



Queensland

Transport and Other Legislation Amendment Act 2010

Act No. 13 of 2010



Queensland

Transport and Other Legislation Amendment Act 2010

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Transport and Other Legislation Amendment Act 2010

Act No. 13 of 2010

An Act to amend the Adult Proof of Age Card Act 2008, the Transport Infrastructure Act 1994, the Transport (New Queensland Driver Licensing) Amendment Act 2008, the Transport Operations (Marine Pollution) Act 1995, the Transport Operations (Marine Pollution) Regulation 2008, the Transport Operations (Marine Safety) Act 1994, the Transport Operations (Passenger Transport) Act 1994, the Transport Operations (Road Use Management) Act 1995, the Transport Operations (TransLink Transit Authority) Act 2008 and the Transport Planning and Coordination Act 1994 for particular purposes, and to make consequential or minor amendments of Acts as stated in the schedule for particular purposes

[Assented to 1 April 2010]

[s 1]

The Parliament of Queensland enacts—

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Transport and Other Legislation Amendment Act 2010*.

2 Commencement

- (1) Subject to subsections (2) and (3), this Act commences on a day to be fixed by proclamation.
- (2) The following provisions commence on the date of assent—
 - (a) chapter 2, part 5;
 - (b) chapter 3, parts 1 and 2;
 - (c) chapter 4, other than part 8;
 - (d) schedule, part 1.
- (3) Chapter 4, part 5, division 2 commences immediately after the commencement of section 132.

Chapter 2 Amendment of Transport Operations (Road Use Management) Act 1995—road safety reforms

Part 1 Preliminary

3 Act amended in chapter and schedule

This chapter and the schedule, parts 1 and 2 amend the *Transport Operations (Road Use Management) Act 1995*.

Part 2 No alcohol limit

4 Amendment of s 79 (Vehicle offences involving liquor or other drugs)

- (1) Section 79(1D), (1E), (2F), (2G), (2H), (2I), (4), (4A), (6)(a)(iv)(B) and (d) and (9), ‘or (2J)’—

omit, insert—

‘, (2J), (2K) or (2L)’.

- (2) Section 79(2A), ‘who is under 25 years,’—

omit.

- (3) Section 79(2C)—

insert—

‘(g) a specially constructed vehicle within the meaning of the driver licensing regulation;

(h) a tractor that is not a specially constructed vehicle mentioned in paragraph (g).’.

(4) Section 79—

insert—

‘(2K) Offence for class RE licence holders if riding etc. a motorbike while over no alcohol limit but not over general alcohol limit

A person who is the holder of a class RE licence, while the person is over the no alcohol limit but not over the general alcohol limit, must not—

- (a) ride a motorbike; or
- (b) attempt to put a motorbike in motion; or
- (c) be in charge of a motorbike;

unless the person has held a valid class RE licence for a period of least 1 year during the previous 5-year period.

Maximum penalty—14 penalty units or 3 months imprisonment.

Note—

See subsections (2) and (2B) for offences relating to driving other motor vehicles.

‘(2L) Offence for class RE licence holders if learning to ride etc. a class R motorbike while over no alcohol limit but not over general alcohol limit

A person who is the holder of a class RE licence, while the person is over the no alcohol limit but is not over the general alcohol limit, must not—

- (a) learn to ride a class R motorbike; or
- (b) attempt to put a class R motorbike in motion; or
- (c) be in charge of a class R motorbike.

Maximum penalty—14 penalty units or 3 months imprisonment.

‘(2M) Definitions for subsections (2K) and (2L)

In subsections (2K) and (2L), where a following defined term appears—

class RE licence—

- (a) means a class RE provisional, probationary or open licence within the meaning of the driver licensing regulation; and
- (b) includes a licence issued under a law of another State, the Commonwealth or another country corresponding to a licence mentioned in paragraph (a).

class R motorbike means a class R motorbike within the meaning of the driver licensing regulation.

valid, in relation to a class RE licence, means—

- (a) the licence has not expired; or
- (b) the licence has not been cancelled or suspended; or
- (c) the licensee is not disqualified, by order of an Australian court, from holding or obtaining a driver licence.’.

(5) Section 79(6), ‘or (2J)(c)’—

omit, insert—

‘, (2J)(c), (2K)(c) or (2L)(c)’.

(6) Section 79(11), ‘(2J)’—

omit, insert—

‘(2L)’.

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

Section 79B(1)(c) and (ca), ‘or (2J)’—

omit, insert—

‘, (2J), (2K) or (2L)’.

6 Amendment of s 80 (Breath and saliva tests, and analysis and laboratory tests)

Section 80(6)(aa), (22)(a) and (22)(c)(i), ‘or (2J)’—
omit, insert—
‘, (2J), (2K) or (2L)’.

7 Amendment of s 81 (Notices to offenders for certain first offences)

Section 81(1)(a), ‘or (2D),’—
omit, insert—
‘(2D), (2K) or (2L),’.

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

Section 86(1)(b), (1F), (1G), (2), (2B), (2D), (2F), (3E) and (3F), ‘or (2J)’—
omit, insert—
‘, (2J), (2K) or (2L)’.

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

Section 87(5)(da), (db)(ii) and (dc)(ii), ‘or (2J)’—
omit, insert—
‘, (2J), (2K) or (2L)’.

10 Amendment of s 90A (Definitions for ss 90B–90D)

- (1) Section 90A, definition *designated offence*, paragraph (a)(ii), ‘or (2J)’—
omit, insert—
‘, (2J), (2K) or (2L)’.

- (2) Section 90A, definition *drink driving offence*, paragraph (a)(iii), ‘or (2J)’—
omit, insert—
‘, (2J), (2K) or (2L)’.

Part 3 Alcohol ignition interlocks

11 Replacement of s 17A (Definition)

Section 17A—

omit, insert—

‘17A Meaning of *approval* for pt 1A

- ‘(1) This section applies for part 1A.
- ‘(2) An *approval* includes an accreditation, administrative determination, certificate, consent, exemption, licence, permit and registration given or granted by the chief executive under this Act.
- ‘(3) However, an *approval* does not include the following—
- (a) an approval under section 166;
 - (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;
 - (e) an exemption under section 153.
- ‘(4) Despite subsection (3)(b), an *approval* includes an interlock exemption.’.

12 Amendment of s 18 (Grounds for amending, suspending or cancelling approvals)

(1) Section 18(1)(o)—

renumber as section 18(1)(q).

(2) Section 18(1)—

insert—

‘(o) for an approval that is an interlock exemption—a change in circumstances has happened after the exemption was granted and, had the changed circumstances existed when the exemption was granted, it would not have been granted because of the requirements under section 91Q(3) applying to the grant;

(p) for an approval that is an interlock exemption—the holder of the approval has failed to comply with a restriction applying to the approval;’.

(3) Section 18(2)—

insert—

‘*change in circumstances*, for a person granted an interlock exemption because of circumstances mentioned in section 91Q(3)(a), does not include the establishment of a prescribed interlock installer’s place of business near the person’s place of residence.’.

13 Amendment of s 60 (Evidentiary aids)

Section 60(2)(t)—

insert—

‘(iii) of a relevant change of circumstances under section 91Y;’.

14 Amendment of s 78 (Driving of motor vehicle without a driver licence prohibited)

(1) Section 78(1A), after ‘1999’—

insert—

‘(*infringement notice*)’.

(2) Section 78(1A)—

insert—

‘(c) subsections (1B) to (1D) do not prevent the infringement notice being issued to the person.’.

(3) Section 78—

insert—

‘(1B) An infringement notice can not be issued to a person for a contravention of subsection (1) if—

- (a) the person has, in the 2 years before the contravention, been a person mentioned in section 91J(1); and
- (b) the person did not become an interlock driver because a Queensland driver licence was not granted to the person after the person’s disqualification period mentioned in that section ended.

‘(1C) Subject to subsection (1D), an infringement notice can not be issued to a person for a contravention of subsection (1) if—

- (a) the person had been an interlock driver; but
- (b) at the time of the contravention—
 - (i) the person did not hold a valid Queensland driver licence; and
 - (ii) the person’s interlock period had not ended.

‘(1D) An infringement notice may be issued to a person mentioned in subsection (1C) whose Queensland driver licence expired within 4 weeks before the contravention mentioned in the subsection.’.

(4) Section 78(3)—

insert—

‘(j) if the person committed the offence while the person was a person mentioned in subsection (1B) or (1C)—for

a period, of at least 1 month but not more than 6 months,
decided by the court.’.

15 Amendment of s 79 (Vehicle offences involving liquor or other drugs)

(1) Section 79(2J), after ‘79E driver’—

insert—

‘or interlock driver’.

(2) Section 79—

insert—

‘(13) In this section—

attempts to put in motion, a motor vehicle, for an interlock driver, does not, subject to subsection (14), include an attempt to put in motion a motor vehicle nominated by the interlock driver under section 91L and fitted with a prescribed interlock.

in charge of, a motor vehicle, for an interlock driver, does not, subject to subsection (14), include being in charge of a motor vehicle nominated by the interlock driver under section 91L and fitted with a prescribed interlock.

‘(14) The definitions in subsection (13) do not restrict the operation of subsection (1) or (2AA) in so far as the interlock driver attempts to put in motion, or is in charge of, a motor vehicle while under the influence of a drug or while a relevant drug is present in the person’s blood or saliva.’.

16 Amendment of s 90A (Definitions for ss 90B–90D)

(1) Section 90A, definition *designated offence*, paragraph (a)—

insert—

‘(iv) section 91W(1) for which paragraph (a)(i) or (ii) of the penalty for the offence applies; or

(v) section 91X(1); or’.

-
- (2) Section 90A, definition *drink driving offence*, paragraph (a)(vi)—
renumber as paragraph (a)(viii).
 - (3) Section 90A, definition *drink driving offence*, paragraph (a)—
insert—
 - ‘(vi) section 91W(1) for which paragraph (a)(i) or (ii) of the penalty for the offence applies; or
 - (vii) section 91X(1); or’.
 - (4) Section 90A, definition *relevant disqualifying provision*, paragraphs (e) and (f)—
renumber as paragraphs (g) and (h).
 - (5) Section 90A, definition *relevant disqualifying provision*—
insert—
 - ‘(e) section 91W(2); or
 - (f) section 91X(2); or’.

17 Insertion of new ch 5, pt 3B

Chapter 5—

insert—

‘Part 3B Alcohol ignition interlocks

‘Division 1 Preliminary

‘91I Definitions for pt 3B

‘In this part—

alcohol ignition interlock means a device that, when fitted to a motor vehicle, prevents the vehicle from being started unless the device is provided with a specimen of a person’s breath

containing either no alcohol or less than a particular concentration of alcohol.

approved means approved under a regulation.

disqualification period see section 91J(1).

drink driving offence means any of the following—

- (a) an offence against section 78(1) for which the offender was disqualified under section 78(3)(j) from holding or obtaining a Queensland driver licence for a particular period;
- (b) an offence against section 79(1), involving a motor vehicle, while under the influence of liquor;
- (c) an offence under section 80(11), involving a motor vehicle, in relation to failing to provide—
 - (i) a specimen of breath for analysis; or
 - (ii) a specimen of blood for a laboratory test if the requisition to which the failure relates was made for the purpose of determining the concentration of alcohol (if any) in the person's blood;
- (d) an offence against the Criminal Code, section 328A(1) or (4), involving a motor vehicle, when accompanied by the circumstance of aggravation that at the time of committing the offence the offender was adversely affected by alcohol;
- (e) an offence against section 91W(1) for which paragraph (a)(i) or (ii) of the penalty for the offence applies;
- (f) an offence against section 91X(1);
- (g) an offence against section 79(2), (2A), (2B), (2J), (2K) or (2L) involving a motor vehicle and committed within 5 years after the offender was previously convicted of—
 - (i) an offence against any of those provisions committed after the commencement of this definition; or

- (ii) an offence mentioned in any of paragraphs (a) to (f) committed after the commencement of this definition.

exemption certificate see section 91R(3).

interlock means an alcohol ignition interlock.

interlock condition see section 91K(1).

interlock driver—

- (a) means a person whose Queensland driver licence is subject to the interlock condition; and
- (b) includes a person who has an interlock exemption.

interlock exemption means an exemption, granted under section 91Q, from the application of the interlock condition while the exemption has effect.

interlock period see section 91M.

nominated vehicle, for a person, means a motor vehicle nominated by the person under section 91L.

nominated vehicle fitted with a prescribed interlock, for a person, includes a vehicle fitted with an interlock in compliance by the person with a non-Queensland interlock requirement.

non-Queensland interlock period means the period during which a person, under a non-Queensland interlock requirement, may drive only a motor vehicle fitted with an alcohol ignition interlock.

non-Queensland interlock requirement means a requirement under, or imposed under, a law of another jurisdiction allowing a person to drive only a motor vehicle fitted with an alcohol ignition interlock during a particular period.

prescribed interlock means an approved interlock provided by a person who is an approved interlock provider and installed and maintained by a prescribed interlock installer.

prescribed interlock installer means a person with whom an approved interlock provider has an arrangement for the person to install or maintain approved interlocks provided by the provider.

prescribed period see section 91N(1).

‘Division 2 Interlock condition

‘91J Persons to whom div 2 applies

- ‘(1) This division applies to a person who—
- (a) is convicted of a drink driving offence committed after the commencement of this section; and
 - (b) is disqualified, other than under a prescribed provision, by or because of the conviction or offence, or under the penalty imposed for the offence, for a particular period (the *disqualification period*) from holding or obtaining a Queensland driver licence.
- ‘(2) This division also applies to a person who is subject to a non-Queensland interlock requirement.
- ‘(3) Despite subsection (2), this division does not apply to a person mentioned in the subsection if, were this division to apply to the person, the person’s interlock period would have ended under section 91M.
- ‘(4) In this section—
- prescribed provision* means section 79B(4), 81(4)(b), 89(1) or 90(1).

‘91K Interlock condition

- ‘(1) A Queensland driver licence granted to a person mentioned in section 91J(1) after the person’s disqualification period ends is subject to the condition (*interlock condition*) that, during

the interlock period applying to the person, the person may drive only—

- (a) if paragraph (b) or (c) does not apply—a motor vehicle that is a nominated vehicle fitted with a prescribed interlock; or
 - (b) when the person is receiving driver training from a person accredited as a driver trainer under a regulation—
 - (i) a motor vehicle mentioned in paragraph (a); or
 - (ii) a motor vehicle provided by the accredited driver trainer; or
 - (c) when the person is taking a practical driving test under the driver licensing regulation—any motor vehicle.
- ‘(2) A Queensland driver licence granted to a person mentioned in section 91J(2) during the person’s non-Queensland interlock period is subject to the interlock condition.

‘91L Nomination of vehicle

- ‘(1) For section 91K(1)(a), a person—
- (a) may nominate only a motor vehicle of a class the person is authorised to drive under the person’s Queensland driver licence; and
 - (b) may nominate more than 1 motor vehicle.

Examples—

- the person’s own motor vehicle
 - a motor vehicle owned by the person’s spouse, friend or employer
- ‘(2) A particular vehicle can not be the nominated vehicle for more than 1 person unless a regulation provides for identifying the driver of the vehicle at a particular time.

Example of what a regulation may provide for—

a scheme involving the driver using a PIN or swipe card or keeping a logbook

- ‘(3) The nomination must be made in the approved form to the chief executive.

