s 143AI (Direction not to be given in particular circumstances)

Section 143AI(b), ‘child’—

omit, insert—

‘student’.

42 Amendment of s 144 (Transport arrangements for pupils)

(1) Section 144, ‘pupils’—

omit, insert—

‘school students’.

(2) Section 144(2)(b), ‘pupils’ reasonable travel expenses’—

omit, insert—

‘the reasonable travel expenses of school students’.

43 Amendment of s 148 (Inquiries about person’s suitability to hold accreditation or authorisation)

(1) Section 148(2) and (3)—

renumber as section 148(4) and (5).

(2) Section 148(5), as renumbered, ‘(2)’—

omit, insert—

‘(4)’.

(3) Section 148—

insert—

‘(2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for a written report about a person’s criminal history.

‘(3) For subsection (2), the chief executive’s request may include the following information—

(a) the person’s name and any other name the chief executive believes the person may use or may have used;

(b) the person’s gender and date and place of birth;

(c) details of the person’s driver licence under the *Transport Operations (Road Use Management) Act 1995*;

(d) details of the person’s operator accreditation, driver authorisation or application for operator accreditation or driver authorisation.’.

44 Insertion of new ss 148A–148C

After section 148—

insert—

‘148A Notice of change in police information about a person

‘(1) This section applies if—

(a) the commissioner of the police service reasonably suspects a person holds operator accreditation or driver authorisation; and

(b) the person’s criminal history changes.

‘(2) The commissioner may notify the chief executive that the person’s criminal history has changed.

‘(3) The commissioner’s notice to the chief executive must state the following—

(a) the person’s name and any other name the commissioner believes the person may use or may have used;

(b) the person’s gender and date and place of birth;

- (c) whether the change is—
 - (i) a charge made against the person for an offence; or
 - (ii) a conviction of the person;
- (d) details of the charge or conviction.

‘148B Chief executive may enter into arrangement about giving and receiving information with commissioner of the police service

- ‘(1) This section applies only to the extent another provision of this Act allows the chief executive to give information to the commissioner of the police service or the commissioner to give information to the chief executive.
- ‘(2) The chief executive and the commissioner may enter into a written arrangement by which the information is given or received.
- ‘(3) Without limiting subsection (2), the arrangement may provide for the electronic transfer of information, including on a daily basis.
- ‘(4) However, if information is to be electronically transferred and, under this Act, there is a limitation on who may access the information or the purposes for which the information may be used, the arrangement must provide for the limitation.

‘148C Confidentiality

- ‘(1) A person must not disclose, record or use information 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) in a proceeding before a court or tribunal 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.’.

45 Insertion of new s 150A

After section 150—

insert—

‘150A Approval of forms

‘The chief executive may approve forms for use under this Act.’.

46 Amendment of s 151 (Proceedings for offences)

Section 151—

insert—

- ‘(3) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant’s knowledge.’.

47 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definition *eligible school children*—

omit.

- (2) Schedule 3—

insert—

‘*approved form* means a form approved by the chief executive under section 150A.

non-State school see the *Education (General Provisions) Act 2006*.

school student means a person who—

- (a) is under 18 years; and
- (b) is enrolled at a State school or a non-State school.

State school see the *Education (General Provisions) Act 2006*.

- (3) Schedule 3, definitions *restricted school service* and *school service*, ‘children’—
omit, insert—
‘students’.

Part 9 Amendment of Transport Operations (Road Use Management) Act 1995

Division 1 General amendments of Transport Operations (Road Use Management) Act 1995

48 Act amended in div 1

This division amends the *Transport Operations (Road Use Management) Act 1995*.

49 Replacement of s 17B (Granting, renewing or refusing approval)

Section 17B—

omit, insert—

‘17B Granting, renewing or refusing approval

- ‘(1) A regulation may provide for the granting or renewing of, or refusing to grant or renew, an approval, other than an approval for an alternative compliance scheme under section 15.
- ‘(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, if the applicant for, or holder of, an approval 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) In this section—
grant includes issue.

‘17C Chief executive may obtain information from commissioner

- ‘(1) If a regulation made under section 17B 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.
- ‘(2) For subsection (1), the chief executive’s request may include the following information—
 - (a) the person’s name and any other name the chief executive believes the person may use or may have used;
 - (b) the person’s gender and date and place of birth;
 - (c) details of the person’s driver licence;
 - (d) details of the person’s application or approval.
- ‘(3) 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.

‘17D Notice of change in police information about a person

- ‘(1) This section applies if—
 - (a) the commissioner reasonably suspects that a person is the holder of an approval; and
 - (b) the person’s criminal history changes.
- ‘(2) The commissioner may notify the chief executive that the person’s criminal history has changed.
- ‘(3) The commissioner’s notice to the chief executive must state the following—
 - (a) the person’s name and any other name the commissioner believes the person may use or may have used;
 - (b) the person’s gender and date and place of birth;
 - (c) whether the change is—
 - (i) a charge made against the person for an offence; or
 - (ii) a conviction of the person;
 - (d) details of the charge or conviction.

‘17E Chief executive may enter into arrangement about giving and receiving information with commissioner

- ‘(1) This section applies only to the extent another provision of this Act allows the chief executive to give information to the commissioner or the commissioner to give information to the chief executive.
- ‘(2) The chief executive and the commissioner may enter into a written arrangement by which the information is given or received.

- ‘(3) Without limiting subsection (2), the arrangement may provide for the electronic transfer of information, including on a daily basis.
- ‘(4) However, if information is to be electronically transferred and, under this Act, there is a limitation on who may access the information or the purposes for which the information may be used, the arrangement must provide for the limitation.’.

50 Amendment of s 62 (Proceedings for offences)

Section 62—

insert—

- ‘(3) A statement in a complaint for an offence against a transport Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant’s knowledge.’.

51 Amendment of s 143 (Confidentiality)

Section 143(2)(c)—

omit, insert—

- ‘(c) in a proceeding before a court or tribunal in which the information is relevant.’.

52 Insertion of new s 150AA

After section 150—

insert—

‘150AARegulating 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.’.

53 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definition *criminal history*—
omit, insert—
‘criminal history, of a person—
- (a) for chapter 5, part 7A—see section 122; and
 - (b) generally—

- (i) 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
 - (ii) 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.'
- (2) Schedule 4, definition *provisional licence*—
omit, insert—
'***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.'
- (3) Schedule 4, definition *disqualifying offence*, paragraph (b)—
omit, insert—
'(b) otherwise—means an offence against—
- (i) the Criminal Code; or
 - (ii) a law of another jurisdiction, including a jurisdiction outside Australia, that substantially corresponds to an offence against the Criminal Code.'

**Division 2 Amendments of Transport
Operations (Road Use Management)
Act 1995 for road safety purposes
involving relevant drugs etc.**

54 Act amended in div 2

This division amends the *Transport Operations (Road Use Management Act) 1995*.

**55 Amendment of s 79 (Driving etc. whilst under influence of
liquor or drugs or with prescribed concentration of
alcohol in blood or breath)**

- (1) Section 79, heading—
omit, insert—

'79 Vehicle offences involving liquor or other drugs'.

- (2) Section 79(1D), (1E), (2F), (2G), (2H), (2I), (6)(d) and (9),
after '(2),'—
insert—
'(2AA),'.

- (3) After section 79(2)—
insert—

'(2AA) Offence of driving etc. while relevant drug is present in blood
or saliva

Any person who, while a relevant drug is present in the
person's blood or saliva—

- (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 14
penalty units or to imprisonment for a term not exceeding 3
months.'

(3A) After section 79(2A)—

insert—

‘(2BB) Definition for subsection (2A)

In subsection (2A)—

learner, probationary or provisional licence includes a licence, permit, certificate or other authority issued under a law of another State, the Commonwealth or another country that corresponds to a learner licence, probationary licence or provisional licence.’

(3B) Section 79(2J), from ‘to whom’ to ‘79F’—

omit, insert—

‘is a section 79E driver’.

(4) Section 79—

insert—

‘(5) Conviction for offence under subsection (2AA) in particular circumstances

If, on the hearing of a complaint of an offence against subsection (1), the court is satisfied—

(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 there was a relevant drug present in the defendant’s blood or saliva;

the court must convict the defendant of the offence under subsection (2AA) that is established by the evidence.

‘(5A) Subsection (5) does not limit subsections (4) and (4A)’.

(5) Section 79(6), after ‘(2)(c),’—

insert—

‘(2AA)(c),’.

(6) Section 79(6)(a), from ‘whilst’ to ‘no alcohol limit; and’—

omit, insert—

‘while any of the following circumstances relevant to a conviction on the complaint applied—

- (iii) the defendant was under the influence of liquor or a drug;
- (iv) the defendant was over—
 - (A) the general alcohol limit; or
 - (B) if at the material time the defendant was a person to whom subsection (2A), (2B) or (2J) referred—the no alcohol limit;
- (v) there was a relevant drug present in the defendant’s blood or saliva; and’.

56 Amendment of s 79B (Immediate suspension or disqualification)

(1A) Section 79B(1)(a)—

omit, insert—

‘(a) charged under section 79(1) with an offence committed while under the influence of liquor or a drug; or’.

(1) Section 79B(1)(b), after ‘breath’—

insert—

‘or saliva’.

(2) Section 79B(1)(c), after ‘79(2),’—

insert—

‘(2AA),’.

(3) Section 79B—

insert—

‘(1A) However, this section only applies in the circumstances mentioned in subsection (1)(a) to (ca) if the person is charged under a provision mentioned in subsection (1)(a) to (ca) with an offence relating to—

- (a) driving a motor vehicle; or
- (b) attempting to put in motion a motor vehicle; or

(c) being in charge of a motor vehicle.’.

(4) Section 79B(5)(a), ‘an order under section 79E’—

omit, insert—

‘a section 79E order’.

(5) Section 79B(7), definition *section 79E order*—

omit.

56A Amendment of s 79E (Court may allow particular person whose licence is suspended under section 79B to drive)

Section 79E(2), ‘the licence, including a renewal of the licence,’—

omit, insert—

‘a Queensland driver licence’.

56B Amendment of s 79F (Replacement licence if there is an order under section 79E)

(1) Section 79F(1), from ‘an order’—

omit, insert—

‘a section 79E order.’.

(2) Section 79F(2), ‘an order under section 79E’—

omit, insert—

‘a section 79E order’.

56C Insertion of new s 79G

After section 79F—

insert—

‘79G When person is disqualified while s 79E order applies

‘(1) This section applies if—

(a) a person in relation to whom a section 79E order applies is, for any reason, disqualified by a court for a period

from holding or obtaining a Queensland driver licence;
and

(b) the period of disqualification ends before the relevant charge for the person's suspended licence, in relation to which the section 79E order was made, is dealt with by a court or is withdrawn or is otherwise discontinued.

'(2) The person is, by operation of law and without a specific order, disqualified from holding or obtaining a Queensland driver licence until the relevant charge is dealt with by a court or is withdrawn or is otherwise discontinued.

'(3) In this section—

relevant charge, for a person's suspended licence, means the charge that resulted in the licence being suspended under section 79B(2) of the Act.

suspended licence, of a person, means the person's Queensland driver licence that has been suspended under section 79B(2) of the Act because the person has been charged as mentioned in section 79B(1)(a), (b) or (d).'

57 Amendment of s 80 (Provisions with respect to breath tests and laboratory tests)

(1) Section 80, heading—

omit, insert—

'80 Breath and saliva tests, and analysis and laboratory tests'

(2) Section 80(1), definition *authorised police officer*—

omit.

(3) Section 80(1)—

insert—

'authorised police officer means any police officer authorised by the commissioner under subsection (8G) to operate either or both of the following—

- (a) a breath analysing instrument;
- (b) a saliva analysing instrument.

saliva analysing instrument means an instrument, that is approved under a regulation, for finding out whether a relevant drug is present in a person's saliva by analysing a specimen of the person's saliva.

saliva analysis, for a specimen of saliva, means analysis of the specimen by using a saliva analysing instrument and, if the saliva analysing instrument indicates the presence of a relevant drug in the specimen, analysis of another part of the specimen of saliva by a laboratory test approved under a regulation.

saliva test means a test to obtain an indication of the presence of a relevant drug in a person's saliva by using a device approved under a regulation.

specimen, in relation to saliva, includes parts of the saliva specimen.'

- (4) Section 80(1A), after 'breath test or analysis'—

insert—

‘, a specimen of saliva for a saliva test or for saliva analysis’.

- (5) Section 80, after subsection (2)—

insert—

- ‘(2AA) Request for specimen of saliva

A police officer may require any person found by the officer or who the officer suspects on reasonable grounds was during the last preceding 3 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 saliva for a saliva test by the person.’.

- (6) Section 80(2A), after ‘by the person’—
insert—
‘, a specimen of saliva for a saliva test by the person or both’.
- (7) Section 80(2B)(a), ‘under subsection (2)’—
omit, insert—
‘, a specimen of saliva for a saliva test by the person, or both, under subsection (2), (2AA)’.
- (8) Section 80(2B)(b), after ‘specimen of breath’—
insert—
‘or saliva’.
- (9) Section 80(2B)(b), after ‘breath test’—
insert—
‘or saliva test’.
- (10) Section 80(2C)—
omit, insert—
‘(2C) More than 1 specimen may be required
Under subsection (2), (2AA) or (2A), the police officer may require the person to provide as many specimens of breath or saliva, or both, as the police officer considers reasonably necessary to carry out the breath test, the saliva test or both.’.
- (11) Section 80(3), from ‘(2)’ to ‘specimen of breath’—
omit, insert—
‘(2), (2AA) or (2A) may require the person in question to provide the specimen of breath or saliva’.
- (12) Section 80(3)(c), from ‘approved’—
omit, insert—
‘that the police officer may use for carrying out a breath test or saliva test if the police does not have a device for the relevant test with him or her.’.
- (13) Section 80(4)—
omit, insert—

‘(4) Time limits for requirement for specimen

A requirement must not be made under subsection (2), (2AA) or (2A) unless it is made as soon as practicable and within the following period after the event happens that authorises the police officer to make the requirement under the subsection—

- (a) for a specimen of breath for a breath test—2 hours;
- (b) for a specimen of saliva for a saliva test—3 hours.’.

(14) Section 80(5), from ‘(2)’ to ‘a breath test’—

omit, insert—

‘(2), (2AA) or (2A) to provide at a police station or other place a specimen of breath for a breath test, or of saliva for a saliva test.’.