‘91M Interlock period

‘The *interlock period* is the period—

- (a) starting—
- (i) for a person mentioned in section 91J(1)—when the person’s disqualification period ends; or
 - (ii) for a person mentioned in section 91J(2)—when the person’s non-Queensland interlock period starts; and
- (b) ending when whichever of the following happens first—
- (i) a period of 2 years elapses after—
 - (A) for a person mentioned in section 91J(1)—the person’s disqualification period ended; or
 - (B) for a person mentioned in section 91J(2)—the person was first issued with a non-Queensland driver licence after becoming subject to a non-Queensland interlock requirement of the jurisdiction that issued the licence;
 - (ii) the person’s prescribed period ends;
 - (iii) the day, if any, the person’s Queensland driver licence is cancelled under section 127 because of a disqualification for a drink driving offence.

Note—

If a person’s interlock period ends under subparagraph (iii)—

- (a) the interlock condition ends under section 91O; and
- (b) any interlock exemption relating to the person stops having effect under section 91S(d); and
- (c) section 91K may apply in relation to the disqualification mentioned in the subparagraph.

‘91N Prescribed period

- ‘(1) The *prescribed period* for a person is the period of 12 months during which—
- (a) the person held a valid Queensland driver licence and had—
 - (i) a nominated vehicle fitted with a prescribed interlock; or
 - (ii) an interlock exemption that had effect; or
 - (b) the person, while driving under the authority of a valid non-Queensland driver licence—
 - (i) complied with a non-Queensland interlock requirement; or
 - (ii) had an exemption from the non-Queensland interlock requirement that had effect; or
 - (c) the person satisfied paragraph (a) for part of the period and satisfied paragraph (b) for the balance of the period.

Example—

The prescribed period may comprise 3 months during which the person satisfies paragraph (a)(i), 3 months during which the person satisfies paragraph (a)(ii), 3 months during which the person satisfies paragraph (b)(i) and 3 months during which the person satisfies paragraph (b)(ii).

- ‘(2) However, if a person’s prescribed period is extended under division 4, the prescribed period for the person is the period comprising—
- (a) the period of 12 months mentioned in subsection (1); and

- (b) each period—
 - (i) by which the period mentioned in subsection (1) is extended under division 4; and
 - (ii) during which the person meets the requirements of subsection (1)(a), (b) or (c).

Example—

If a person's prescribed period is extended under division 4 for a period of 3 months, the person's prescribed period is the period of 15 months during which the person meets the requirements of subsection (1)(a), (b) or (c).

'(3) The prescribed period need not be continuous.

'(4) In this section—

valid means—

- (a) in relation to a Queensland driver licence—
 - (i) the licence has not expired; or
 - (ii) the licence has not been cancelled or suspended; or
 - (iii) the licensee is not disqualified from holding or obtaining a Queensland driver licence; or
- (b) in relation to a non-Queensland driver licence—
 - (i) the licence has not expired; or
 - (ii) the licence has not been cancelled or suspended; or
 - (iii) the licensee is not disqualified from holding or obtaining the licence in the jurisdiction in which it may be issued.

'910 When interlock condition ends

'The interlock condition ends when the interlock period ends.

‘Division 3 Interlock exemption

‘91P Applying for interlock exemption

- ‘(1) A person mentioned in section 91J(1) may apply to the chief executive for an interlock exemption.
- ‘(2) The application can not be made sooner than 6 weeks before the end of the person’s disqualification period.
- ‘(3) A person mentioned in section 91J(2) may, at any time, apply to the chief executive for an interlock exemption.
- ‘(4) An application under subsection (1) or (3) must be made in the approved form and be accompanied by the fee prescribed under a regulation.

‘91Q Deciding application for interlock exemption

- ‘(1) The chief executive—
 - (a) must decide an application for an interlock exemption in the prescribed 28-day period; and
 - (b) must grant or refuse to grant the exemption.
- ‘(2) If the chief executive grants the exemption, the chief executive may impose restrictions applying to the exemption.
- ‘(3) The chief executive may only grant an interlock exemption if the chief executive is satisfied—
 - (a) that the shortest reasonable distance using a motor vehicle, or shortest reasonable travelling time using a motor vehicle, between the applicant’s place of residence and the nearest place of business of a prescribed interlock installer is greater than the distance or time prescribed under a regulation; or
 - (b) that, as evidenced by a doctor’s certificate provided to the chief executive, the applicant has a medical condition preventing the applicant from providing a

sufficient breath sample to operate an approved interlock; or

- (c) of another matter prescribed under a regulation for this subsection.
- ‘(4) If the chief executive reasonably believes further information or documents are required to make a decision about the application, the chief executive may give the applicant a written notice requesting the applicant, within a stated period of at least 28 days, to give further information or documents relevant to the application.
- ‘(5) If the applicant does not comply with a notice given under subsection (4), the chief executive may declare, by further written notice given to the applicant, that the application is taken to be withdrawn on a day stated in the notice.
- ‘(6) A notice given under subsection (5) must state—
- (a) the reasons for the decision to make the declaration; and
 - (b) the prescribed review information for the decision.
- ‘(7) If the chief executive does not decide the application within the prescribed 28-day period, the chief executive is taken to have made a decision (a *deemed decision*) refusing to grant the exemption on the last day of the period.
- ‘(8) Despite subsection (7), the chief executive may continue to consider the application and make a considered decision in relation to it.
- ‘(9) If a considered decision is made, the considered decision replaces any deemed decision for the purposes of this Act.
- ‘(10) As soon as practicable after a deemed decision or considered decision is made, the chief executive must give the applicant a written notice stating—
- (a) the prescribed review information for the decision; and
 - (b) for a considered decision, the reasons for the decision.

Note—

Sections 65 and 65A provide for the review of the decision.

‘(11) In this section—

considered decision means a decision in accordance with subsection (3).

prescribed 28-day period means the later of the following periods—

- (a) 28 days after the chief executive receives the application;
- (b) 28 days after the chief executive receives further information or documents about the application under subsection (4).

‘91R Decision on application and exemption certificate

- ‘(1) The chief executive must inform an applicant for an interlock exemption of the chief executive’s decision on the application by written notice.
- ‘(2) If the chief executive decides to grant the exemption, the written notice must contain a brief statement of—
 - (a) the matters of which the chief executive was satisfied under section 91Q(3); and
 - (b) the matters in relation to which the person must notify the chief executive, under section 91Y, of any change.
- ‘(3) Also, if the chief executive decides to grant the exemption, the chief executive must give the applicant a certificate about the exemption (the *exemption certificate*).
- ‘(4) The exemption certificate must be in the approved form and must state—
 - (a) the exemption’s expiry date; and
 - (b) any restrictions applying to the exemption; and
 - (c) to the extent it is relevant, the information mentioned in section 91S.
- ‘(5) If the chief executive decides to refuse to grant the exemption, the notice must state—

- (a) the reasons for the decision; and
- (b) the prescribed review information for the decision.

‘91S When interlock exemption stops having effect

‘A person’s interlock exemption stops having effect when whichever of the following happens first—

- (a) the expiry date stated on the exemption certificate;
- (b) 14 days elapse after the person gives the chief executive a notice under section 91Y;
- (c) the exemption is cancelled under section 19;

Note—

Section 19 provides the procedure for cancelling an approval which, as defined in section 17A, includes an interlock exemption.

- (d) the interlock period ends.

‘91T What happens when interlock exemption stops having effect

‘When a person’s interlock exemption stops having effect, the interlock condition of the person’s Queensland driver licence applies to its full extent for the remainder of the person’s interlock period.

‘Division 4 Extending interlock driver’s prescribed period

‘91U Grounds for extending prescribed period

- ‘(1) It is a ground for extending an interlock driver’s prescribed period if—

- (a) the person drove a nominated vehicle for the person without first providing the vehicle's prescribed interlock with a specimen of the person's breath; or
- (b) the person drove a nominated vehicle for the person when the person knew, or ought reasonably to have known, the vehicle's prescribed interlock was not operating properly; or
- (c) the person drove a nominated vehicle for the person when the person knew, or ought reasonably to have known that the vehicle's prescribed interlock had been interfered with.

'(2) In this section—

interfered with includes tampered with, damaged, destroyed and removed.

'91V Procedure for extending prescribed period

- '(1) If the chief executive considers a ground exists to extend an interlock driver's prescribed period (the *proposed action*), the chief executive may give the person a written notice (the *show cause notice*).
- '(2) The show cause notice must—
 - (a) state the proposed action; and
 - (b) state the ground for the proposed action; and
 - (c) outline the facts and circumstances forming the basis for the ground; and
 - (d) state the period, of not more than 3 months, by which the prescribed period is to be extended; and
 - (e) invite the person to show cause, within a stated time of at least 28 days, why the proposed action should not be taken.
- '(3) The chief executive may, before or after the end of the time stated in the show cause notice, extend the time within which the person may show cause.

- ‘(4) If, after considering any personal or written representations made within the time stated or allowed, the chief executive still considers a ground exists to take the proposed action, the chief executive may extend the prescribed period for a period not longer than the period stated in the show cause notice.
- ‘(5) The chief executive must give the person written notice of the decision stating the following—
 - (a) the period for which the prescribed period is extended;
 - (b) the reasons for the decision;
 - (c) the prescribed review information for the decision.

‘Division 5 Offences

‘91W Driving a motor vehicle other than as allowed under an interlock condition

- ‘(1) An interlock driver must not drive a motor vehicle that is a prohibited vehicle for the person, unless the person has an interlock exemption that has effect.

Maximum penalty—

- (a) if the motor vehicle driven by the person was not fitted with a prescribed interlock, whether or not it was a nominated vehicle for the person—
 - (i) for a first conviction—28 penalty units; or
 - (ii) for a conviction within 5 years after a previous conviction to which the circumstance mentioned in this paragraph applies—60 penalty units; or
 - (b) if the motor vehicle driven by the person was not a nominated vehicle for the person but was fitted with a prescribed interlock—28 penalty units.
- ‘(2) 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 the following period—

- (a) for a conviction mentioned in paragraph (a)(i) of the penalty—3 months;
 - (b) for a conviction mentioned in paragraph (a)(ii) of the penalty—6 months.
- ‘(3) Subsection (4) applies if a police officer reasonably suspects an interlock driver is, or has been, driving a prohibited vehicle for the person.
- ‘(4) If asked by the police officer whether the person may drive the vehicle under the interlock condition of the person’s Queensland driver licence, the person must produce for inspection an exemption certificate given to the person under section 91Q for an interlock exemption that has effect, unless the person has a reasonable excuse for not complying with the request.

Maximum penalty—28 penalty units.

- ‘(5) Without limiting the matters that may be a reasonable excuse for subsection (4), it is a reasonable excuse if the person has not been given an exemption certificate under section 91R.
- ‘(6) In this section—

conviction means a conviction for an offence against subsection (1).

prohibited vehicle, for a person, means a motor vehicle other than a motor vehicle the person may drive under the interlock condition of the person’s Queensland driver licence.

‘91X Noncompliance with restrictions applying to interlock exemption

- ‘(1) An interlock driver who has an interlock exemption must comply with any restrictions applying to the exemption.

Maximum penalty—

- (a) for a first conviction—28 penalty units; or

- (b) for a conviction within 5 years after a previous conviction—60 penalty units.
- ‘(2) 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 the following period—
- (a) for a conviction mentioned in paragraph (a) of the penalty—3 months;
 - (b) for a conviction mentioned in paragraph (b) of the penalty—6 months.
- ‘(3) In this section—
- conviction*** means a conviction for an offence against subsection (1).

‘91Y Person with interlock exemption must give notification of change in circumstances

- ‘(1) A person who has an interlock exemption must, within 14 days after the happening of a relevant change of circumstances, give written notice of the change to the chief executive.

Maximum penalty—28 penalty units.

- ‘(2) In this section—
- relevant change of circumstances*** means a change in any of the matters stated, as required under section 91R(2)(b), in a written notice given to the person.

‘Division 6 Other provisions about interlocks

‘91Z Regulations relating to interlocks

‘A regulation may be made under this division, including, for example, for making provision about the following—

- (a) the approval of interlocks;
- (b) the approval by the chief executive of providers or installers of interlocks, including conditions relating to an approval and the audit of approvals and conditions relating to approvals;
- (c) the criteria necessary to be met by a provider or installer of interlocks for obtaining and continuing to hold an approval, including criteria relating to service standards and requirements;
- (d) the installation, maintenance and removal of interlocks, including arrangements to be entered into in relation to their installation, maintenance or removal.’.

18 Amendment of s 124 (Facilitation of proof)

- (1) Section 124(1)(ga)—

renumber as section 124(1)(ge).

- (2) Section 124(1)—

insert—

‘(ga) a certificate purporting to be signed by the chief executive or commissioner stating either or both of the following—

- (i) at a stated time, a stated vehicle was or was not the nominated vehicle for chapter 5, part 3B for a stated person;
- (ii) at a stated time, a stated nominated vehicle for chapter 5, part 3B for a stated person was or was not fitted with a prescribed interlock;

is evidence of the matters stated in it;

(gb) a certificate purporting to be signed by the chief executive or commissioner stating—

- (i) that at a stated time a stated person had or did not have an interlock exemption that was in effect; and

(ii) any restrictions that applied to the interlock exemption;

is evidence of the matters stated in it;

(gc) a certificate purporting to be signed by the chief executive stating that the chief executive—

(i) has or has not received from a stated person an application, in the approved form, for an interlock exemption; or

(ii) did or did not grant an interlock exemption to a stated person and, if the chief executive did not grant the exemption, the reasons for deciding not to grant it;

is evidence of the matters stated in it;

(gd) a document purporting to be a copy of—

(i) a nomination, in the approved form, of a motor vehicle for section 91K(1)(a) received by the chief executive; or

(ii) an application, in the approved form, made under section 91P for an interlock exemption; or

(iii) a notice, given under section 91Q(4), asking a person who has made an application for an interlock exemption to give the chief executive further information or documents relevant to the application; or

(iv) a notice given under section 91Q(10) or 91V(5), about a decision of the chief executive made under chapter 5, part 3B; or

(v) a notice given under section 91Q(5) declaring that an application for an interlock exemption is taken to be withdrawn; or

(vi) an exemption certificate given under section 91R(3);

and certified as a true copy of the document is evidence of the matters stated in it;’.

19 Amendment of s 168A (Effect of particular corresponding administrative action or corresponding order in relation to heavy vehicle)

Section 168A(4), definition *approval*, note—
omit, insert—

‘Note—

See section 17A for the meaning of *approval* for chapter 3, part 1A.’.

20 Amendment of sch 3 (Reviewable decisions)

Schedule 3—

insert—

- ‘91Q(1)(b) refusing to grant an interlock exemption
- 91Q(5) making a declaration that an application for an interlock exemption is taken to be withdrawn
- 91Q(7) refusing to grant an interlock exemption
- 91V(4) extending a prescribed period’.

21 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘alcohol ignition interlock see section 91I.

approved, for chapter 5, part 3B, see section 91I.

disqualification period, for chapter 5, part 3B, see section 91I.

drink driving offence—

- (a) for sections 90B to 90D, see section 90A; or

- (b) for chapter 5, part 3B, see section 91I.
exemption certificate, for chapter 5, part 3B, see section 91I.
interlock see section 91I.
interlock condition see section 91I.
interlock driver see section 91I.
interlock exemption see section 91I.
interlock period see section 91I.
nominated vehicle, for chapter 5, part 3B, see section 91I.
nominated vehicle fitted with a prescribed interlock see section 91I.
non-Queensland interlock period see section 91I.
non-Queensland interlock requirement see section 91I.
prescribed interlock see section 91I.
prescribed interlock installer see section 91I.
prescribed period see section 91I.’.