(15) Section 80(5A), from ‘(2)’ to ‘by the person,’—

omit, insert—

‘(2), (2AA) or (2A) to provide a specimen of breath for a breath test, or a specimen of saliva for a saliva test, by the person’.

(16) Section 80(5B)(a)(i), after ‘specimen of breath’—

insert—

‘, a specimen of saliva or both a specimen of breath and of saliva’.

(17) Section 80(5B)(a)(ii), ‘the specimen’—

omit, insert—

‘a specimen of breath, a specimen of saliva or both a specimen of breath and of saliva’.

(18) Section 80(5B)(b), ‘the specimen was’—

omit, insert—

‘a specimen of breath, a specimen of saliva or both a specimen of breath and of saliva was’.

(19) Section 80(5B)(b), ‘the specimen or’—

omit, insert—

‘the specimen as required or’.

- (20) Section 80(5B)(b), ‘the specimen other’—
omit, insert—
‘the specimen as required other’.
- (21) Section 80(6)—
insert—
‘(ab) it appears to a police officer in consequence of a saliva test carried out by the officer on a specimen of saliva of any person that a relevant drug is present in the person’s saliva; or’.
- (22) Section 80(6)(b), from ‘(2)’ to ‘breath test’—
omit, insert—
‘(2), (2AA) or (2A) to provide a specimen of breath for a breath test, or a specimen of saliva for a saliva test,’.
- (23) Section 80(6)(ca), (d)(ii) and (e) and (8)(c), after ‘of breath’—
insert—
‘or by a saliva analysing instrument of a specimen of saliva’.
- (24) Section 80(8), from ‘to provide’—
omit, insert—
‘to provide 1 or more of the following as any police officer requires—
(d) a specimen of the person’s breath for analysis by a breath analysing instrument;
(e) a specimen of the person’s saliva for saliva analysis;
(f) a specimen of the person’s blood for a laboratory test.’.
- (25) Section 80(8B)(b)—
omit, insert—
‘(b) to a police station, vehicle or vessel where facilities are available for either or both of the following—
(i) analysing a specimen of breath by a breath analysing instrument;

(ii) analysing a specimen of saliva by a saliva analysing instrument; or’.

(26) Section 80(8C) and (8D)—

omit, insert—

‘(8C) Police officer may require specimen if person at hospital

If a person whom a police officer may require under subsection (2), (2AA) or (2A) to provide a specimen of breath for a breath test, or a specimen of saliva for a saliva test, by the person (an **authorising requirement**) is at the hospital for treatment, that person may be required by any police officer to provide at the hospital—

- (a) if the specimen that may be required under the authorising requirement is a specimen of breath—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; or
- (b) if the specimen that may be required under the authorising requirement is a specimen of saliva—a specimen of the person’s saliva for saliva analysis or a specimen of the person’s blood for a laboratory test.

‘(8D) Limitation applying to requisition under subsection (8C)

A requirement for a person to provide a specimen under subsection (8C) must not be made under the subsection unless—

- (a) a doctor who is familiar with the person’s injuries and apparent state of health at the time of the requirement approves of the person providing the specimen; and
- (b) the requirement is made as soon as practicable and—
 - (i) if the specimen that may be required under the authorising requirement is a specimen of breath—within 2 hours of the event that authorises the police officer to make the authorising requirement; or
 - (ii) if the specimen that may be required under the authorising requirement is a specimen of saliva—within 3 hours of the event that authorises

the police officer to make the authorising requirement.’.

- (27) Section 80(8E), after ‘breath’—
insert—
‘or saliva’.
- (28) Section 80(8E), after ‘subsection (5B)(a)’—
insert—
‘material to the provision of the specimen’.
- (29) Section 80—
insert—
‘(8FA) Providing a specimen of saliva
A person required under subsection (8) or (8C) to provide a specimen of the person’s saliva for saliva analysis must do so by—
- (a) placing a collection unit, that is prescribed under a regulation, into or adjacent to the person’s mouth when directed by the authorised police officer operating, or who is to operate, a saliva analysing instrument; and
 - (b) while providing the specimen, holding or otherwise dealing with the collection unit, in a way prescribed under a regulation, until told to stop by the authorised police officer.’.
- (30) Section 80(8G), from ‘to operate’—
omit, insert—
‘to operate either or both of the following on being satisfied the officer is competent to operate the instrument—
- (a) a breath analysing instrument;
 - (b) a saliva analysing instrument.’.
- (31) Section 80(8I), from ‘instrument’—
omit, insert—

‘instrument or saliva analysing instrument is, in the absence of proof to the contrary, proof that the named police officer is so authorised.’.

- (32) Section 80(8J), after ‘instrument’—
insert—
‘or saliva analysing instrument’.
- (33) Section 80(8J)(b), after ‘analysis’—
insert—
‘or the specimen of saliva for a saliva test or saliva analysis’.
- (34) Section 80(8L)(a), after ‘instrument’—
insert—
‘, a specimen of the person’s saliva for saliva analysis’.
- (35) Section 80(8L)(b)(i), ‘of breath or a specimen of blood’—
omit, insert—
‘that was required’.
- (36) Section 80(8L)(b)(ii), ‘instrument;’—
omit, insert—
‘instrument or a specimen of saliva for saliva analysis;’.
- (37) Section 80(8L)(b)(ii)(A), ‘breath analysing instrument’—
omit, insert—
‘relevant breath analysing instrument or saliva analysing instrument’.
- (38) Section 80(8L)(b)(ii)(A), after ‘specimen’—
omit, insert—
‘or saliva specimen’.
- (39) Section 80(8L)(b)(ii)(B), from ‘the purpose of’—
omit, insert—
‘analysing the breath specimen or the saliva analysing instrument for analysing the saliva specimen; or’.
- (40) Section 80(8L)(b)(ii)(C), ‘the breath analysing’—

omit, insert—

‘for an analysis by a breath analysing instrument, the’.

- (41) Section 80(8M), after ‘breath’—

insert—

‘, saliva’.

- (42) Section 80(9), after ‘by a breath analysing instrument,’—

insert—

‘or the person’s saliva for saliva analysis,’.

- (43) Section 80(9)(d)—

omit, insert—

‘(d) if—

- (i) the analysis by the breath analysing instrument of the specimen of breath provided under 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 does not reasonably explain the external signs exhibited and observed; or
- (ii) the analysis by the saliva analysing instrument of the specimen of saliva provided under the requisition indicates that there is no relevant drug in the person’s saliva;’.

- (44) Section 80(10)(a)—

omit, insert—

‘(a) is a person whom a police officer may—

- (i) require under subsection (2) or (2A) to provide a specimen of breath for a breath test; or
- (ii) require under subsection (2AA) or (2A) to provide a specimen of saliva for a saliva test; and’.

- (45) Section 80(10E), after ‘relating to a person’—

insert—

‘mentioned in subsection (10)(a)(i)’.

(46) Section 80—

insert—

‘(10EA) Limitation on requiring specimen of blood when specimen of saliva previously analysed

Also, a police officer must not make a requirement under subsection (10) relating to a person mentioned in subsection (10)(a)(ii) if—

- (a) under this section, the person has provided a specimen of saliva for saliva analysis in relation to the occurrence or event in relation to which the police officer may require a specimen of saliva for a saliva test as mentioned in subsection (10)(a); and
- (b) the specimen for saliva analysis has been analysed by a saliva analysing instrument; and
- (c) there is a notice given to the police officer as mentioned in subsection (15AB)(b)(i) for the analysis.’.

(47) Section 80(11)—

omit, insert—

‘(11) Guilt of offence and liability for failing to provide specimen

If a police officer makes a requisition under subsection (8), (8C) or (9) in relation to a person and the person fails to provide as prescribed in this section—

- (a) a specimen of the person’s breath for analysis by a breath analysing instrument; or
- (b) a specimen of the person’s saliva for saliva analysis; or
- (c) a specimen of the person’s blood for a laboratory test;

each of the following applies—

- (d) the person is guilty of an offence that is taken to be an offence against the appropriate provision of section 79(1);
- (e) the person is liable to the same punishment in all respects, including disqualification from holding or obtaining a Queensland driver licence, as the person would be if the offence were actually an offence

committed by the person against the appropriate provision of section 79(1).’.

(48) After section 80(15A)—

insert—

‘(15AB) Saliva analysis instrument record and notices

As soon as practicable after a specimen of saliva provided under a requisition has been analysed by means of a saliva analysing instrument, the authorised police officer operating the instrument must—

- (a) enter details in a record, prescribed under a regulation, about the analysis, including the date and time at which the analysis was made and whether a relevant drug was present in the saliva that has been analysed, and sign the record for the entry; and
- (b) give a notice, in the approved form, about the result of the analysis to each of the following—
 - (i) the police officer who made the requisition;
 - (ii) the person whose saliva has been analysed (or to another person on behalf of that person on request by that other person).

‘(15AC) Approved form for person whose saliva is tested is to include particular matters

If a relevant drug is present in analysed saliva, the approved form given to a person as mentioned in subsection (15AB)(b)(ii) for the analysis must include notice about each of the following—

- (a) the person may request a specimen of the person’s saliva be given to him or her as stated in subsection (20A);
- (b) another part of the specimen that was analysed by the saliva analysing instrument will be delivered to a laboratory of an analyst to be tested for the presence of a relevant drug.’.

(49) Section 80(15B), after ‘for analysis’—

insert—

‘or saliva for saliva analysis’.

- (50) Section 80(15B), ‘shall, as soon as practicable thereafter’—

omit, insert—

‘or the police officer operating or to operate the saliva analysing instrument must, as soon as practicable after the person fails to provide the specimen’.

- (51) Section 80(15B)—

insert—

‘(ba) whether the requisition was for a specimen of the person’s breath for analysis or saliva for saliva analysis; and’.

- (52) Section 80(15B)(c) and (d), after ‘analysing instrument’—

insert—

‘or saliva analysing instrument’.

- (53) Section 80(15B)(e) and (h), after ‘breath’—

insert—

‘or saliva’.

- (54) Section 80(15F)(a), after ‘analysis’—

insert—

‘or saliva for saliva analysis’.

- (55) Section 80(15F)(b), after ‘breath’—

insert—

‘or saliva’.

- (56) Section 80(15F)(c), after ‘instrument’—

insert—

‘or saliva analysing instrument’.

- (57) Section 80(15F)(c), ‘of breath’—

omit.

- (58) Section 80(16) and (16A)—

omit, insert—

‘(16) Delivery of blood, urine or saliva specimen to laboratory

As soon as practicable after—

- (a) a specimen of blood or urine has been obtained under this section; or
- (b) a specimen of saliva has been obtained under this section and a notice is given to a police officer as mentioned in section (15AB)(b)(i) stating that a relevant drug was present in the analysed specimen of saliva;

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) Prescribed delivery of specimen to laboratory

The specimen of blood, urine or saliva to be delivered under subsection (16) must be delivered to the analyst’s laboratory in the way prescribed under a regulation.’

(59) Section 80(16B)(a), ‘blood’—

omit, insert—

‘blood, or a specimen of the saliva, as stated in the certificate (the **delivered specimen**)’.

(60) Section 80(16B)(b), ‘such’—

omit, insert—

‘the delivered’.

(61) Section 80(16B)(c)—

omit, insert—

‘(c) that—

- (i) if the delivered specimen was a specimen of blood—
 - (A) the concentration of alcohol in the person’s blood indicated by the laboratory test was a stated number of milligrams of alcohol in the blood per 100mL of blood; or

- (B) a stated drug or metabolite of a stated drug was indicated by the laboratory test to be present in the person's blood; or
- (ii) if the delivered specimen was a specimen of saliva—a stated relevant drug or metabolite of a stated relevant drug was indicated by the laboratory test to be present in the person's saliva;’.
- (62) Section 80(16C) and (16E)(a), after ‘laboratory test’—
insert—
‘, or the person's saliva for saliva analysis.’.
- (63) Section 80(16C)(c) and (f) and (16E)(b), after ‘of blood’—
insert—
‘or saliva’.
- (64) Section 80(16F)—
insert—
‘*Note*—
The reference to drug in this subsection, because of its generality, includes a relevant drug.’.
- (65) Section 80(16G)—
omit, insert—
- ‘(16FA) Three hours proof of relevant drug presence by laboratory test
Evidence by an analyst, or by a certificate referred to in subsection (16B), that a stated relevant drug or metabolite of a stated relevant drug is indicated to be present in the blood or saliva of a person by a laboratory test of a specimen of the blood or saliva of the person, subject to subsection (16G), is conclusive evidence of the presence of the stated relevant drug or the metabolite of the stated relevant drug in the person's blood or saliva—
- (a) at the time (being for a certificate the date and time stated in the certificate) when the person provided the specimen; and

- (b) at a material time in any proceedings if the specimen was provided not more than 3 hours after the material time; and
- (c) at all material times between those times.

‘(16G) Evidence may be negated

The defendant may negative the evidence mentioned in subsection (16F) or (16FA) if the defendant proves the result of the laboratory test of that specimen of blood or saliva was not a correct result.’.

(66) Section 80(16H), after ‘laboratory test’—

insert—

‘, or the specimen of saliva for saliva analysis,’.

(67) Section 80(16L), after ‘blood’—

insert—

‘or of saliva’.

(68) Section 80(18), after ‘laboratory test’—

insert—

‘, or a specimen of saliva for saliva analysis,’.

(69) Section 80(19), ‘, or arranges for a specimen of blood’—

omit, insert—

‘(the *specimen*), or a specimen of saliva (also the *specimen*), or arranges for the specimen’.

(70) Section 80(19)(b), ‘of blood’—

omit.

(71) Section 80(20), after ‘laboratory test’—

insert—

‘, or a specimen of saliva for saliva analysis,’.