Part 4 Heavy vehicle speeding

22 Amendment of s 26A (Further power to enter place of business in relation to heavy vehicle or prescribed dangerous goods vehicle)

Section 26A(8)—

insert—

‘*responsible person*, for a heavy vehicle, for the exercise of a power under this section in relation to a heavy vehicle speeding offence, does not include—

- (a) a person mentioned in schedule 4, definition *responsible person*, paragraph (j), (k), (l) or (o); or

Note—

Those paragraphs deal with persons who pack, load or unload goods or containers, and owners and operators etc. of weighbridges or weighing facilities.

- (b) an agent, employer, employee or subcontractor of that person.’.

23 Amendment of s 48A (Further power to require personal details for exercising power in relation to heavy vehicle or transport of dangerous goods)

Section 48A(8)—

insert—

‘*responsible person*, for a heavy vehicle, for the exercise of a power under this section in relation to a heavy vehicle speeding offence, does not include—

- (a) a person mentioned in schedule 4, definition *responsible person*, paragraph (j), (k), (l) or (o); or

Note—

Those paragraphs deal with persons who pack, load or unload goods or containers, and owners and operators etc. of weighbridges or weighbridge facilities.

- (b) an agent, employer, employee or subcontractor of that person.’.

24 Amendment of s 49A (Direction to provide information about heavy vehicles and transport of dangerous goods)

Section 49A(7)—

insert—

‘*responsible person*, for a heavy vehicle, for the exercise of a power under this section in relation to a heavy vehicle speeding offence, does not include—

[s 25]

- (a) a person mentioned in schedule 4, definition *responsible person*, paragraph (j), (k), (l) or (o); or

Note—

Those paragraphs deal with persons who pack, load or unload goods or containers, and owners and operators etc. of weighbridges or weighbridge facilities.

- (b) an agent, employer, employee or subcontractor of that person.’.

25 Amendment of s 50AB (Power to require help to find and access particular documents or information)

Section 50AB(3)—

insert—

‘*responsible person*, for a heavy vehicle, for the exercise of a power under this section in relation to a heavy vehicle speeding offence, does not include—

- (a) a person mentioned in schedule 4, definition *responsible person*, paragraph (j), (k), (l) or (o); or

Note—

Those paragraphs deal with persons who pack, load or unload goods or containers, and owners and operators etc. of weighbridges or weighbridge facilities.

- (b) an agent, employer, employee or subcontractor of that person.’.

26 Amendment of s 57AB (Definitions for sdiv 2)

- (1) Section 57AB, definition *extended liability offence*—

insert—

‘(d) a heavy vehicle speeding offence.’.

- (2) Section 57AB, definition *influencing person*, paragraph (d)(ii) and (iii)—

omit, insert—

- ‘(ii) a scheduler for the heavy vehicle;’.
- (3) Section 57AB, definition *influencing person*, paragraph (d)(iv) to (vi)—
renumber as paragraph (d)(iii) to (v).
- (4) Section 57AB, definition *influencing person*, paragraph (e)(ii) and (iii)—
omit, insert—
‘(ii) a scheduler for the heavy vehicle; and’.
- (5) Section 57AB, definition *influencing person*, paragraph (f)(ii) and (iii)—
omit, insert—
‘(ii) a scheduler for the heavy vehicle; and
(g) for a heavy vehicle speeding offence, includes the employer of the driver of the heavy vehicle.’.

27 Amendment of s 57B (Further liability provisions for extended liability offences)

- (1) Section 57B(2), penalty—
omit, insert—
‘Maximum penalty—
- (a) if the extended liability offence is a heavy vehicle speeding offence of exceeding a speed limit of 50–60km/h—10 penalty units; or
- (b) if the extended liability offence is a heavy vehicle speeding offence of exceeding a speed limit of 70–80km/h—
- (i) by less than 15km/h—10 penalty units; or
- (ii) by 15km/h or more—40 penalty units; or

- (c) if the extended liability offence is a heavy vehicle speeding offence, committed other than by the driver of a road train, of exceeding a speed limit of 90km/h—
 - (i) by less than 15km/h—10 penalty units; or
 - (ii) by 15km/h or more—40 penalty units; or
 - (d) if the extended liability offence is a heavy vehicle speeding offence, committed by the driver of a road train, of exceeding a speed limit of 90km/h—
 - (i) by less than 15km/h—40 penalty units; or
 - (ii) by 15km/h or more—80 penalty units; or
 - (e) if the extended liability offence is a heavy vehicle speeding offence of exceeding a speed limit of 100km/h or more—
 - (i) by less than 15km/h—40 penalty units; or
 - (ii) by 15km/h or more—80 penalty units; or
 - (f) for any other extended liability offence—the maximum penalty for an individual for committing the offence.’.
- (2) Section 57B—
insert—
- ‘(3) In this section—
person in control, of a heavy vehicle, for an extended liability offence that is a heavy vehicle speeding offence, means the driver of the heavy vehicle.’.

28 Replacement of ss 57DB and 57DC

Sections 57DB and 57DC—

omit, insert—

‘57DB Matters court may consider for deciding whether person took all reasonable steps—particular offences about heavy vehicles

- ‘(1) Without limiting section 57D, in deciding whether things done or omitted to be done by a person charged with a prescribed offence constitute reasonable steps, the court may have regard to the following—
- (a) the nature of the activity to which the contravention constituting the offence relates;
 - (b) the risks to safety associated with the activity mentioned in paragraph (a);
 - (c) the likelihood of the risks to safety mentioned in paragraph (b) arising;
 - (d) the degree of harm likely to result from the risks to safety mentioned in paragraph (b) arising;
 - (e) the circumstances of the alleged offence, including, for a fatigue management offence, any risk category for the contravention constituting the offence;
 - (f) the measures available and measures taken—
 - (i) to prevent, eliminate or minimise the likelihood of a potential contravention happening; or
 - (ii) to eliminate or minimise the likelihood of a risk to safety arising from a potential contravention; or
 - (iii) to manage, minimise or eliminate a risk to safety arising from a potential contravention;
 - (g) the personal expertise and experience that the person charged had or ought to have had or that an agent or employee of that person had or ought to have had;
 - (h) the degree of ability the person charged, or an agent or employee of that person, had to take a measure mentioned in paragraph (f);
 - (i) the costs of measures mentioned in paragraph (f).

- ‘(2) In addition, without limiting section 57D, in deciding whether things done or omitted to be done by a person charged with a prescribed offence constitute reasonable steps, the court may have regard to the following—
- (a) the measures available and measures taken for any or all of the following—
 - (i) to include compliance assurance conditions in relevant commercial arrangements with other relevant responsible persons;
 - (ii) to provide information, instruction, training and supervision to employees to enable compliance with relevant laws;
 - (iii) to maintain equipment and work systems to enable compliance with relevant laws;
 - (iv) to address and remedy similar compliance problems that may have happened in the past;
 - (b) any accreditation scheme, scientific knowledge, expert opinion, guidelines, standards or other knowledge about preventing or managing exposure to risks to safety arising from fatigue.
- ‘(3) This section does not limit the matters the court must or may consider when deciding whether things done or omitted to be done by a person charged with a prescribed offence constitute reasonable steps.
- ‘(4) In this section—
- other relevant responsible persons*** means—
- (a) for a person charged with a fatigue management offence—other responsible persons for fatigue regulated heavy vehicles; or
 - (b) for a person charged with a prescribed offence other than a fatigue management offence—other responsible persons for heavy vehicles.

prescribed offence means—

- (a) a fatigue management offence; or
- (b) an offence against section 57B(2) relating to a heavy vehicle speeding offence; or
- (c) an offence against chapter 5D, part 2.

risk category, for a contravention of a fatigue management requirement of a fatigue management regulation, means 1 of the following categories—

- (a) minor risk breach;
- (b) substantial risk breach;
- (c) severe risk breach;
- (d) critical risk breach.

‘57DC When person regarded to have taken all reasonable steps—particular offences about heavy vehicles

- ‘(1) A person charged with a prescribed offence is to be regarded as having taken all reasonable steps if the person did all of the following to prevent the act or omission that led to the contravention to which the offence relates—
- (a) identified and assessed the aspects of the activities of the person, and relevant drivers for the person, that may lead to a relevant contravention by a relevant driver for the person;
 - (b) for each aspect identified and assessed under paragraph (a), identified and assessed—
 - (i) the risk of the aspect leading to a relevant contravention; and
 - (ii) if there is a substantial risk of the aspect leading to a relevant contravention—the measures the person may take to eliminate the risk or, if it is not reasonably possible to eliminate the risk, to minimise the risk;

- (c) carried out the identification and assessment mentioned in paragraphs (a) and (b)—
 - (i) at least annually; and
 - (ii) after each event that indicated the way the activities the subject of the identification and assessment are being carried out have led, or may lead, to a relevant contravention;
 - (d) took the measures identified and assessed under paragraph (b)(ii);
 - (e) for each action mentioned in any of paragraphs (a) to (d) taken by the person—
 - (i) kept a record of the action for at least 3 years after taking it; or
 - (ii) if 3 years have not passed since taking the action, kept a record of the action since taking it.
- ‘(2) This section does not limit the circumstances in which things done or omitted to be done by a person charged with a prescribed offence constitute reasonable steps.
- ‘(3) In this section—
- prescribed offence*** means—
- (a) a fatigue management offence; or
 - (b) an offence against section 57B(2) relating to a heavy vehicle speeding offence; or
 - (c) an offence against chapter 5D, part 2.
- relevant contravention*** for a person charged with a prescribed offence means a contravention of the type to which the offence relates.
- relevant driver*** means—
- (a) for a person charged with a fatigue management offence—a person in control of a fatigue regulated heavy vehicle in relation to which the person is an influencing person under section 57AB; or

- (b) for a person charged with an offence against section 57B(2) relating to a heavy vehicle speeding offence—a person in control of a heavy vehicle in relation to which the person is an influencing person under section 57AB; or
- (c) for a person charged with an offence against chapter 5D, part 2—a driver of a heavy vehicle for which the person is a party in the chain of responsibility under that part.’.

29 Amendment of s 57F (Proof of compliance with industry code of practice)

Section 57F(5), definition *prescribed provision*—
omit, insert—

‘*prescribed provision* means a following provision—

- section 53B(2), (3), (4) or (5)
- section 53C(1) or (2)
- section 57B(2)
- section 162D(1)
- section 163AD, 163AG, 163AI or 163AL.’.

30 Amendment of s 57H (Criminal Code, s 24 does not apply to particular offences)

Section 57H(1)—

insert—

- ‘(f) an offence against section 163AD, 163AE, 163AF, 163AG, 163AH, 163AI, 163AL or 163AM.’.

31 Insertion of new ch 5D

After section 163A—

insert—

‘Chapter 5D Heavy vehicle speeding

‘Part 1 Preliminary

‘163AA Main purpose of ch 5D

‘The main purpose of this chapter is to improve road safety and compliance with road safety laws by imposing responsibility for speeding by heavy vehicles on persons whose business activities influence the conduct of the drivers of heavy vehicles.

‘163AB Outline of the main features of ch 5D

‘This chapter—

- (a) requires persons who are most directly responsible for the operation of a heavy vehicle to take reasonable steps to ensure their activities do not cause drivers to exceed speed limits; and
- (b) requires anyone who schedules the activities of a heavy vehicle, or its driver, to take reasonable steps to ensure the schedule of the vehicle and the driver does not cause the driver to exceed speed limits; and
- (c) requires heavy vehicle loading managers to take reasonable steps to ensure the loading or unloading arrangements for a heavy vehicle do not cause the driver to exceed speed limits; and
- (d) requires particular persons who consign goods for transport by a heavy vehicle, or who receive the goods, to take reasonable steps to ensure the terms of consignment of the goods do not cause drivers to exceed speed limits; and

- (e) prohibits anyone from asking a driver to exceed speed limits and from entering into an agreement that causes a driver to exceed speed limits.

‘163AC Definitions for ch 5D

‘In this chapter—

cause, a thing, includes—

- (a) contribute to causing the thing; and
(b) encourage the thing.

driver means the driver of a heavy vehicle and includes an employed driver and a self-employed driver.

employed driver means a driver who is employed by someone else to drive a heavy vehicle under a contract of employment, apprenticeship or training.

employer means a person who engages someone else to drive a heavy vehicle under a contract of employment, apprenticeship or training.

Example—

a labour hire company

party in the chain of responsibility see section 163AN.

prime contractor means a person who engages someone else to drive a heavy vehicle under a contract for services.

Example—

a logistics business that engages a subcontractor to transport goods

self-employed driver means a driver who is not an employed driver.

speed limit, in relation to a driver, means a speed limit applying to the driver under the Queensland Road Rules.

‘Part 2 Particular duties and offences

‘Division 1 Employers, prime contractors and operators

‘163AD Duty of employer, prime contractor or operator to ensure business practices will not cause driver to exceed speed limit etc.

- ‘(1) A relevant party for a driver must take all reasonable steps to ensure the relevant party’s business practices will not cause the driver to exceed a speed limit.

Maximum penalty—80 penalty units.

Examples of reasonable steps—

- regular consultation with other parties in the chain of responsibility, unions and industry associations to address compliance issues
- reviewing driving, work and trip records
- a program to report and monitor (for example, by GPS tracking) incidents of speeding and related risks and hazards
- training and information for drivers, staff and parties in the chain of responsibility about speeding
- regular maintenance of vehicle components that relate to complying with speed limits (for example, speedometer, engine management system and speed limiters)

Notes—

- 1 Section 57DB sets out some of the factors a court may consider in deciding whether a person has taken all reasonable steps.
- 2 Section 57DC sets out 1 method by which an employer, prime contractor and operator can take all reasonable steps for this subsection.

- ‘(2) In this section—

business practices, of a relevant party for a driver, means the practices of the relevant party in running the relevant party’s business, and includes each of the following—

-
- (a) the operating policies and procedures of the business;
 - (b) the human resource and contract management arrangements of the business;
 - (c) arrangements for managing safety.

relevant party, for a driver, means any of the following—

- (a) an employer of the driver, if the driver is an employed driver;
- (b) a prime contractor of the driver, if the driver is a self-employed driver;
- (c) an operator of the vehicle, if the driver of the vehicle is to make a journey for the operator.

‘163AE Duty of employer not to cause driver to drive if particular requirements not complied with

‘An employer of an employed driver must not cause the driver to drive the heavy vehicle unless—

- (a) the employer has complied with section 163AD; and
- (b) the employer, after making reasonable inquiries, is satisfied each scheduler for the vehicle has complied with sections 163AG and 163AH.

Maximum penalty—40 penalty units.

‘163AF Duty of prime contractor or operator not to cause driver to drive if particular requirements not complied with

‘(1) This section applies to—

- (a) a prime contractor of a self-employed driver (the *driver*); and
- (b) an operator of a heavy vehicle being driven by someone else (also the *driver*).

- ‘(2) The prime contractor, or operator, must not cause the driver to drive the heavy vehicle unless—
- (a) the prime contractor, or operator, has complied with section 163AD; and
 - (b) the prime contractor, or operator, after making reasonable inquiries, is satisfied each scheduler for the vehicle has complied with sections 163AG and 163AH.

Maximum penalty—40 penalty units.

‘Division 2 Schedulers

‘163AG Duty to ensure driver’s schedule will not cause driver to exceed speed limit

‘A scheduler for a heavy vehicle must take all reasonable steps to ensure the schedule for the driver will not cause the driver to exceed a speed limit.

Maximum penalty—80 penalty units.