(72) Section 80(20), from ‘request’—

omit, insert—

‘request—

- (a) the health care professional who took the specimen of blood to give the person a specimen of the person's blood; or
 - (b) the police officer who took the specimen of saliva for saliva analysis to give to the person a specimen of the person's saliva.'.
- (73) Section 80(20A), from 'blood' to 'such person'—
omit, insert—
'blood or saliva, the health care professional must give the second specimen of blood, or the police officer must give the second specimen of saliva, to the person'.
- (74) Section 80(22)(b)—
omit, insert—
'(ab) the analysis by means of a saliva analysing instrument of a specimen of saliva of a person required by a police officer to be provided under subsection (8) or (8C) indicates that a relevant drug is present in the person's saliva; or
- (b) a person required to provide a specimen of breath, or a specimen of saliva for saliva analysis, as mentioned in paragraph (a) or (ab) fails to provide the specimen as prescribed under subsections (8) to (8L); or'.
- (78) Section 80(22)(c), after 'a breath test'—
insert—
' , or saliva for a saliva test,'.
- (79) Section 80(22)(c)—
insert—
'(ia) it appears to the police officer in consequence of the saliva test carried out by the officer that the device by means of which the test is carried out indicates a relevant drug is present in the person's saliva; or'.
- (80) Section 80(22)(c)(ii), after 'of breath'—
insert—

‘or saliva’.

(81) Section 80(22AA)(a), after ‘(22)(a)’—

insert—

‘or (ab)’.

(82) Section 80(22AA)(d), after ‘subsection (22)(c)(i)’—

insert—

‘, or the saliva test of the specimen of the person’s saliva mentioned in subsection (22)(c)(ia),’.

(84) Section 80(24), from ‘Evidence’ to ‘at a time material to’—

omit, insert—

‘Evidence of either or both of the following—

(a) the presence of the concentration of alcohol in the blood or breath of a person, or the concentration of a drug or metabolite of a drug (other than a relevant drug or a metabolite of a relevant drug) in the blood of a person;

(b) the presence of a relevant drug in the blood or saliva of a person;

at a time material to’.

(85) Section 80(26)(b), from ‘blood’ to ‘(16F)’—

omit, insert—

‘blood or saliva referred to in subsection (16F) or (16FA)’.

(86) Section 80(28) and (29)(b)(i), after ‘blood’—

insert—

‘or saliva’.

(87) Section 80(30)(b), after ‘blood’—

insert—

‘or saliva’.

58 Insertion of new section 80AA

After section 80—

insert—

‘80AA Limitation on use of saliva for saliva test or saliva analysis and related matters

- ‘(1) This section applies to a specimen of saliva for a saliva test or for saliva analysis obtained under section 80 from a person.
- ‘(2) The specimen must not be used for—
 - (a) DNA analysis to help decide whether or not the person may be a suspect in relation to an offence; or
 - (b) for a purpose stated in the *Police Powers and Responsibilities Act 2000*, section 537.

Note for subsection (2)—

Matters mentioned in subsection (2) are regulated under the *Police Powers and Responsibilities Act 2000*, chapters 17 and 18.

- ‘(3) If the saliva test or saliva analysis does not indicate the presence of a relevant drug in the person’s saliva, the specimen must be destroyed as soon as possible after the result is known.
- ‘(4) If a saliva test or saliva analysis indicates the presence of a relevant drug in the person’s saliva, the specimen must be destroyed as soon as possible after the results are no longer necessary for proceedings against the person, including an appeal about a conviction under this or another Act.’.

59 Amendment of s 86 (Disqualification of drivers of motor vehicles for certain offences)

- (1) Section 86(1)(b), (1F), (1G), (2), (2B), (2D), (2F), (3E) and (3F), after ‘79(2),’—

insert—

‘(2AA),’.

- (1A) Section 86(2)(e), from ‘person to’ to ‘79F’—

omit, insert—

‘section 79E driver’.

- (2) Section 86(2A) and (2C), after ‘defendant’—

insert—

‘, or the presence of a relevant drug in the defendant’s blood or saliva.’.

60 Amendment of s 87 (Issue of restricted licence to disqualified person)

(1) Section 87(5)—

insert—

‘(dc) if—

- (i) the disqualification for which the application is made resulted from the applicant’s conviction for an offence against section 79(2AA); and
- (ii) the applicant is a person to whom section 79(2A), (2B), (2D) or (2J) would have applied if, at the time of the offence, the person were over the no alcohol limit but not over the general alcohol limit;’.

(2) Section 87(5B)—

insert—

‘(f) a suspension, if a court has, on application made in relation to the suspension, made a special hardship order.’.

61 Replacement of s 112 (Use of speed detection devices)

Section 112—

omit, insert—

‘112 Use of speed detection devices

‘When using a radar speed detection device or laser-based speed detection device, a police officer must comply with—

- (a) the appropriate Australian Standard for using the device, as in force from time to time; or
- (b) if there is no appropriate Australian Standard for using the device in force at the time of the use—the manufacturer’s specifications for the device.’.

62 Amendment of s 124 (Facilitation of proof)

(1) Section 124(1)(pa) and (pb)—

omit, insert—

‘(pa) a certificate purporting to be signed by the commissioner and stating a particular stated induction loop speed detection device, laser-based speed detection device, piezo strip speed detection device or radar speed detection device—

(i) was tested at a stated time in accordance with—

(A) the appropriate Australian Standard for testing the device, as in force on the day of testing; or

(B) if there is no appropriate Australian Standard for testing the device in force on the day of testing—the manufacturer’s specifications; and

(ii) was found to produce accurate results at the time of testing;

is evidence that the device was producing accurate results when so tested and for 1 year after the day of testing;

(pb) a certificate purporting to be signed by a police officer stating a particular stated laser-based speed detection device or radar speed detection device was used by the officer at a stated time in accordance with—

(i) the appropriate Australian Standard for using the device, as in force on the day of use; or

(ii) if there is no appropriate Australian Standard for using the device in force on the day of use—the manufacturer’s specifications;

is evidence of the matters stated;’.

(2) Section 124(1)(pd) and (pe)—

omit.

(3) Section 124(1)(pf), after ‘photographic detection device’—

insert—

‘used in conjunction with a stated induction loop speed detection device, laser-based speed detection device, piezo strip speed detection device or radar speed detection device’.

- (4) Section 124(1)(pf)(i) and (ii)—

omit, insert—

‘(i) tested at a stated time under paragraph (pa); and

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

- (5) Section 124(1)(tb) and (u), after ‘breath analysing instrument’—

insert—

‘or saliva analysing instrument’.

- (6) Section 124(4)(a)—

omit, insert—

‘(a) the accuracy of a speed detection device or vehicle speedometer accuracy indicator for which a certificate is given under subsection (1); or’.

- (7) Section 124(4)(b), ‘the radar or laser speed detection’—

omit, insert—

‘the relevant’.

62A Amendment of s 131 (Appeals with respect to issue of licences etc.)

- (1) Section 131(1C), ‘subsection (1)’—

omit, insert—

‘subsection (1AA)’.

- (2) Section 131(1C)—

insert—

- ‘(d) in respect of the suspension of a Queensland driver licence of a person because of the allocation of demerit points; or
- (e) in respect of the suspension of a Queensland driver licence of a person who has been convicted of an offence against a regulation for driving more than 40km/h over the speed limit.’.

63 Amendment of s 143 (Confidentiality)

- (1) Section 143(1), after the penalty—

insert—

‘*Note—*

Generally, under section 144, provisions of this Act about offences do not apply to a police officer while exercising a power or performing a function under this or another Act. However, the *Police Service Administration Act 1990*, section 10.1 provides for an offence if a police officer discloses information that the police officer should not disclose.’.

- (2) Section 143(3)—

insert—

‘***information*** includes a specimen provided by or taken from a person.’.