Examples of reasonable steps—

- consulting drivers about their schedules and work requirements
- taking account of the average speed that can be travelled lawfully on scheduled routes
- allowing for traffic conditions or other delays in schedules
- contingency planning concerning schedules

Notes—

- 1 Section 57DB sets out some of the factors a court may consider in deciding whether a person has taken all reasonable steps.
- 2 Section 57DC sets out 1 method by which a scheduler can take all reasonable steps for this section.

‘163AH Duty not to cause driver to drive if particular requirements not complied with

‘A scheduler for a heavy vehicle must not cause the driver to drive the heavy vehicle unless—

- (a) the scheduler has complied with section 163AG; and
- (b) the driver’s schedule for driving the vehicle allows—
 - (i) for compliance with all speed limits; and
 - (ii) for the driver to take all required rest breaks in compliance with all laws regulating the driver’s work and rest hours; and
 - (iii) for traffic conditions and other delays that could reasonably be expected.

Examples for subparagraph (iii)—

- the actual average speed able to be travelled lawfully and safely by the driver on the route to be travelled by the vehicle
- known traffic conditions, for example, road works or traffic congestion on the route
- delays caused by loading, unloading or queuing

Maximum penalty—40 penalty units.

‘Division 3 Loading managers

‘163AI Duty of loading manager to ensure loading arrangements will not cause driver to exceed speed limit

‘A loading manager must take all reasonable steps to ensure the arrangements for loading and unloading heavy vehicles at the premises in relation to which the person is the loading manager will not cause a driver to exceed a speed limit.

Examples of reasonable steps—

- reviewing loading and unloading times and delays at loading and unloading places

- identifying potential loading and unloading congestion in consultation with drivers and other parties in the chain of responsibility
- having a system of setting and allocating loading and unloading times that a driver can reasonably rely on
- allowing loading and unloading to happen at an agreed time

Notes—

- 1 Section 57DB sets out some of the factors a court may consider in deciding whether a person has taken all reasonable steps.
- 2 Section 57DC sets out 1 method by which a loading manager can take all reasonable steps for this section.

Maximum penalty—80 penalty units.

‘Division 4 Particular consignors and consignees

‘163AJ Consignors to whom div 4 applies

‘This division applies only to a consignor who engages a particular operator of a heavy vehicle, either directly or indirectly or through an agent or other intermediary, to transport goods for the consignor by road for commercial purposes.

‘163AK Consignees to whom div 4 applies

‘This division applies only to a consignee—

- (a) who, with the consignee’s authority, is named or otherwise identified in the relevant transport documentation as the intended consignee of goods transported by road by a particular operator of a heavy vehicle; and
- (b) who knows, or who ought reasonably to have known, that the goods were to be transported by road.

‘163AL Duty of consignor or consignee to ensure terms of consignment will not cause driver to exceed speed limit etc.

‘(1) A consignor or consignee must take all reasonable steps to ensure the terms of consignment will not cause the driver to exceed a speed limit.

Maximum penalty—80 penalty units.

‘(2) A consignor or consignee must take all reasonable steps to ensure the terms of consignment will not cause a relevant party for the driver to cause the driver to exceed a speed limit.

Maximum penalty—80 penalty units.

Examples of reasonable steps for subsections (1) and (2)—

- ensuring contractual arrangements and documentation for the consignment and delivery of goods enable speed limit compliance
- contingency planning concerning consignments and delivery times
- regular consultation with other parties in the chain of responsibility, unions and industry associations to address compliance issues

Notes for subsections (1) and (2)—

- 1 Section 57DB sets out some of the factors a court may consider in deciding whether a person has taken all reasonable steps.
- 2 Section 57DC sets out 1 method by which a consignor or consignee can take all reasonable steps for subsection (1) or (2).

‘(3) In this section—

driver means the driver of the heavy vehicle by which the consigned goods are transported.

relevant party, for a driver, means—

- (a) an employer of the driver, if the driver is an employed driver; or
- (b) a prime contractor of the driver, if the driver is a self-employed driver; or
- (c) an operator of the vehicle.

‘163AM Duty of consignor or consignee not to make a demand that may result in driver exceeding the speed limit

‘A consignor or consignee must not make a demand that affects, or may affect, a time in a schedule for the transport of the consigned goods unless—

- (a) the consignor or consignee has complied with section 163AL; and
- (b) the consignor or consignee is satisfied, after making reasonable inquiries, that the making of the demand will not cause a person to fail to comply with section 163AG or 163AH.

Maximum penalty—60 penalty units.

‘Division 5 Particular requests etc. and contracts prohibited

‘163AN Who is a *party in the chain of responsibility*

- ‘(1) Each of the following persons is a *party in the chain of responsibility* for a heavy vehicle—
- (a) an employer of the driver;
 - (b) a prime contractor for the driver;
 - (c) an operator of the vehicle;
 - (d) a scheduler for the vehicle;
 - (e) a loading manager for goods in the vehicle;
 - (f) a consignor of goods transported or to be transported by the vehicle to whom division 4 applies;
 - (g) a consignee of goods transported or to be transported by the vehicle to whom division 4 applies.

Note—

The performance of any of these functions, whether exclusively or occasionally, decides whether a person falls within any of these definitions, rather than the person's job title or contractual description.

- '(2) A person may be a party in the chain of responsibility in more than 1 capacity.

Example—

A person may be a driver's employer, an operator and a consignor of goods at the same time in relation to a heavy vehicle and be subject to duties in each of the capacities.

'163AO Particular requests etc. prohibited

'A person must not ask, direct or require, directly or indirectly, a driver, or a party in the chain of responsibility for a heavy vehicle, to do something the person knows, or reasonably ought to know, would have the effect of causing the driver to exceed a speed limit.

Example of a requirement that contravenes this section—

a requirement that the driver complete a journey in a time the person knows or reasonably ought to know can not be complied with unless the driver exceeds the speed limit or does not take all the rest time the driver is required to take under the fatigue management regulation

Maximum penalty—80 penalty units.

'163AP Particular contracts etc. prohibited

- '(1) A person must not enter into a contract or agreement with a driver or with a party in the chain of responsibility for a heavy vehicle that the person knows, or reasonably ought to know, would have the effect of causing the driver or another driver to exceed a speed limit.

Maximum penalty—80 penalty units.

- '(2) A person must not enter into a contract or agreement with a driver or with a party in the chain of responsibility for a heavy vehicle that the person knows, or reasonably ought to know,

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would encourage or provide an incentive for a party in the chain of responsibility to cause a driver to exceed a speed limit.

Maximum penalty—80 penalty units.

Note for subsections (1) and (2)—

See also section 168D for other prohibited contracts or agreements.’.

32 Amendment of s 163D (Deciding whether person knew or ought reasonably to have known something)

(1) Section 163D(1), ‘or (b)’—

omit, insert—

‘, (b) or (c)’.

(2) Section 163D(1)—

insert—

‘(c) an offence against chapter 5D, part 2.’.

(3) Section 163D(2)(c)—

omit, insert—

‘(c) any other relevant matter prescribed under a regulation for this paragraph.’.

33 Replacement of s 163E (Objective reasonableness test to be used in deciding causation)

Section 163E—

omit, insert—

‘163E Objective reasonableness test to be used in deciding causation

‘(1) This section applies in relation to proceedings for a prescribed offence that may be committed by a person failing to take reasonable steps to ensure someone else does not do a prohibited thing.

- ‘(2) For subsection (1), a person failing to take reasonable steps to ensure someone else does not do a prohibited thing includes—
- (a) the person failing to take reasonable steps to ensure the other person does not do the prohibited thing; and
 - (b) the person failing to take reasonable steps to ensure the person’s activities, or anything arising out of the person’s activities, do not—
 - (i) cause the other person to do the prohibited thing; or
 - (ii) result in the other person doing the prohibited thing; or
 - (iii) encourage or provide an incentive for the other person to do the prohibited thing.
- ‘(3) Subsection (4) applies if—
- (a) a person does an act or makes an omission; and
 - (b) as a result of the act or omission someone else does a prohibited thing.
- ‘(4) A court may find the person caused the other person to do the prohibited thing if the court is satisfied that a reasonable person would have foreseen that the person’s act or omission would be reasonably likely to cause the other person to do the prohibited thing.
- ‘(5) In this section—
- prescribed offence*** means—
- (a) an offence against a fatigue management regulation; or
 - (b) an offence against chapter 5D, part 2.
- prohibited thing*** means—
- (a) drive a fatigue regulated heavy vehicle in a contravening way; or
 - (b) drive a heavy vehicle in excess of a speed limit applying to the vehicle’s driver.

‘163F Commission of heavy vehicle speeding offence is irrelevant to ch 5D, pt 2 prosecution

- ‘(1) In a prosecution for an offence against chapter 5D, part 2, it is not necessary to prove that a driver exceeded a speed limit.
- ‘(2) In this section—
driver see section 163AC.’

34 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *driver*, *employer*, *prime contractor*—
omit.
- (2) Schedule 4—
insert—
‘*cause*, for chapter 5D, see section 163AC.
driver—
- (a) for chapter 5D, see section 163AC; or
- (b) otherwise—
- (i) means the person driving or in charge of any vehicle, tram, train, vessel, or animal; and
- (ii) includes, in relation to a trailer—
- (A) the person driving or in charge of the vehicle to or by which the trailer is attached or drawn; and
- (B) for chapter 3, part 3, if the trailer was, but is no longer connected to the towing vehicle in a combination—the driver of the towing vehicle in the combination to or by which the trailer was, or apparently was, last attached or drawn.

employed driver, for chapter 5D, see section 163AC.

employer—

- (a) for chapter 5D, see section 163AC; or
- (b) otherwise, means a person who employs someone else under—
 - (i) a contract of employment, apprenticeship or training; or
 - (ii) a contract for services.

heavy vehicle speeding offence means an offence committed by the driver of a heavy vehicle because the driver exceeded the speed limit applying to the driver.

party in the chain of responsibility, for chapter 5D, see section 163AN.

prime contractor—

- (a) for chapter 5D, see section 163AC; or
- (b) in relation to the transport of dangerous goods, means the person who, in conducting a business for or involving the transport of dangerous goods, has undertaken to be responsible for, or is responsible for, the transport of the goods.

schedule, for the driver of a heavy vehicle, means—

- (a) the schedule for the transport of any goods or passengers by the vehicle; or
- (b) the schedule of the driver's work and rest times.

scheduler, for a heavy vehicle, means a person who—

- (a) schedules the transport of any goods or passengers by the vehicle; or
- (b) schedules the work and rest times of the driver of the vehicle.

self-employed driver, for chapter 5D, see section 163AC.

speed limit, for chapter 5D, see section 163AC.'.

- (3) Schedule 4, definition *responsible person*, paragraphs (r) to (t)—
omit, insert—
- ‘(r) a scheduler for the heavy vehicle;
(s) an agent, employer, employee or subcontractor of a person referred to in any of paragraphs (a) to (r).’.

Part 5 Speed and redlight cameras

35 Amendment of s 113 (Definitions for div 2)

Section 113, definition *photographic detection device*—
omit, insert—

‘***photographic detection device*** means a device or system, that captures an image, of a type approved under a regulation as a photographic detection device.

Examples—

- a digital device
- a camera system the components of which may include multiple cameras, trigger mechanisms, data transfer capability and image processing’.

36 Amendment of s 116 (Notice accompanying summons)

Section 116(1)(c)—

omit, insert—

‘(c) the right to examine an image from a photographic detection device under section 118 and the right to challenge certain matters under section 120(7).’.

37 Amendment of s 118 (Photographic evidence—inspection and challenges)

- (1) Section 118, heading, ‘and challenges’—
omit.
- (2) Section 118(2), ‘21’—
omit, insert—
‘28’.
- (3) Section 118(3), ‘14’—
omit, insert—
‘21’.
- (4) Section 118(4) and (5)—
omit.

38 Amendment of s 120 (Evidentiary provisions)

Section 120—
insert—

- ‘(2A) A certificate purporting to be signed by the commissioner stating that a stated photographic detection device—
- (a) was tested at a stated time and in accordance with—
 - (i) the specifications of the device’s manufacturer; and
 - (ii) any further requirements about calibration testing prescribed under a regulation; and
 - (b) was found to produce accurate results at the time of testing;
- is evidence of the matters stated and evidence the device was producing accurate results when so tested and for 1 year after the day of testing.
- ‘(7) A defendant who intends, at the hearing of a charge against the defendant under this Act, to challenge—

- (a) the accuracy of a photographic detection device; or
 - (b) the image from a photographic detection device; or
 - (c) a marking or writing made by a photographic detection device on an image; or
 - (d) a matter mentioned in section 120A(4)(a),(b) or (c);
- must give written notice of the challenge to the prosecution.
- ‘(8) The notice must be in the approved form and must—
- (a) be signed by the defendant; and
 - (b) state the grounds on which the defendant intends to rely to challenge a matter mentioned in subsection (7)(a), (b) or (c) or section 120A(4)(a),(b) or (c); and
 - (c) be given at least 14 days before the day fixed for the hearing.
- ‘(9) In this section—
- on*, an image, includes adjacent to or associated with the image.’.

39 Insertion of new s 120A

After section 120—

insert—

‘120A Average speed of motor vehicle is evidence of actual speed in certain circumstances

- ‘(1) In a proceeding for a prescribed offence in which the speed at which a motor vehicle travelled is relevant, the prosecution may, under this section, rely on the average speed of the vehicle between 2 points on a road as evidence of the actual speed of the vehicle for the purpose of proving the offence.

Example of a prescribed offence in which the speed of a motor vehicle is relevant—

Queensland Road Rules, section 20 (Obeying the speed limit)

-
- ‘(2) The following provisions apply in relation to the proceeding—
- (a) the average speed of the vehicle calculated under this section is admissible and is evidence of the actual speed at which the vehicle travelled between the 2 points on the road;
 - (b) the vehicle is, for the purpose of calculating the vehicle’s average speed, taken to have travelled between the 2 points on the road by means of the shortest practicable distance between the points regardless of the actual route taken between the points.
- ‘(3) The average speed of a motor vehicle between 2 points on a road is to be calculated using the following formula (and expressed in kilometres per hour rounded down to the next whole number)—

$$\frac{D \times 3.6}{T}$$

where—

D is the shortest practicable distance, expressed in metres and rounded down to the next whole number, between the 2 points.

T is the time, expressed in seconds, that elapsed between the vehicle passing the 2 points.

- ‘(4) A certificate purporting to be signed by the commissioner that certifies any 1 or more of the following matters is admissible in a proceeding mentioned in subsection (1) and is evidence of any of the matters certified—
- (a) the shortest practicable distance, expressed in metres and rounded down to the next whole number, between 2 points on a road;
 - (b) the time (expressed in seconds) that elapsed between a motor vehicle passing 2 points on a road;

- (c) the average speed, calculated under this section, at which a motor vehicle travelled between 2 points on a road (including an average speed calculated under this section by a photographic detection device).

‘(5) In this section—

edge line has the same meaning it has in the Queensland Road Rules.

shortest practicable distance, between 2 points on a road, means—

- (a) if the road has edge lines, the shortest distance that a motor vehicle could have travelled between the 2 points without crossing an edge line of the road; or
- (b) if the road does not have edge lines, the shortest distance that a motor vehicle could have travelled between the 2 points while remaining on the road and without travelling on a road-related area.’.

40 Amendment of s 124 (Facilitation of proof)

Section 124(1)(pf)—

omit.

41 Amendment of s 124A (Additional ground of challenge not stated in written notice required under particular provisions)

- (1) Section 124A(1) and (3), ‘118(4),’—

omit.

- (2) Section 124A(1) and (3), after ‘119(1)’—

insert—

‘, 120(7)’.

- (3) Section 124A(2), ‘118(5),’—

omit.

- (4) Section 124A(2), after ‘119(2)’—
insert—
‘, 120(8)’.

42 Insertion of new s 222

Chapter 7, part 15—

insert—

‘222 Transitional provisions relating to photographic detection devices

- ‘(1) Subsections (2) and (3) apply if a complaint or summons was issued for a camera-detected offence before the commencement.
- ‘(2) It is immaterial whether the complaint or summons was served before or after the commencement.
- ‘(3) Chapter 5, part 7, division 2 and sections 124 and 124A as in force before the commencement continue to apply in relation to the offence (including a proceeding for the offence) as if the *Transport and Other Legislation Amendment Act 2010*, chapter 2, part 5 had not commenced.
- ‘(4) Subsection (3) does not limit subsection (5).
- ‘(5) A certificate under section 120(2A) has effect, as mentioned in the subsection—
- (a) even if the certificate relates to the testing of a photographic detection device that happened before the commencement; and
 - (b) irrespective of whether—
 - (i) the offence for which the certificate is used was allegedly committed before or after the commencement; or
 - (ii) the complaint or summons issued for the offence was issued before or after the commencement.

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- ‘(6) In this section—
camera-detected offence see section 113.
commencement means commencement of this section.’.

Chapter 3 Adult Proof of Age Card and New Queensland Driver Licensing amendments

Part 1 Amendment of Adult Proof of Age Card Act 2008

43 Act amended

This part amends the *Adult Proof of Age Card Act 2008*.

44 Replacement of s 5 (What is an *adult proof of age card*)

Section 5—

omit, insert—

‘5 What is an *adult proof of age card*

‘An *adult proof of age card* is a proof of age card issued under this Act—

- (a) that indicates that a person is at least 18 years of age;
and
- (b) on which information may be stored electronically.’.

45 Amendment of s 6 (Card is property of the State)

Section 6—

insert—

- ‘(2) Subsection (1) applies even though a person other than the State—
- (a) has the right to use information that is on the card or stored electronically on it; or
 - (b) has the right to have information stored on the card.
- ‘(3) The State is not legally liable for an act or omission relating to the keeping or use of the adult proof of age card.’.

46 Amendment of s 9 (Application for new card by electronic communication)

Section 9(1)(b), ‘section 31(4)’—

omit, insert—

‘section 31A’.

47 Amendment of s 11 (Decision on application)

- (1) Section 11(1), ‘and 31(2)’—

omit, insert—

‘and 31(5)’.

- (2) Section 11(3)(a)(ii), ‘section 31(4)’—

omit, insert—

‘section 31A’.

48 Amendment of s 13 (Expiry of card)

Section 13, from ‘10’—

omit, insert—

‘on the day stated on the card, being a day that is not longer than 10 years after the day the card is issued.’.

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49 Insertion of new s 23A

After section 23—

insert—

‘23A Proof of giving documents

- ‘(1) This section applies to a proceeding for an offence against section 22(1) or 23(1) or (2).
- ‘(2) It is sufficient proof the document was given to the chief executive or another person to prove it was given to a person authorised to receive it for the chief executive or other person.
- ‘(3) It does not matter whether the person was the chief executive or another person or whether the authorisation was a delegation, agency or any other form of authorisation by which someone acts through another.’.

50 Amendment of s 30 (Restricted release of information in APA register)

Section 30(6)—

omit.

51 Replacement of s 31 (Obtaining digital photo and digitised signature)

Section 31—

omit, insert—

‘31 Obtaining digital photo and digitised signature

- ‘(1) A person must allow the chief executive to take and keep—
 - (a) a digital photo and digitised signature of the person, if the person applies for the issue or replacement of an adult proof of age card; or
 - (b) a digital photo or digitised signature of the person, if—
 - (i) the person applies for anything else in relation to an adult proof of age card; and

-
- (ii) the chief executive has given the person written notice under subsection (3) or (4) in relation to the photo or signature.
- ‘(2) Subsection (1)(a) does not apply to the person if—
- (a) as allowed under this Act or a prescribed smartcard Act, the chief executive is keeping the person’s most recent digital photo and digitised signature; and
 - (b) the chief executive is satisfied the person’s most recent digital photo is still a true likeness of the person; and
 - (c) the shelf life of the person’s most recent digital photo and digitised signature, or the most recent extension of the shelf life under section 31A, has not ended and will not end before the term of the adult proof of age card ends.
- ‘(3) If the chief executive considers it reasonably necessary to use facial recognition technology to establish a person’s connection to the person’s most recent digital photo, the chief executive may give the person a written notice requiring the person to allow the chief executive to take and keep a digital photo of the person.
- ‘(4) If the chief executive is satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person’s most recent digital photo, the chief executive may give the person a written notice requiring the person to allow the chief executive to take and keep a digitised signature of the person.
- ‘(5) The chief executive must refuse to consider any application by the person relating to an adult proof of age card if—
- (a) the person does not comply with subsection (1); or
 - (b) the chief executive is not satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person’s most recent digital photo.

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31A Extending shelf life of digital photo and digitised signature

- ‘(1) The chief executive may, for this Act, extend the shelf life of the most recent digital photo and digitised signature of a person.
- ‘(2) The period for which the shelf life may be extended under subsection (1) must not result in the shelf life being extended under the subsection for periods totalling more than 6 months.

Example—

If the shelf life has been extended previously under subsection (1) for 2 months, the next extension under the subsection must not be for more than 4 months.’.

52 Amendment of s 32 (Using digital photo and digitised signature)

- (1) Section 32(1)(c) and example—

omit, insert—

‘(c) for a digital photo taken under section 31(1)(b), to establish the person’s connection to the person’s most recent digital photo for the purposes of an adult proof of age card.’.

- (2) Section 32(2)(b)(i), ‘renewal’—

omit, insert—

‘replacement’.

- (3) Section 32(2)(b)(ii), ‘other security’—

omit, insert—

‘anything else’.

53 Amendment of s 33 (Restricted access to digital photo)

Section 33(3), after ‘under this Act’—

insert—

‘or a prescribed smartcard Act’.

54 Replacement of s 37 (Retention period for digital photo and digitised signature)

Section 37—

omit, insert—

‘37 Retention period for digital photo and digitised signature

- ‘(1) This section sets out the retention period for a digital photo and digitised signature taken under this Act.
- ‘(2) Unless subsection (3) applies, the retention period for a digital photo and digitised signature taken under section 31(1) is—
- (a) if an application mentioned in section 31(1)(a) is granted or a digital photo or digitised signature taken under section 31(1)(b) is to be used under section 32(1)(b)—30 years after the relevant day; or
 - (b) if an application mentioned in section 31(1)(a) is not granted—
 - (i) 6 months after the relevant day; or
 - (ii) the period decided by the chief executive;whichever is the shorter period; or
 - (c) if paragraph (a) or (b) does not apply—24 hours after the relevant day.
- ‘(3) Despite subsection (2), if—
- (a) an investigation as mentioned in section 32(2) is started before the end of the retention period worked out under subsection (2)(b) or (c) of this section for a digital photo and digitised signature; and
 - (b) the chief executive reasonably requires the digital photo and digitised signature to be kept for a longer period for

[s 55]

the investigation or a proceeding resulting from the investigation;

the retention period for the digital photo and digitised signature is the longer period mentioned in paragraph (b) of this subsection.

‘(4) In this section—

relevant day, for a digital photo and digitised signature, means the day on which the digital photo and digitised signature are taken.’.

55 Insertion of new s 47A

After section 47—

insert—

‘47A Keeping and using information obtained or kept under this Act or particular transport Acts

‘(1) The chief executive may, for this Act, keep or use information obtained or kept under a particular transport Act if the information—

- (a) relates to any matter under this Act; or
- (b) concerns the administration of this Act.

‘(2) The chief executive may, for a particular transport Act, keep or use information obtained or kept under this Act if the information—

- (a) relates to any matter under the particular transport Act; or
- (b) concerns the administration of the particular transport Act.

‘(3) The general manager under the *Maritime Safety Queensland Act 2002* may, for the *Transport Operations (Marine Safety) Act 1994*, keep or use information obtained or kept under this Act if the information—

-
- (a) relates to any matter under the *Transport Operations (Marine Safety) Act 1994*; or
 - (b) concerns the administration of the *Transport Operations (Marine Safety) Act 1994*.
- ‘(4) Information that may be kept or used under subsection (1), (2) or (3) does not include a digital photo and digitised signature.
- ‘(5) This section applies despite a provision of this or another Act.
- ‘(6) In this section—
- particular transport Act*** means a following Act—
- (a) the *Tow Truck Act 1973*;
 - (b) the *Transport Infrastructure Act 1994*;
 - (c) the *Transport Operations (Marine Safety) Act 1994*;
 - (d) the *Transport Operations (Passenger Transport) Act 1994*;
 - (e) the *Transport Operations (Road Use Management) Act 1995*;
 - (f) the *Transport Security (Counter-Terrorism) Act 2008*.’.

56 Amendment of s 49 (Regulation-making power)

Section 49(4)—

omit, insert—

- ‘(4) Also, without limiting subsection (1), a regulation may provide for a PIN to be used by the holder of a valid adult proof of age card as a security measure to protect information stored electronically on the card.’.

57 Amendment of schedule (Dictionary)

(1) Schedule—

insert—

-
- (c) a smartcard driver authorisation as defined in the *Transport Operations (Passenger Transport) Act 1994*, schedule 3;
- (d) a smartcard authority as defined in the *Transport Operations (Road Use Management) Act 1995*, schedule 4.’.
- (3) Section 5, inserted division 4, heading, ‘smartcard transport authority’—
omit, insert—
‘prescribed document’.
- (4) Section 5, inserted section 195I(1), ‘prescribed document’—
omit, insert—
‘smartcard transport authority’.

Editor’s note—

Subsections (1) to (4), legislation ultimately amended—

- *Police Powers and Responsibilities Act 2000*

60 Insertion of new ss 8A and 8B

After section 8—

insert—

‘8A Replacement of ss 14–18

‘Sections 14 to 18—

omit, insert—

‘14 Application for driver’s or assistant’s certificate

- ‘(1) A person may apply to the chief executive for the grant of a driver’s certificate or an assistant’s certificate.
- ‘(2) The application must be made in accordance with a regulation.

[s 60]

‘14A Decision on application

- ‘(1) Subject to section 19A(5), the chief executive must consider an application made under section 14 and do 1 of the following—
- (a) grant the application;
 - (b) grant the application subject to conditions;
 - (c) refuse to grant the application.
- ‘(2) However, before deciding an application, the chief executive—
- (a) must consider the matters prescribed under a regulation for this section; and
 - (b) may consider any other matter the chief executive considers relevant.
- ‘(3) Also, the chief executive must not grant the application if the chief executive is not satisfied the applicant is an appropriate person to hold a driver’s certificate or an assistant’s certificate.

‘15 Written notice of granting of certificate and of conditions or variations

- ‘(1) If the chief executive grants the application, the chief executive must give the applicant written notice—
- (a) that the person has been granted a driver’s certificate or an assistant’s certificate; and
 - (b) of any condition imposed on the certificate.

Note—

Under section 21A, the certificate may be cancelled or suspended if the holder of the certificate contravenes a condition.

- ‘(2) The chief executive may, by written notice given to the holder of a driver’s certificate or assistant’s certificate, vary a condition to which the certificate is subject.

‘16 What driver’s or assistant’s certificate authorises

- ‘(1) A driver’s certificate (*driver’s certificate*) authorises the holder of the certificate to operate a tow truck.
- ‘(2) An assistant’s certificate (*assistant’s certificate*) authorises the holder of the certificate to be employed on or in connection with a tow truck.

‘17 Term of driver’s or assistant’s certificate

- ‘(1) A driver’s certificate or assistant’s certificate is granted for the term, stated in the written notice given under section 15 for the certificate, of not longer than 5 years.
- ‘(2) However, a driver’s certificate or assistant’s certificate may be renewed for successive terms of not longer than 5 years.

‘17A Renewal of driver’s or assistant’s certificate

- ‘(1) The holder of a driver’s certificate or assistant’s certificate may apply for its renewal to the chief executive.
- ‘(2) The application may be made no sooner than 2 weeks before the certificate expires.
- ‘(3) Sections 14 to 17 apply to an application for renewal of a driver’s certificate or assistant’s certificate in the same way as they apply to an application for a driver’s certificate or assistant’s certificate.

‘18 Driver’s certificate dependent on driver licence

- ‘(1) This section applies if—
 - (a) the driver licence held by the holder of a driver’s certificate is suspended or cancelled; or
 - (b) the holder surrenders the licence.
- ‘(2) The driver’s certificate—

[s 61]

- (a) if the licence is suspended—is automatically suspended on the day the licence is suspended and is of no effect while the licence is suspended; or
- (b) if the licence is cancelled or surrendered—is automatically cancelled on the day the licence is cancelled or surrendered.’.

‘8B Amendment of s 19 (Permit for applicant for driver’s or assistant’s certificate)

‘(1) Section 19(1), ‘issue to that’—

omit, insert—

‘grant the’.

‘(2) Section 19(2), ‘issued’—

omit, insert—

‘granted’.’.

Editor’s note—

Legislation ultimately amended—

- *Tow Truck Act 1973*

61 Amendment of s 9 (Insertion of new pt 3, divs 2 and 3)

(1) Section 9, inserted sections 19A and 19B—

omit, insert—

‘19A Obtaining digital photo and digitised signature

‘(1) A person must allow the chief executive to take and keep—

- (a) a digital photo and digitised signature of the person, if the person applies for—
 - (i) the grant or renewal of a driver’s certificate or assistant’s certificate (the *authority applied for*); or
 - (ii) the replacement of a document evidencing a driver’s certificate or assistant’s certificate; or

-
- (b) a digital photo or digitised signature of the person, if—
 - (i) the person applies for anything else in relation to a driver’s certificate or an assistant’s certificate; and
 - (ii) the chief executive has given the person written notice under subsection (3) or (4) in relation to the photo or signature.
- ‘(2) Subsection (1)(a) does not apply to the person if—
- (a) as allowed under this Act or a prescribed smartcard Act, the chief executive is keeping the person’s most recent digital photo and digitised signature; and
 - (b) the chief executive is satisfied the person’s most recent digital photo is still a true likeness of the person; and
 - (c) the shelf life of the person’s most recent digital photo and digitised signature, or the most recent extension of the shelf life under section 19AA, has not ended and will not end before—
 - (i) the term of the authority applied for ends; or
 - (ii) if a replacement of a document evidencing the person’s driver’s certificate or assistant’s certificate is applied for—the term of the driver’s certificate or assistant’s certificate ends.
- ‘(3) If the chief executive considers it reasonably necessary to use facial recognition technology to establish a person’s connection to the person’s most recent digital photo, the chief executive may give the person a written notice requiring the person to allow the chief executive to take and keep a digital photo of the person.
- ‘(4) If the chief executive is satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person’s most recent digital photo, the chief executive may give the person a written notice requiring the person to allow the chief executive to take and keep a digitised signature of the person.

[s 61]

- ‘(5) The chief executive must refuse to consider any application by the person relating to a driver’s certificate or an assistant’s certificate if—
- (a) the person does not comply with subsection (1); or
 - (b) the chief executive is not satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person’s most recent digital photo.

‘19AA Extending shelf life of digital photo and digitised signature

- ‘(1) The chief executive may, for this Act, extend the shelf life of the most recent digital photo and digitised signature of a person.
- ‘(2) The period for which the shelf life may be extended under subsection (1) must not result in the shelf life being extended under the subsection for periods totalling more than 6 months.