63A Amendment of s 150 (Regulating driver management)

- (1) Section 150(1A), from ‘the licences’ to ‘circumstances’—

omit, insert—

‘Queensland driver licences in stated circumstances (***special hardship orders***)’.

- (2) Section 150(1A)(a)—

omit, insert—

‘(a) the persons who are eligible, and who are not eligible, to apply for the orders; and

(aa) how and when applications for the orders are to be made; and’.

(3) Section 150(1A)(c)—

omit, insert—

‘(c) the types of restrictions the court may or must apply to licences; and

(ca) the periods for which orders are effective; and’.

63B Insertion of new s 150AB

Before section 150A—

insert—

‘150AB Driver licensing regulation prevails over rules of court

‘(1) This section applies if the driver licensing regulation provides for how and when an application is to be made to a court.

‘(2) If there is an inconsistency between the driver licensing regulation and any rules of court, the regulation prevails to the extent of the inconsistency.

‘(3) In this section—

driver licensing regulation means the *Transport Operations (Road Use Management—Driver Licensing) Regulation 1999*.’.

64 Insertion of new ch 7, pt 9

After section 205—

insert—

‘Part 9 Transitional provision for Transport Legislation and Another Act Amendment Act 2007

‘206 Definitions for pt 9

‘In this part—

amending Act means the *Transport Legislation and Another Act Amendment Act 2007*.

‘207 No saliva testing or saliva analysis for 1 month after commencement

‘Despite the commencement of part 9, division 2 of the amending Act, a saliva test or specimen of saliva for saliva analysis is not to be taken or obtained under this Act until 1 month after the commencement.

‘208 Certificates under s 124

‘A certificate given under section 124(1)(pa), (pb), (pd), (pe) or (pf), as in force immediately before the commencement of section 62¹ of the amending Act in relation to a proceeding started before that commencement but not decided before that commencement may continue to be used in or in relation to that proceeding after that commencement.

‘209 Updated text

‘The object of the amendment of this Act by schedules 2 and 3 of the amending Act is to improve the readability of the provisions amended in the schedules and is not intended to affect their meaning.’.

65 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘**relevant drug**, for chapter 5, part 3, means a drug prescribed under a regulation.

saliva analysis, for a specimen of saliva, see section 80(1).

¹ *Transport Legislation and Another Act Amendment Act 2007*, section 62 (Amendment of s 124 (Facilitation of proof))

saliva test see section 80(1).

section 79E driver means a person—

- (a) who holds a Queensland driver licence; and
- (b) in relation to whom a section 79E order applies; and
- (c) to whom a replacement licence under section 79F has been issued.

section 79E order means an order under section 79E.

special hardship orders see section 150(1A).

specimen, in relation to saliva, see section 80(1).’.

66 Further amendments in schs 2 and 3

- (1) Schedule 2 further amends the *Transport Operations (Road Use Management Act) 1995*.
- (2) Also, schedule 3 amends the *Transport Operations (Road Use Management) Act 1995*, sections 79 and 80 by stating subsection headings that are to be inserted in the sections for the subsections stated in the schedule.

Part 10 Amendment of Transport Planning and Coordination Act 1994

67 Act amended in pt 10

This part amends the *Transport Planning and Coordination Act 1994*.

68 Replacement of s 8E (Guidelines for ss 8B-8D)

Section 8E—

omit, insert—

‘8E Guidelines for pt 2A

- ‘(1) The chief executive may make guidelines—
- (a) about a matter mentioned in section 8A; or
 - (b) for the purposes of sections 8B to 8D.
- ‘(2) The guidelines may also—
- (a) identify a particular transport facility, transport corridor or parcel of land; and
 - (b) include other matters relevant to subsection (1)(a) or (b).
- ‘(3) A person must have regard to relevant guidelines when—
- (a) planning or carrying out development under the *Integrated Planning Act 1997*; or
 - (b) making changes to the management of a local government road; or
 - (c) making proposals in relation to the provision of public passenger transport.
- ‘(4) The chief executive must give a copy of the guidelines to every local government affected by the guidelines.
- ‘(5) In this section—
- transport corridor* includes a future transport corridor.
- transport facility* includes a future transport facility.’

Schedule 1 Minor amendments of Transport Infrastructure Act 1994

section 19

- 1 **Section 239A—**
renumber as section 239AI.

- 2 **Section 240, heading, ‘Lease’—**
omit, insert—
‘Sublease’.

- 3 **Section 240(4), (5), (6), and (9), definitions *acquires*,
paragraph (b) and *full costs*, paragraphs (a) and (b),
‘lease’—**
omit, insert—
‘sublease’.

- 4 **Section 242(2), ‘leased’—**
omit, insert—
‘subleased to a railway manager’.

- 5 **Section 249(4)(a)(ii), ‘leased’—**
omit, insert—
‘subleased’.

- 6 **Section 260A(1)(a), ‘leases’—**
omit, insert—
‘subleases’.

Schedule 1 (continued)

- 7 Section 260A(1)(b) and (3), ‘lease’—**
omit, insert—
‘sublease’.
- 8 Section 260A(1)(c) and (2), ‘leased’—**
omit, insert—
‘subleased’.
- 9 Section 262, ‘or non-rail corridor land’—**
omit, insert—
‘, non-rail corridor land or a lease granted under the lease’.

Schedule 2 Further amendment of the Transport Operations (Road Use Management) Act 1995

section 66(1)

- 1 Sections 79(1) and (7), 80(9) and (22D) and 87(5)(d)(i),
‘whilst’—**
omit, insert—
‘while’.
- 2 Sections 79(1A), (1B), (1C), (1D), (1E), (2F), (2G), (2H), (2I)
and (6)(d), 86(1), (1A), (1B), (1C), (1D), (1E), (1F), (1G), (2),
(2B), (2D), (2E), (2F), (3A), (3B), (3C), (3D), (3E) and (3F),
87(4A), (5)(c) and (5)(f) and 88(3), ‘prior to’—**
omit, insert—
‘before’.
- 3 Section 79(1A), (1B), (1D), (1E), (2F), (2G), (2H) and (2I), ‘in
respect of’—**
omit, insert—
‘for’.
- 4 Sections 79(1B), (1C), (2H) and (2I), 80(8E), (15)(b),
(15B)(h) and (16C)(f), 86(1)(c), (1C), (1D), (1E), (2)(c), (2E),
(2F)(b), (3), (5), (5A), (5B), (5C) and (6) and 89(1) and (2),
‘upon’—**
omit, insert—
‘on’.

Schedule 2 (continued)

- 5 Section 79(1C), ‘shall in respect of’—**
omit, insert—
‘must for’.
- 6 Section 79(2A), ‘has not attained the age of’—**
omit, insert—
‘is under’.
- 7 Section 79(3) and (6), ‘Where upon’—**
omit, insert—
‘If on’.
- 8 Sections 79(3), 80(15F), (16B), (16E), (16K), (18), (18A) and (24A)(c), 83, 84(1), (1A) and (2), 85(1) and (5), 86(6) and 87(10), ‘shall be’—**
omit, insert—
‘is’.
- 9 Section 79(4), ‘where upon’—**
omit, insert—
‘if on’.
- 10 Sections 79(4), (4A), (6), (8A) and (9), 80(8F), (8J), (9C), (15), (16C), (16H), (22A) and (26), 86(2) and (2B), 87(2A)(a), (4), (6A), (7) and (8), 88(2)(a), (3) and (6) and 91, ‘shall’—**
omit, insert—
‘must’.