Example—

If the shelf life has been extended previously under subsection (1) for 2 months, the next extension under the subsection must not be for more than 4 months.

‘19B Using digital photo and digitised signature

- ‘(1) The chief executive may, with a person’s consent, use the person’s most recent digital photo and digitised signature for any of the following purposes—
- (a) to help identify the person for deciding whether or not to grant an application for a relevant certificate;
 - (b) to reproduce the person’s digital photo and digitised signature on a document evidencing a relevant certificate;

-
- (c) for a digital photo taken under section 19A(1)(b), to establish the person's connection to the person's most recent digital photo for the purposes of—
- (i) a relevant certificate; or
 - (ii) a document evidencing a relevant certificate.
- '(2) The chief executive may use a person's most recent digital photo and digitised signature to help in an investigation of, or proceeding for, an offence that—
- (a) happens—
 - (i) in making the application for which the person's digital photo and digitised signature are taken under section 19A(1); or
 - (ii) during the retention period for the digital photo and digitised signature; and
 - (b) involves a person obtaining or attempting to obtain any of the following by a false statement, misrepresentation or any other dishonest way—
 - (i) a relevant certificate or its renewal;
 - (ii) a PIN or anything else for—
 - (A) a relevant certificate; or
 - (B) a document evidencing a relevant certificate.
- '(3) In this section—
- relevant certificate*** means—
- (a) a driver's certificate or assistant's certificate; or
 - (b) a replacement of a document evidencing a driver's certificate or assistant's certificate.'

(2) Section 9, inserted section 19C(3), after 'under this Act'—

insert—

'or a prescribed smartcard Act'.

[s 61]

- (3) Section 9, inserted section 19E(2), definition *smartcard certificate*—
omit.
- (4) Section 9, inserted section 19F—
omit, insert—

‘19F Retention period for digital photo and digitised signature

- ‘(1) This section sets out the retention period for a digital photo and digitised signature taken under this Act.
- ‘(2) Unless subsection (3) applies, the retention period for a digital photo and digitised signature taken under section 19A(1) is—
 - (a) if an application mentioned in section 19A(1)(a) is granted or a digital photo or digitised signature taken under section 19A(1)(b) is to be used under section 19B(1)(b)—30 years after the relevant day; or
 - (b) if an application mentioned in section 19A(1)(a) is not granted—
 - (i) 6 months after the relevant day; or
 - (ii) the period decided by the chief executive;
whichever is the shorter period; or
 - (c) if paragraph (a) or (b) does not apply—24 hours after the relevant day.
- ‘(3) Despite subsection (2), if—
 - (a) an investigation as mentioned in section 19B(2) is started before the end of the retention period worked out under subsection (2)(b) or (c) of this section for a digital photo and digitised signature; and
 - (b) the chief executive reasonably requires the digital photo and digitised signature to be kept for a longer period for the investigation or a proceeding resulting from the investigation;

the retention period for the digital photo and digitised signature is the longer period mentioned in paragraph (b) of this subsection.

‘(4) In this section—

relevant day, for a digital photo and digitised signature, means the day on which the digital photo and digitised signature are taken.’.

(5) Section 9, inserted section 19H(2)(a), ‘the certificate’—

omit, insert—

‘a document evidencing the certificate’.

Editor’s note—

Subsections (1) to (5), legislation ultimately amended—

- *Tow Truck Act 1973*

62 Insertion of new ss 9A–9D

After section 9—

insert—

‘9A Amendment of s 21F (Surrender of authority on authority holder’s request)

‘Section 21F(1)—

omit, insert—

‘(1) An authority holder may surrender the authority holder’s authority by giving the chief executive written notice of the surrender.

‘(1A) The notice must be accompanied by any document evidencing the authority.

Example—

If the person holds a driver’s certificate and has been given a smartcard certificate, the person must return the smartcard certificate with the notice of surrender.’.

[s 62]

‘9B Amendment of s 21G (Delivery of cancelled or suspended authority)

‘Section 21G, after ‘deliver’—
insert—
‘any document evidencing’.

‘9C Insertion of new s 34

‘Part 7, before section 35—
insert—

‘34 Smartcard certificate is property of the State

- ‘(1) A smartcard certificate is and remains the property of the State.
- ‘(2) Subsection (1) applies even though a person other than the State—
- (a) has the right to use information that is on the smartcard certificate or stored electronically on it; or
 - (b) has the right to have information stored on the smartcard certificate.
- ‘(3) The State is not legally liable for an act or omission relating to the keeping or use of the smartcard certificate.’.

‘9D Replacement of s 35 (Production of licence, certificate or permit)

‘Section 35—
omit, insert—

‘35 Production of document evidencing licence, certificate or permit to authorised officer

‘The holder of a licence, driver’s certificate, assistant’s certificate or permit must, if asked by an authorised officer, produce to the officer the document evidencing the licence, certificate or permit.

‘35A Production of document evidencing driver’s certificate or permit before commencing a tow

- ‘(1) This section applies if the driver of a tow truck makes an offer or intends to make an offer to tow a damaged motor vehicle by means of a tow truck.
- ‘(2) The driver must, either before or when making the offer to tow the motor vehicle, produce the document evidencing the driver’s certificate or permit held by the driver for inspection by the person to whom the offer is made or intended to be made.
- ‘(3) This section applies whether or not the person to whom the offer is made or intended to be made asks the driver to produce the document.’.

Editor’s note—

Legislation ultimately amended—

- *Tow Truck Act 1973*

63 Replacement of s 11 (Amendment of s 43 (Regulation-making power))

Section 11—

omit, insert—

‘11 Amendment of s 43 (Regulation-making power)

- ‘(1) Section 43(2)(b) to (f)—
- omit, insert—*
- ‘(b) the grant and renewal of licences or certificates and the grant of permits;
- (c) the return or destruction of documents evidencing a licence or certificate after expiry of the licence or certificate;
- (d) obtaining and dealing with towing authorities;

[s 63]

- (e) the identification of the holder of a licence, certificate or permit in a document evidencing that the person holds the licence, certificate or permit;
 - (f) the damaging of documents;
 - (fa) the replacement of documents;
 - (fb) the notification of a change of personal particulars;
 - (fc) the carrying of documents;’.
- ‘(2) Section 43—
insert—
- ‘(3) Without limiting subsection (1) or (2), a regulation may provide for the following—
- (a) a document evidencing a driver’s certificate or assistant’s certificate to be in the form of a card or something similar approved by the chief executive and on which information may be stored electronically;
 - (b) a PIN to be used by the holder of a driver’s certificate or assistant’s certificate as a security measure to protect information stored electronically on a document evidencing the certificate.
- ‘(4) Also, without limiting subsections (1) to (3), a regulation may provide that—
- (a) a document evidencing a person’s driver’s certificate or assistant’s certificate may include on it information about another transport authority held by the person under a prescribed transport Act, if allowed under that Act; or
 - (b) information about a driver’s certificate or an assistant’s certificate may be included on another transport authority.

Note—

See also the *Transport Planning and Coordination Act 1994*, section 36G for smartcard transport authorities.

‘(5) In this section—

prescribed transport Act means—

- (a) this Act; or
- (b) the *Transport Operations (Passenger Transport) Act 1994*; or
- (c) the *Transport Operations (Road Use Management) Act 1995*.

transport authority means—

- (a) a driver’s certificate or an assistant’s certificate; or
- (b) driver authorisation under the *Transport Operations (Passenger Transport) Act 1994*; or
- (c) a prescribed authority (other than a Queensland driver licence) under the *Transport Operations (Road Use Management) Act 1995*.’.

Editor’s note—

Legislation ultimately amended—

- *Tow Truck Act 1973*

64 Insertion of new s 11A

After section 11—

insert—

‘11A Amendment of sch 1 (Reviewable decisions)

‘Schedule 1, part 2, items 1 to 4—

omit, insert—

- ‘1 Failing to grant a certificate under section 14A
- 2 Imposing a condition on the grant or renewal of a certificate under section 14A
- 3 Varying a condition of a certificate under section 15
- 4 Failing to renew a certificate under section 17A’.

[s 65]

Editor's note—

Legislation ultimately amended—

- *Tow Truck Act 1973*

65 Amendment of s 12 (Amendment of sch 2 (Dictionary))

- (1) Section 12, unnumbered subsection—

number as section 12(2).

- (2) Section 12—

insert—

- ‘(1) Schedule 2, definitions *assistant's certificate*, *driver's certificate* and *permit—*

omit.’.

- (3) Section 12(2), as numbered, inserted definitions—

insert—

‘*assistant's certificate* see section 16(2).

driver's certificate see section 16(1).

permit means—

- (a) a permit issued under section 11; or
- (b) a permit granted under section 19.

shelf life, of a digital photo and digitised signature, means 10 years after the photo and signature are taken.

smartcard certificate means a smartcard driver's certificate or a smartcard assistant's certificate.’.

- (4) Section 12(2), as numbered, inserted definitions *most recent digital photo* and *most recent digitised signature*, paragraph (a)(i), ‘this Act’—

omit, insert—

‘section 19A’.

Editor's note—

Subsections (1) to (4), legislation ultimately amended—

- *Tow Truck Act 1973*

66 Replacement of s 14 (Amendment of s 62 (Grant, amendment and renewal of licences))

Section 14—

omit, insert—

'14 Amendment of s 62 (Grant, amendment and renewal of licences)

'Section 62—

insert—

'(4) Without limiting subsection (2), a regulation may provide for the following—

- (a) a marine licence indicator to be in the form approved by the chief executive or general manager, including a card on which information may be stored electronically;
- (b) a PIN to be used by the holder of a smartcard marine licence indicator as a security measure to protect information stored electronically on the smartcard marine licence indicator.'.

Editor's note—

Legislation ultimately amended—

- *Transport Operations (Marine Safety) Act 1994*

67 Insertion of new s 14A

After section 14—

insert—

'14A Insertion of new s 63AA

'Part 5, division 3, after section 63—

insert—

[s 68]

‘63AA Smartcard marine licence indicator is property of the State

- ‘(1) A smartcard marine licence indicator is and remains the property of the State.
- ‘(2) Subsection (1) applies even though a person other than the State—
 - (a) has the right to use information that is on the smartcard marine licence indicator or stored electronically on it; or
 - (b) has the right to have information stored on the smartcard marine licence indicator.
- ‘(3) The State is not legally liable for an act or omission relating to the keeping or use of the smartcard marine licence indicator.’.

Editor’s note—

Legislation ultimately amended—

- *Transport Operations (Marine Safety) Act 1994*

68 Amendment of s 15 (Insertion of new pt 5, divs 3A and 3B)

- (1) Section 15, inserted sections 63A and 63B—
omit, insert—

‘63A Obtaining digital photo and digitised signature

- ‘(1) A person must allow the chief executive or general manager to take and keep—
 - (a) a digital photo and digitised signature of the person, if—
 - (i) the person applies for the grant or renewal of a marine licence (the *authority applied for*) or an amendment of the person’s marine licence; or
 - (ii) the person is the holder of a marine licence and applies for a marine licence indicator, or the renewal, replacement or amendment of a smartcard marine licence indicator; or

-
- (b) a digital photo or digitised signature of the person, if—
 - (i) the person applies for anything else in relation to a marine licence or a marine licence indicator; and
 - (ii) the chief executive or general manager has given the person written notice under subsection (3) or (4) in relation to the photo or signature.
 - ‘(2) Subsection (1)(a) does not apply to the person if—
 - (a) as allowed under this Act or a prescribed smartcard Act, the chief executive or general manager is keeping the person’s most recent digital photo and digitised signature; and
 - (b) the chief executive or general manager is satisfied the person’s most recent digital photo is still a true likeness of the person; and
 - (c) the shelf life of the person’s most recent digital photo and digitised signature, or the most recent extension of the shelf life under section 63AB, has not ended and will not end before—
 - (i) if the grant or renewal of a marine licence indicator is applied for—the term of the authority applied for ends; or
 - (ii) otherwise—the term of the smartcard marine licence indicator ends.
 - ‘(3) If the chief executive or general manager considers it reasonably necessary to use facial recognition technology to establish a person’s connection to the person’s most recent digital photo, the chief executive or general manager may give the person a written notice requiring the person to allow the chief executive or general manager to take and keep a digital photo of the person.
 - ‘(4) If the chief executive or general manager is satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person’s most recent digital photo, the chief executive or general manager may give the person a

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written notice requiring the person to allow the chief executive or general manager to take and keep a digitised signature of the person.

- ‘(5) The chief executive or general manager must refuse to consider any application by the person relating to a marine licence or a marine licence indicator if—
- (a) the person does not comply with subsection (1); or
 - (b) the chief executive or general manager is not satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person’s most recent digital photo.

‘63AB Extending shelf life of digital photo and digitised signature

- ‘(1) The chief executive or general manager may, for this Act, extend the shelf life of the most recent digital photo and digitised signature of a person.
- ‘(2) The period for which the shelf life may be extended under subsection (1) must not result in the shelf life being extended under the subsection for periods totalling more than 6 months.

Example—

If the shelf life has been extended previously under subsection (1) for 2 months, the next extension under the subsection must not be for more than 4 months.

‘63B Using digital photo and digitised signature

- ‘(1) The chief executive or general manager may, with a person’s consent, use the person’s most recent digital photo and digitised signature for any of the following purposes—
- (a) to help identify the person for deciding whether or not to grant an application for a marine licence;
 - (b) to reproduce the person’s digital photo and digitised signature on a smartcard marine licence indicator;

- (c) for a digital photo taken under section 63A(1)(b), to establish the person's connection to the person's most recent digital photo when the person makes any application relating to a smartcard marine licence indicator.
- '(2) The chief executive or general manager may use a person's most recent digital photo and digitised signature to help in an investigation of, or proceeding for, an offence that—
- (a) happens—
 - (i) in making the application for which the person's digital photo and digitised signature are taken under section 63A(1); or
 - (ii) during the retention period for the digital photo and digitised signature; and
 - (b) involves a person obtaining or attempting to obtain any of the following by a false statement, misrepresentation or any other dishonest way—
 - (i) a marine licence;
 - (ii) a smartcard marine licence indicator or its renewal or replacement;
 - (iii) a PIN or anything else for a smartcard marine licence indicator.'
- (2) Section 15, inserted section 63C(3), after 'under this Act'—
insert—
'or a prescribed smartcard Act'.
- (3) Section 15, inserted section 63G—
omit, insert—

'63G Retention period for digital photo and digitised signature

- '(1) This section sets out the retention period for a digital photo and digitised signature taken under this Act.

[s 68]

- ‘(2) Unless subsection (3) applies, the retention period for a digital photo and digitised signature taken under section 63A(1) is—
- (a) if an application mentioned in section 63A(1)(a) is granted or a digital photo or digitised signature taken under section 63A(1)(b) is to be used under section 63B(1)(b)—30 years after the relevant day; or
 - (b) if an application mentioned in section 63A(1)(a) is not granted—
 - (i) 6 months after the relevant day; or
 - (ii) the period decided by the chief executive or general manager;whichever is the shorter period; or
 - (c) if paragraph (a) or (b) does not apply—24 hours after the relevant day.
- ‘(3) Despite subsection (2), if—
- (a) an investigation as mentioned in section 63B(2) is started before the end of the retention period worked out under subsection (2)(b) or (c) of this section for a digital photo and digitised signature; and
 - (b) the chief executive or general manager reasonably requires the digital photo and digitised signature to be kept for a longer period for the investigation or a proceeding resulting from the investigation;
- the retention period for the digital photo and digitised signature is the longer period mentioned in paragraph (b) of this subsection.
- ‘(4) In this section—
- relevant day**, for a digital photo and digitised signature, means the day on which the digital photo and digitised signature are taken.’.
- (4) Section 15, inserted section 63I(1), after ‘licence’—
- insert—*

‘or marine history’.

- (5) Section 15, inserted section 63I(2)(a) and (c), before ‘marine licence indicator’—

insert—

‘smartcard’.

Editor’s note—

Subsections (1) to (5), legislation ultimately amended—

- *Transport Operations (Marine Safety) Act 1994*

69 **Amendment of s 17 (Amendment of schedule (Dictionary))**

- (1) Section 17, inserted definition *smartcard marine licence indicator*—

omit.

- (2) Section 17, inserted definitions—

insert—

‘*shelf life*, of a digital photo and digitised signature, means 10 years after the photo and signature are taken.

smartcard marine licence indicator means a marine licence indicator in the form approved by the chief executive or general manager on which information may be stored electronically.’.

- (3) Section 17, inserted definitions *most recent digital photo* and *most recent digitised signature*, paragraph (a), ‘this Act’—

omit, insert—

‘section 63A’.

Editor’s note—

Subsections (1) to (3), legislation ultimately amended—

- *Transport Operations (Marine Safety) Act 1994*

[s 70]

70 Replacement of s 20 (Amendment of s 29 (Granting, renewing or refusing driver authorisation))

Section 20—

omit, insert—

‘20 Amendment of s 29 (Granting, renewing or refusing driver authorisation)

‘Section 29—

insert—

‘(3) Also, without limiting subsection (1), a regulation may provide for the following—

- (a) an authorising document;
- (b) an authorising document to be in the form of a card or something similar approved by the chief executive and on which information may be stored electronically;
- (c) a PIN to be used by the holder of driver authorisation as a security measure to protect information stored electronically on an authorising document.

‘(4) Further, without limiting subsections (1) to (3), a regulation may provide that—

- (a) an authorising document may include on it information about another transport authority held by the person under a prescribed transport Act, if allowed under that Act; or
- (b) information about driver authorisation may be included on another transport authority.

Note—

See also the *Transport Planning and Coordination Act 1994*, section 36G for smartcard transport authorities.

‘(5) In this section—

prescribed transport Act means—

- (a) the *Tow Truck Act 1973*; or

- (b) the *Transport Operations (Road Use Management) Act 1995*.

transport authority means—

- (a) a driver's certificate or an assistant's certificate under the *Tow Truck Act 1973*; or
- (b) a prescribed authority (other than a Queensland driver licence) under the *Transport Operations (Road Use Management) Act 1995*.'.'.

Editor's note—

Legislation ultimately amended—

- *Transport Operations (Passenger Transport) Act 1994*

71 Insertion of new s 20A

After section 20—

insert—

'20A Insertion of new s 29AA

'After section 29—

insert—

'29AA Smartcard driver authorisation is property of the State

- '(1) A smartcard driver authorisation is and remains the property of the State.
- '(2) Subsection (1) applies even though a person other than the State—
- (a) has the right to use information that is on the smartcard driver authorisation or stored electronically on it; or
- (b) has the right to have information stored on the smartcard driver authorisation.
- '(3) The State is not legally liable for an act or omission relating to the keeping or use of the smartcard driver authorisation.'.'.

[s 72]

Editor's note—

Legislation ultimately amended—

- *Transport Operations (Passenger Transport) Act 1994*

72 Amendment of s 21 (Insertion of new s 34A)

Section 21, inserted section 34A—

omit, insert—

'34A Authorised driver must notify damage, loss or theft of authorising document issued by chief executive

'(1) If a person's authorising document issued by the chief executive is damaged, lost or stolen, the person must notify the chief executive, as soon as practicable, in the way prescribed under a regulation.

Maximum penalty—20 penalty units.

'(2) In this section—

damaged, in relation to an authorising document—

(a) means—

(i) the document is damaged to an extent that—

(A) any information on the document is impossible or difficult to read without the use of technology; or

(B) a digital photo or a digitised signature on the document is impossible or difficult to recognise without the use of technology; or

(ii) any information stored electronically on the document is no longer accessible by using the holder's PIN; and

(b) includes destroyed.'.'.

Editor's note—

Legislation ultimately amended—

- *Transport Operations (Passenger Transport) Act 1994*

73 Amendment of s 22 (Insertion of new ch 4, pts 2 and 3)

(1) Section 22, inserted sections 35A and 35B—

omit, insert—

‘35A Obtaining digital photo and digitised signature

‘(1) A person must allow the chief executive to take and keep—

(a) a digital photo and digitised signature of the person, if the person applies for—

(i) the grant or renewal of driver authorisation (the *authority applied for*);

(ii) an amendment of driver authorisation;

(iii) the replacement of an authorising document; or

(b) a digital photo or digitised signature of the person, if—

(i) the person applies for anything else in relation to driver authorisation; and

(ii) the chief executive has given the person written notice under subsection (3) or (4) in relation to the photo or signature.

‘(2) Subsection (1)(a) does not apply to the person if—

(a) as allowed under this Act or a prescribed smartcard Act, the chief executive is keeping the person’s most recent digital photo and digitised signature; and

(b) the chief executive is satisfied the person’s most recent digital photo is still a true likeness of the person; and

(c) the shelf life of the person’s most recent digital photo and digitised signature, or the most recent extension of the shelf life under section 35AA, has not ended and will not end before—

(i) the term of the authority applied for ends; or

(ii) if an amendment of the person’s driver authorisation is applied for—the term of the driver authorisation ends; or

[s 73]

- (iii) if replacement of an authorising document is applied for—the term of the driver authorisation ends.
- ‘(3) If the chief executive considers it reasonably necessary to use facial recognition technology to establish a person’s connection to the person’s most recent digital photo, the chief executive may give the person a written notice requiring the person to allow the chief executive to take and keep a digital photo of the person.
- ‘(4) If the chief executive is satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person’s most recent digital photo, the chief executive may give the person a written notice requiring the person to allow the chief executive to take and keep a digitised signature of the person.
- ‘(5) The chief executive must refuse to consider any application by the person relating to driver authorisation if—
 - (a) the person does not comply with subsection (1); or
 - (b) the chief executive is not satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person’s most recent digital photo.

‘35AA Extending shelf life of digital photo and digitised signature

- ‘(1) The chief executive may, for this Act, extend the shelf life of the most recent digital photo and digitised signature of a person.
- ‘(2) The period for which the shelf life may be extended under subsection (1) must not result in the shelf life being extended under the subsection for periods totalling more than 6 months.

Example—

If the shelf life has been extended previously under subsection (1) for 2 months, the next extension under the subsection must not be for more than 4 months.

‘35B Using digital photo and digitised signature

- ‘(1) The chief executive may, with a person’s consent, use the person’s most recent digital photo and digitised signature for any of the following purposes—
- (a) to help identify the person for deciding whether or not to grant an application for driver authorisation;
 - (b) to reproduce the person’s digital photo and digitised signature on an authorising document;
 - (c) for a digital photo taken under section 35A(1)(b), to establish the person’s connection to the person’s most recent digital photo when the person makes any application relating to driver authorisation.
- ‘(2) The chief executive may use a person’s most recent digital photo and digitised signature to help in an investigation of, or proceeding for, an offence that—
- (a) happens—
 - (i) in making the application for which the person’s digital photo and digitised signature are taken under section 35A(1); or
 - (ii) during the retention period for the digital photo and digitised signature; and
 - (b) involves a person obtaining or attempting to obtain any of the following by a false statement, misrepresentation or any other dishonest way—
 - (i) driver authorisation or its renewal;
 - (ii) a PIN or anything else for an authorising document.’.
- (2) Section 22, inserted section 35C(3), after ‘under this Act’—
insert—
‘or a prescribed smartcard Act’.
- (3) Section 22, inserted section 35E(2), definition *smartcard driver authorisation*—

[s 73]

omit.

- (4) Section 22, inserted section 35F—

omit, insert—

‘35F Retention period for digital photo and digitised signature

- ‘(1) This section sets out the retention period for a digital photo and digitised signature taken under this Act.
- ‘(2) Unless subsection (3) applies, the retention period for a digital photo and digitised signature taken under section 35A(1) is—
- (a) if an application mentioned in section 35A(1)(a) is granted or a digital photo or digitised signature taken under section 35A(1)(b) is to be used under section 35B(1)(b)—30 years after the relevant day; or
 - (b) if an application mentioned in section 35A(1)(a) is not granted—
 - (i) 6 months after the relevant day; or
 - (ii) the period decided by the chief executive;whichever is the shorter period; or
 - (c) if paragraph (a) or (b) does not apply—24 hours after the relevant day.
- ‘(3) Despite subsection (2), if—
- (a) an investigation as mentioned in section 35B(2) is started before the end of the retention period worked out under subsection (2)(b) or (c) of this section for a digital photo and digitised signature; and
 - (b) the chief executive reasonably requires the digital photo and digitised signature to be kept for a longer period for the investigation or a proceeding resulting from the investigation;
- the retention period for the digital photo and digitised signature is the longer period mentioned in paragraph (b) of this subsection.

‘(4) In this section—

relevant day, for a digital photo and digitised signature, means the day on which the digital photo and digitised signature are taken.’.

(5) Section 22, inserted section 35H(2)(a), ‘the driver authorisation’—

omit, insert—

‘the person’s authorising document’.

Editor’s note—

Subsections (1) to (5), legislation ultimately amended—

- *Transport Operations (Passenger Transport) Act 1994*

74 Amendment of s 24 (Amendment of sch 3 (Dictionary))

(1) Section 24, inserted definitions—

insert—

‘*authorising document* means a document evidencing driver authorisation.

shelf life, of a digital photo and digitised signature, means 10 years after the photo and signature are taken.

smartcard driver authorisation means driver authorisation in the form provided for under section 29(3)(b).’.

(2) Section 24, inserted definitions *most recent digital photo* and *most recent digitised signature*, paragraph (a)(i), ‘this Act’—

omit, insert—

‘section 35A’.

Editor’s note—

Subsections (1) and (2), legislation ultimately amended—

- *Transport Operations (Passenger Transport) Act 1994*

[s 75]

75 Amendment of s 28 (Insertion of new ch 5, pt 3A)

(1) Section 28, inserted sections 91A and 91B—

omit, insert—

‘91A Obtaining digital photo and digitised signature

‘(1) A person must allow the chief executive to take and keep—

- (a) a digital photo and digitised signature of the person, if the person applies for the grant, renewal or replacement of a prescribed authority (the *authority applied for*); or
- (b) a digital photo or digitised signature of the person, if—
 - (i) the person applies for anything else in relation to a prescribed authority; and
 - (ii) the chief executive has given the person written notice under subsection (3) or (4) in relation to the photo or signature.

‘(2) Subsection (1)(a) does not apply to the person if—

- (a) as allowed under this Act or a prescribed smartcard Act, the chief executive is keeping the person’s most recent digital photo and digitised signature; and
- (b) the chief executive is satisfied the person’s most recent digital photo is still a true likeness of the person; and
- (c) the shelf life of the person’s most recent digital photo and digitised signature, or the most recent extension of the shelf life under section 91AA, has not ended and will not end before the term of the authority applied for ends.

‘(3) If the chief executive considers it reasonably necessary to use facial recognition technology to establish a person’s connection to the person’s most recent digital photo, the chief executive may give the person a written notice requiring the person to allow the chief executive to take and keep a digital photo of the person.

‘(4) If the chief executive is satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and

the person's most recent digital photo, the chief executive may give the person a written notice requiring the person to allow the chief executive to take and keep a digitised signature of the person.

- '(5) The chief executive must refuse to consider any application by the person relating to a prescribed authority if—
- (a) the person does not comply with subsection (1); or
 - (b) the chief executive is not satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person's most recent digital photo.
- '(6) In this section—
grant includes issue.

'91AA Extending shelf life of digital photo and digitised signature

- '(1) The chief executive may, for this Act, extend the shelf life of the most recent digital photo and digitised signature of a person.
- '(2) The period for which the shelf life may be extended under subsection (1) must not result in the shelf life being extended under the subsection for periods totalling more than 6 months.

Example—

If the shelf life has been extended previously under subsection (1) for 2 months, the next extension under the subsection must not be for more than 4 months.

'91B Using digital photo and digitised signature

- '(1) The chief executive may, with a person's consent, use the person's most recent digital photo and digitised signature for any of the following purposes—
- (a) to help identify the person for deciding whether or not to grant an application for a prescribed authority;

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- (b) to reproduce the person's digital photo and digitised signature on a prescribed authority;
 - (c) for a digital photo taken under section 91A(1)(b), to establish the person's connection to the person's most recent digital photo when the person makes any application relating to a prescribed authority.
- '(2) The chief executive may use a person's most recent digital photo and digitised signature to help in an investigation of, or proceeding for, an offence that—
- (a) happens—
 - (i) in making the application for which the person's digital photo and digitised signature are taken under section 91A(1); or
 - (ii) during the retention period for the digital photo and digitised signature; and
 - (b) involves a person obtaining or attempting to obtain any of the following by a false statement, misrepresentation or any other dishonest way—
 - (i) a prescribed authority or its renewal;
 - (ii) a PIN or anything else for a prescribed authority.'
- (2) Section 28, inserted section 91C(3), after 'under this Act'—
insert—
'or a prescribed smartcard Act'.
- (3) Section 28, inserted section 91F(3), definition *smartcard authority*—
omit.
- (4) Section 28, inserted section 91G—
omit, insert—

‘91G Retention period for digital photo and digitised signature

- ‘(1) This section sets out the retention period for a digital photo and digitised signature taken under this Act.
- ‘(2) Unless subsection (3) applies, the retention period for a digital photo and digitised signature taken under section 91A(1) is—
- (a) if an application mentioned in section 91A(1)(a) is granted or a digital photo or digitised signature taken under section 91A(1)(b) is to be used under section 91B(1)(b)—30 years after the relevant day; or
 - (b) if an application mentioned in section 91A(1)(a) is not granted—
 - (i) 6 months after the relevant day; or
 - (ii) the period decided by the chief executive;whichever is the shorter period; or
 - (c) if paragraph (a) or (b) does not apply—24 hours after the relevant day.
- ‘(3) Despite subsection (2), if—
- (a) an investigation as mentioned in section 91B(2) is started before the end of the retention period worked out under subsection (2)(b) or (c) of this section for a digital photo and digitised signature; and
 - (b) the chief executive reasonably requires the digital photo and digitised signature to be kept for a longer period for the investigation or a proceeding resulting from the investigation;
- the retention period for the digital photo and digitised signature is the longer period mentioned in paragraph (b) of this subsection.
- ‘(4) In this section—
- relevant day*, for a digital photo and digitised signature, means the day on which the digital photo and digitised signature are taken.’

[s 76]

Editor's note—

Subsections (1) to (4), legislation ultimately amended—

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

76 Insertion of new s 28A

After section 28—

insert—

'28A Insertion of new s 126A

'After section 126—

insert—

'126A Smartcard authority is property of the State

- '(1) A smartcard authority is and remains the property of the State.
- '(2) Subsection (1) applies even though a person other than the State—
- has the right to use information that is on the smartcard authority or stored electronically on it; or
 - has the right to have information stored on the smartcard authority.
- '(3) The State is not legally liable for an act or omission relating to the keeping or use of the smartcard authority.'.