Schedule 2 (continued)

- 11 Sections 79(4A) and (9), 80(2A), (9), (15B), (16C), (18A) and (23), 85(5), 86(5A) and (5B), 87(1), (6) and (7), 88(1), 89(1) and 90(1), 'Where'—**
omit, insert—
'If'.
- 12 Section 79(6)(b)(i), ', as the case may be,'—**
omit.
- 13 Section 79(6)(c), 'a manner'—**
omit, insert—
'a way'.
- 14 Section 79(7), penalty, 'for subsection (7)'—**
omit.
- 15 Section 79(8), 'shall not be'—**
omit, insert—
'is not'.
- 16 Section 79(8), 'by reason that'—**
omit, insert—
'because'.
- 17 Section 79(8A), from 'upon' to 'complaint'—**
omit, insert—
' , on the hearing of a complaint mentioned in subsection (8), '.

Schedule 2 (continued)

- 18 Section 79(8A), from ‘notwithstanding’ to ‘such’—**
omit, insert—
‘even though the particular’.
- 19 Section 79(9), ‘determined’—**
omit, insert—
‘decided’.
- 20 Sections 79(10), 80(5B), (8E), (8F), (9C), (11A), (15), (15B), (16C), (20), (22), (23), (24A) and (26), 86(5B) and (6), 87(5)(d)(iii), (8A) and (9) and 88(7), ‘pursuant to’—**
omit, insert—
‘under’.
- 21 Sections 79(10) and 80(8B)(d), ‘where’—**
omit, insert—
‘if’.
- 22 Section 79(10), ‘occasioned’—**
omit, insert—
‘caused’.
- 23 Section 79(10), ‘rendering’—**
omit, insert—
‘making’.
- 24 Section 79(11), ‘to and with respect to’—**
omit, insert—
‘in relation to’.

Schedule 2 (continued)

25 Section 79A(4), ‘specified’—

omit, insert—

‘stated’.

26 Section 80(8E), ‘such police officer shall not’—

omit, insert—

‘the police officer must not’.

27 Section 80(8E), ‘such person but shall’—

omit, insert—

‘the person but must’.

28 Section 80(8H)—

omit, insert—

‘(8H) If an authorised police officer’s instrument of authority issued under subsection (8G) is lost, mislaid, or destroyed or otherwise can not be produced—

- (a) the police officer continues to be an authorised police officer even though the instrument of authority has been lost, mislaid, or destroyed or otherwise cannot be produced; and
- (b) the commissioner may issue to the officer a replacement instrument of authority; and
- (c) the replacement instrument of authority is taken to have effect from the date the original instrument of authority was issued.’.

29 Section 80(8I), ‘named therein is’—

omit, insert—

‘named in the certificate is’.

Schedule 2 (continued)

- 30 Section 80(11A), ‘was, by reason’—**
omit, insert—
‘was, because’.
- 31 Section 80(15B), ‘and shall deliver’—**
omit, insert—
‘and must deliver’.
- 32 Sections 80(15F), (16E), (18) and (18A) and 84(1B), ‘shall, upon’—**
omit, insert—
‘must, on’.
- 33 Section 80(15F)(a), (16E)(a) and (18), ‘named therein’—**
omit, insert—
‘named in the certificate’.
- 34 Section 80(15G), ‘shall, subject to subsection(15H), be’—**
omit, insert—
‘is, subject to subsection (15H),’.
- 35 Section 80(16F), ‘shall, subject to subsection (16G), be’—**
omit, insert—
‘is, subject to subsection (16G),’.
- 36 Section 80(16K), ‘Such deposition shall, upon’—**
omit, insert—
‘The deposition is, on’.

Schedule 2 (continued)

- 37 Section 80(16K), ‘be evidence’—**
omit, insert—
‘evidence’.
- 38 Section 80(18A)(a), ‘thereto’—**
omit, insert—
‘on the certificate’.
- 39 Section 80(22C), ‘shall’—**
omit, insert—
‘does’.
- 40 Section 80(24), ‘upon the trial upon’—**
omit, insert—
‘in the trial on’.
- 41 Section 80(24), ‘upon any hearing’—**
omit, insert—
‘on any hearing’.
- 42 Section 80(24), from ‘shall not’ to ‘such’—**
omit, insert—
‘must not be excluded only because the’.
- 43 Section 80(24A)(b), ‘shall have’—**
omit, insert—
‘has’.

Schedule 2 (continued)

- 44 Sections 84(1C) and 90(1), ‘determining’—**
omit, insert—
‘deciding’.
- 45 Section 84(1C), ‘shall be’—**
omit, insert—
‘is to be’.
- 46 Section 85(2), ‘shall have’—**
omit, insert—
‘has’.
- 47 Section 86(1), ‘section 79(1) shall,’—**
omit, insert—
‘section 79(1) is,’.
- 48 Section 86(1), ‘be disqualified’—**
omit, insert—
‘disqualified’.
- 49 Section 86(1A), (1B), (1C), (1D), (1E), (1F), (1G), (2D), (2E), (2F), (3A), (3B), (3C), (3D), (3E), (3F) and (4), ‘shall be’—**
omit, insert—
‘is’.
- 50 Section 86(2A) and (2C), ‘shall be determined’—**
omit, insert—
‘must be decided’.

Schedule 2 (continued)

51 Section 86(2A) and (2C), ‘determination, shall’—

omit, insert—

‘decision, must’.

52 Section 86(3), ‘shall, subject to the provisions of subsections (3A) to (3F), be’—

omit, insert—

‘is, subject to subsections (3A) to (3F),’.

53 Section 86(5), ‘shall be’—

omit, insert—

‘be’.

54 Section 86(5), ‘shall thereupon be so’—

omit, insert—

‘, on the making of the order, is’.

55 Section 86(5B), ‘shall thereby’—

omit, insert—

‘is’.

56 Section 86(5B), ‘be disqualified’—

omit, insert—

‘disqualified’.

57 Section 86(5C), ‘shall commence’—

omit, insert—

‘commences’.

Schedule 2 (continued)

- 58 Sections 87(2A) and 88(2), ‘shall be made’—**
omit, insert—
‘must be made’.
- 59 Sections 87(2A) and 88(2), from ‘shall be liable’—**
omit, insert—
‘may be cross-examined.’.
- 60 Section 87(6), ‘shall be deemed to be’—**
omit, insert—
‘is’.
- 61 Section 87(8A), ‘shall remain’—**
omit, insert—
‘remains’.
- 62 Section 87(10A)(b), ‘shall by virtue of the conviction be’—**
omit, insert—
‘is, because of the conviction,’.
- 63 Section 87(11), ‘shall be’—**
omit, insert—
‘are’.
- 64 Section 88(7), ‘shall’—**
omit.

Schedule 2 (continued)

- 65 Section 89(1), ‘shall from the date of the order be’—**
omit, insert—
‘is, from the date of the order,’.
- 66 Section 89(1), from ‘or be so’—**
omit, insert—
‘or is so disqualified for the period as the judge states in the order.’.
- 67 Section 124(1)(g), (n) and (p) ‘specified’—**
omit, insert—
‘stated’.
- 68 Section 124(1)(n), ‘date’—**
omit, insert—
‘day’.
- 69 Section 124(1)(n), ‘at the time’—**
omit, insert—
‘on the day’.
- 70 Section 124(1)(p), ‘at the time of testing and’—**
omit, insert—
‘when so tested and’.
- 71 Section 124(1)(pc)(i), after ‘tested’—**
insert—
‘at a stated time’.

Schedule 2 (continued)

- 72 Section 124(1)(pc)(ii) and (tb)(ii), ‘at the specified time’—**
insert—
‘at the time of testing’.
- 73 Section 124(1)(pc), ‘at the time of testing’—**
omit, insert—
‘when so tested’.
- 74 Section 124(1)(pf) and (tb), from ‘at the time of testing’—**
omit, insert—
‘when so tested and for 1 year after the day of testing;’.
- 75 Section 124(1)(r)(i)(C), (r)(v), (s)(ii) and (iii), ‘specified’—**
omit, insert—
‘stated’.
- 76 Section 124(1)(tb)(i), ‘at a specified time’—**
omit, insert—
‘at a stated time’.

Schedule 3 Insertion of subsection headings

section 66(2)

Subsection headings for section 79

- (1) Offence of driving etc. while under the influence
- (1A) Liability under subsection (1) if convicted within 5 years under subsection (1)
- (1B) Liability under subsection (1) if convicted within 5 years on indictment or against Criminal Code, s 328A
- (1C) Liability under subsection (1) if 2 convictions within 5 years under various provisions
- (1D) Liability under subsection (1) if convicted within 5 years under other subsections
- (1E) Liability under subsection (1) if 2 convictions within 5 years under other subsections
- (2) Offence of driving etc. while over general alcohol limit but not over high alcohol limit
- (2A) Offence of driving etc. while over no alcohol limit but not over general alcohol limit if particular type of driver or licence
- (2B) Offence of driving etc. particular motor vehicles while over no alcohol limit but not over general alcohol limit
- (2C) Motor vehicles to which subsection (2B) applies
- (2D) Offence of driving etc. tram, train or vessel while over no alcohol limit but not over general alcohol limit
- (2E) Vessels to which subsection (2D) applies
- (2F) Liability under various subsections if conviction within 5 years under the subsections
- (2G) Liability under various subsections if 2 convictions within 5 years under the subsections

Schedule 3 (continued)

- (2H) Liability under various subsections if conviction within 5 years for other offences
- (2I) Liability under various subsections if conviction within 5 years under the subsections and another conviction
- (2J) Offence for particular licence holders if driving etc. while over no alcohol limit but not over general alcohol limit
- (3) Presumption that defendant is under the influence of liquor if over high alcohol limit
- (4) Conviction for offence against subsection (2), (2A), (2B), (2D) or (2J) in particular circumstance
- (4A) Conviction for offence against subsection (2) in particular circumstance
- (6) Court not to convict if satisfied of particular matters
- (7) Offence of driving etc. animals and other things while under the influence
- (8) Use of 'liquor or a drug' in charge not bad
- (8A) Conviction even if particular influence not established
- (9) Suspension of driver licence on failure to appear
- (10) Court's discretion for subsection (9) order
- (10A) Definition for subsection (10)
- (11) Application of subsections (1)–(2J)
- (12) Criminal Code, section 24, not applicable

Subsection headings for section 80

- (1) Definitions
- (1A) When person taken not to have provided specimen
- (2) Request for specimen of breath

Schedule 3 (continued)

- (2A) Request for specimen of breath or saliva after incident
- (2B) Application of subsection (2C)
 - (3) Time and place for provision of specimen
 - (5) Forcible taking of person to police station or other place
- (5A) Offence of failing to provide specimen as required
- (5B) When person is not guilty under subsection (5A)
 - (6) Powers of police for subsections (8)–(8L)
 - (8) Particular persons under arrest or detained may be required to provide specimen
 - (8A) Detaining person mentioned in subsection (8)
 - (8B) Person may be taken to particular places for subsections (8)–(8L)
 - (8E) Specimen of blood must be required if doctor's certificate produced
 - (8F) Providing a specimen of breath
 - (8G) Authorising a police officer to operate breath or saliva analysing instrument
 - (8H) Lost, mislaid or destroyed instrument of authority
 - (8I) Certificate of commissioner about authorisation
 - (8J) Operator of analysing instrument must not be arresting officer or officer who requires specimen
 - (8L) Application of subsection (8M)
- (8M) Requiring as many specimens as considered reasonably necessary
 - (9) Requiring specimen of blood or urine for laboratory test
- (9A) Powers of a police officer making requisition under subsection (9)
- (9B) Taking of specimen of blood by health care professional
- (9C) Providing specimen of urine as directed by doctor or nurse

Schedule 3 (continued)

- (10) Requiring doctor or nurse to obtain specimen of blood for laboratory test
- (10A) Obligations of doctors and nurses when taking specimen of blood
- (10B) Qualified assistant may take specimen of blood
- (10C) Specimen of blood also to be given to person
- (10D) Doctor or nurse need not comply with subsection (10A) in particular circumstances
- (10E) Limitation on requiring specimen of blood when specimen of breath previously provided and analysed
- (10G) Lawful to take specimen of blood without consent
- (11A) Person not guilty under subsection (11) in particular circumstances
- (15) Breath analysis certificate
- (15A) Subsection (15) certificate evidence
- (15B) Certificate of failure to provide breath or saliva specimen
- (15F) Subsection (15B) certificate evidence
- (15G) Evidence from breath analysing instrument
- (15H) Evidence may be negated
- (16B) Certificate by analyst is evidence of stated matters
- (16C) Certificate by health care professional of failure to provide blood specimen
- (16E) Subsection (16C) certificate evidence
- (16F) Two hours proof of alcohol or drug concentration by laboratory test
- (16H) Adjournment of hearing for reasons relating to certificate of analyst
- (16J) Deposition about giving certificate
- (16K) Subsection (16J) deposition evidence

Schedule 3 (continued)

- (16L) Court may deal with a charge even if laboratory test result unknown
- (18) Certificate by health care professional is evidence of stated matters
- (18A) Certificate by particular person is evidence of matters relating to the person
- (19) Evidence of compliance with subsection (16A)
- (20) Person providing specimen of blood or saliva may request specimen
- (20A) Health care professional must comply with request under subsection (20)
- (22) Application of subsection (22AA)
- (22AA) Suspension of driver licence for 24 hours in particular circumstances
- (22A) Police officer to give statement of suspension
- (22B) Arrest immaterial
- (22C) No appeal lies for suspension
- (22D) Offence of driving motor vehicle during suspension
- (23) If doctor unavailable, police officer may take person to another place for taking of specimen
- (24) Evidence of concentration of alcohol, drug etc. is admissible in trial on indictment
- (24A) Provisions about evidence admissible under subsection (24)
- (26) Defendant to give 14 days notice of intention to lead evidence of particular matters
- (27) Requirements for notice under subsection (26)
- (28) Court's leave necessary for particular persons to be required to attend hearing

Schedule 3 (continued)

- (29) When court may grant leave under subsection (28)
- (30) Matters for proceedings for offence against s 79