Editor's note—

Legislation ultimately amended—

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

77 Replacement of s 30 (Amendment of s 150A (Regulating form of licence))

Section 30—

omit, insert—

'30 Replacement of s 150A (Regulating form of licence)

'Section 150A—

omit, insert—

‘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 Queensland driver licence may include information that identifies the holder of the Queensland driver licence as being the holder of a licence under another Act.

Example for subsection (2)—

A regulation may provide that a Queensland driver licence may include information indicating the holder of the Queensland driver licence also holds a licence under the *Transport Operations (Marine Safety) Act 1994*.

- ‘(3) Without limiting subsection (1), a regulation may provide for the following—
 - (a) a document evidencing a Queensland driver licence to be in the form of a card or something similar approved by the chief executive and on which information may be stored electronically;
 - (b) a PIN to be used by the holder of a Queensland driver licence as a security measure to protect information stored electronically on a document evidencing the Queensland driver licence.

‘150BA Regulating form of prescribed authority other than Queensland driver licence

- ‘(1) A regulation may provide for the form of a relevant prescribed authority, including the information to be included on a relevant prescribed authority.
- ‘(2) Without limiting subsection (1), a regulation may provide for the following—
 - (a) a document evidencing a relevant prescribed authority;
 - (b) a document evidencing a relevant prescribed authority to be in the form of a card or something similar approved

[s 77]

by the chief executive and on which information may be stored electronically;

- (c) a PIN to be used by the holder of a relevant prescribed authority as a security measure to protect information stored electronically on a document evidencing the relevant prescribed authority.

‘(3) Also, without limiting subsection (1), a regulation may provide that—

- (a) a document evidencing a relevant prescribed authority may include on it information about another transport authority held by the person under a prescribed transport Act, if allowed under that Act; or
- (b) information about a relevant prescribed authority may be included on another transport authority.

Note—

See also the *Transport Planning and Coordination Act 1994*, section 36G for smartcard transport authorities.

‘(4) In this section—

prescribed transport Act means—

- (a) the *Tow Truck Act 1973*; or
- (b) the *Transport Operations (Passenger Transport) Act 1994*; or
- (c) this Act.

relevant prescribed authority means a prescribed authority other than a Queensland driver licence.

transport authority means—

- (a) a driver’s certificate or an assistant’s certificate under the *Tow Truck Act 1973*; or
- (b) driver authorisation under the *Transport Operations (Passenger Transport) Act 1994*; or
- (c) a prescribed authority (other than a Queensland driver licence).’.

Editor's note—

Legislation ultimately amended—

- *Transport Operations (Road Use Management) Act 1994*

78 Amendment of s 31 (Amendment of sch 4 (Dictionary))

- (1) Section 31(1), inserted definitions—

insert—

'shelf life, of a digital photo and digitised signature, means 10 years after the photo and signature are taken.

smartcard authority means a prescribed authority in the form provided for under section 150BA(2)(b).'

- (2) Section 31(1), inserted definitions *most recent digital photo* and *most recent digitised signature*, paragraph (a)(i), 'this Act'—

omit, insert—

'section 91A'.

- (3) Section 31(1), inserted definition *prescribed authority*, paragraph (c) and editor's note—

omit, insert—

'(c) a dangerous goods driver licence as defined under the dangerous goods regulation.'

- (4) Section 31(1), inserted definition *smartcard driver licence*, '150A(3)'—

omit, insert—

'150A(3)(a)'.

Editor's note—

Subsections (1) to (4), legislation ultimately amended—

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

Part 3 **Amendment of Transport Operations (Marine Safety) Act 1994**

79 Act amended

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

80 Insertion of new s 62A

After section 62—

insert—

‘62A When licence is void

‘A licence obtained by a false statement or misrepresentation is void.’.

81 Amendment of s 63 (Cancellation, suspension and amendment of licences)

Section 63, after ‘amend a licence’—

insert—

‘or marine licence indicator’.

82 Amendment of s 202C (Licence cancelled when order made under s 202A)

Section 202C(2), after ‘person’s licence’—

insert—

‘or marine licence indicator’.

83 Amendment of s 202K (Variation of restrictions)

Section 202K(8)(b)—

omit, insert—

- ‘(b) the restricted licence to which the variation order relates and, if the holder of the restricted licence has a marine licence indicator, the holder’s marine licence indicator;’.

Chapter 4 Other amendments

Part 1 Amendment of Transport Infrastructure Act 1994

84 Act amended in part and schedule

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

85 Amendment of s 84C (Effect on land of State toll road corridor land declaration)

Section 84C(4), ‘Governor in Council’—

omit, insert—

‘Minister administering the *Land Act 1994*’.

86 Amendment of s 105J (Effect on land of local government tollway corridor land declaration)

Section 105J(4), ‘Governor in Council’—

omit, insert—

‘Minister administering the *Land Act 1994*’.

87 Amendment of s 480 (Disposal of fees, penalties etc.)

- (1) Section 480(3) to (8)—

[s 87]

renumber as section 480(5) to (10).

(2) Section 480—

insert—

‘(3) Penalties received or recovered in relation to a local government’s tolling enforcement by an entity other than the local government are to be paid to the local government.

‘(4) Penalties received or recovered by a local government in relation to the local government’s tolling enforcement may be retained by the local government.’.

(3) Section 480(10), as renumbered—

insert—

‘**local government tollway** see section 105GA(5).

relevant tolling offence means an offence against section 105ZH(3), 105ZJ(4) or 105ZK(3).

tolling enforcement, in relation to a local government, means enforcement of a relevant tolling offence committed in relation to a local government tollway in the local government’s area and started by—

(a) an infringement notice served under the *State Penalties Enforcement Act 1999*; or

(b) complaint and summons served under the *Justices Act 1886*.’.

Part 2 Amendment of Transport Operations (Marine Pollution) Act 1995

88 Act amended in part and schedule

This part and the schedule, part 1 amend the *Transport Operations (Marine Pollution) Act 1995*.

89 Amendment of s 45 (Definitions for pt 7)

Section 45, definition *discharge offence*, ‘or (3)’—
omit, insert—
‘, (3) or (4)’.

89A Amendment of s 47 (Discharge of untreated sewage into nil discharge waters for untreated sewage prohibited)

Section 47—
insert—

‘(4) In this section—

ship does not include—

- (a) a declared ship under section 49; or
- (b) a prescribed ship under section 50A.’.

89B Amendment of s 48 (Discharge of treated sewage into nil discharge waters for treated sewage prohibited)

Section 48—
insert—

‘(4) In this section—

ship does not include—

[s 89C]

- (a) a declared ship under section 49; or
- (b) a prescribed ship under section 50A.’.

89C Amendment of s 48A (Ship with fixed toilet operating in prescribed nil discharge waters to be able to hold or treat sewage)

- (1) Section 48A(1) and (2), ‘section 48A ship’—
omit, insert—
‘ship’.
- (2) Section 48A(4), definition *section 48A ship*—
omit, insert—
‘*ship*—
 - (a) means a ship that has a fixed toilet; and
 - (b) does not include—
 - (i) a declared ship under section 49; or
 - (ii) a prescribed ship under section 50A.’.

90 Amendment of s 50A (Discharge of sewage by prescribed ships)

- (1) Section 50A(2), ‘prohibited untreated sewage discharge’—
omit, insert—
‘coastal’.
- (2) Section 50A—
insert—
‘(2A) If treated sewage is discharged from a prescribed ship into prohibited discharge waters, each culpable person for the discharge commits an offence.
Maximum penalty—850 penalty units.’.
- (3) Section 50A(3), ‘prohibited treated sewage discharge’—

omit, insert—

‘coastal’.

- (4) Section 50A(3)(a)—

omit, insert—

‘(a) the ship is operating a sewage treatment plant approved by the IMO;

Note—

Information on sewage treatment plants is available from MSQ, the Australian Maritime Safety Authority or the IMO’s website for the Global Integrated Shipping Information System at <<http://gisis.imo.org/Public>>.’.

- (5) Section 50A(4), ‘and (3)’—

omit, insert—

‘, (3) and (4)’.

- (6) Section 50A(5)—

omit, insert—

- ‘(5) In this section—

prescribed ship means a ship engaged in an international voyage—

- (a) with a gross tonnage of at least 400; or
(b) with a gross tonnage of less than 400 and certified to carry more than 15 persons.

Note—

See Annex IV to MARPOL, chapter 1, regulation 2.’.

- (7) Section 50A(2A) to (5)—

renumber as section 50A(3) to (6).

91 Amendment of s 55AA (Placard about garbage disposal requirements)

Section 55AA(1), penalty, ‘850’—

[s 92]

omit, insert—

‘20’.

92 Amendment of s 97 (Definitions for division)

Section 97, definition *Australian Maritime Safety Authority—*
omit.

93 Insertion of new pt 17, div 5

After section 158—

insert—

**‘Division 5 Transitional provision for Transport
and Other Legislation Amendment
Act 2010**

**‘159 Amendment of regulation by Transport and Other
Legislation Amendment Act 2010 does not affect
powers of Governor in Council**

‘The amendment of the *Transport Operations (Marine
Pollution) Regulation 2008* by the *Transport and Other
Legislation Amendment Act 2010* does not affect the power of
the Governor in Council to further amend the regulation or to
repeal it.’.

94 Amendment of schedule (Dictionary)

(1) Schedule, definition *Australian Maritime Safety Authority—*
omit, insert—

‘*Australian Maritime Safety Authority* means the Australian
Maritime Safety Authority established by the *Australian
Maritime Safety Authority Act 1990* (Cwlth).’.

(2) Schedule—

insert—

'boat harbour' means a non-State managed boat harbour or a State managed boat harbour under the *Transport Infrastructure (Public Marine Facilities) Regulation 2000*.

canal see the *Coastal Protection and Management Act 1995*, section 9.

designated area means each of the following areas—

- (a) the marine national park zone under the *Marine Parks (Moreton Bay) Zoning Plan 2008*;
- (b) the Noosa River;
- (c) the marine national park zone, under the *Marine Parks (Great Sandy) Zoning Plan 2006*, located near Burkitt's Reef, Hoffman's Rocks or Barolin Rock, adjacent to the Woongarra Coast;
- (d) an area within the Great Barrier Reef Coast Marine Park prescribed under a regulation.

Great Barrier Reef Coast Marine Park means the marine park described in the *Marine Parks (Declaration) Regulation 2006*, schedule 2.

marina means a buoy mooring, jetty or pile mooring or combination of them where, for a fee or reward, a ship is, or may be, anchored, berthed or moored.

prohibited discharge waters means waters of any of the following—

- (a) a boat harbour;
- (b) a canal;
- (c) a marina;
- (d) a designated area.'

‘must comply with the requirements for an oil record book under the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cwlth), section 12.’.

100 Amendment of s 34 (Form of cargo record book)

Section 34, from ‘must’—

omit, insert—

‘must comply with the requirements for a cargo record book under the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cwlth), section 23.’.

101 Amendment of s 44 (Nil discharge waters for untreated sewage—Act, s 47)

Section 44, from ‘sewage are’—

omit, insert—

‘sewage are the coastal waters stated in schedule 3.’.

102 Amendment of s 47 (Nil discharge waters for treated sewage or untreated sewage—Act, s 49)

Section 47, from ‘ship are’—

omit, insert—

‘ship are the coastal waters stated in schedule 5.’.

103 Amendment of s 53 (Ship must be fitted with macerator)

Section 53(1)(a), editor’s note—

omit, insert—

Note—

See schedules 3 to 5.’.

[s 104]

104 Amendment of pt 12, div 2, hdg (Analyst's reports and forms)

Part 12, division 2, heading, 'and forms'—
omit.

105 Insertion of new pt 12, div 3

Before section 97—
insert—

'Division 3 Miscellaneous

**'96A Area prescribed for Act, schedule, definition
designated area, paragraph (d)**

'For the Act, schedule, definition *designated area*, paragraph (d), the prescribed area within the Great Barrier Reef Coast Marine Park is the area mentioned in schedule 7.'

106 Omission of sch 1 (MARPOL)

Schedule 1—
omit.

107 Amendment of sch 4 (Nil discharge waters for untreated sewage)

- (1) Schedule 4, part 1—
omit.
- (2) Schedule 4, part 2, heading—
omit.
- (3) Schedule 4, items 5 to 9—
renumber as schedule 4, items 1 to 5.

-
- 108 Amendment of sch 6 (Nil discharge waters for treated sewage or untreated sewage from declared ship)**
- (1) Schedule 6, part 1—
omit.
 - (2) Schedule 6, part 2, heading—
omit.
 - (3) Schedule 6, items 5 to 8—
renumber as schedule 6, items 1 to 4.
- 109 Amendment of sch 8 (Areas within the Great Barrier Reef Coast Marine Park that are designated areas)**
- Schedule 8, heading, from ‘schedule 9’ to ‘paragraph (d)’—
omit, insert—
‘section 96A’.
- 110 Amendment of sch 9 (Dictionary)**
- Schedule 9, definitions *boat harbour, canal, designated area, Great Barrier Reef Coast Marine Park, marina* and *prohibited discharge waters*—
omit.
- 111 Renumbering of schs 2–9**
- Schedules 2 to 9—
renumber as schedules 1 to 8.

[s 112]

Part 4 **Amendment of Transport Operations (Marine Safety) Act 1994**

112 Act amended

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

113 Amendment of s 201 (Evidentiary provisions)

Section 201—

insert—

- ‘(9) A statement in a complaint for an offence against this Act that a person is or is not, or was or was not, at any time or date stated in the complaint of, under or over a stated age is evidence of the matter stated, and in the absence of evidence to the contrary is conclusive evidence of the matter.’.

Part 5 **Amendment of Transport Operations (Passenger Transport) Act 1994**

Division 1 **Preliminary**

114 Act amended in part and schedule

This part and the schedule, part 1 amend the *Transport Operations (Passenger Transport) Act 1994*.

Division 2 **Amendment of provisions relocated
from Transport Operations
(TransLink Transit Authority) Act
2008**

115 **Amendment of s 67B (Declaration of special event)**

Section 67B(4), ‘mass transit’—
omit, insert—
‘scheduled passenger’.

116 **Amendment of s 67C (Coordination power for mass
transit services to special events)**

Section 67C, ‘mass transit’—
omit, insert—
‘scheduled passenger’.

117 **Amendment of s 67D (TransLink approval required for
special event services)**

- (1) Section 67D(1), note—
omit.
- (2) Section 67D(1), ‘mass transit’—
omit, insert—
‘scheduled passenger’.

118 **Amendment of s 67E (Special event approvals)**

- (1) Section 67E(1), ‘section 49(1)’—
omit, insert—
‘section 67D(1)’.
- (2) Section 67E, ‘mass transit’—

[s 119]

omit, insert—
'scheduled passenger'.

Division 3 Other amendments

119 Insertion of new ch 6, pt 4

Chapter 6—
insert—

'Part 4 Special events

'Division 1 Special events in TransLink area

'Division 2 Special events in non-TransLink area

'67F Declaration of special event

- '(1) The chief executive may declare that an event to be carried out in a non-TransLink area is a special event (a *special event declaration*).
- '(2) A special event declaration may be for a stated event or all events, or all events of a stated type, to be carried out at a stated place.
- '(3) A special event declaration may be made only if the chief executive considers that—
 - (a) there will be at least 5000 participants or spectators at the event or events the subject of the declaration; and
 - (b) either—
 - (i) significant road closures or bus stop relocations are likely to be part of the management of transport to or from the event or events; or

- (ii) the provision of transport services to or from the event or events is likely to rely on an increased use of vehicles or other facilities funded by the chief executive.
- ‘(4) For subsection (3)(b)(i), a road closure or bus stop relocation is significant if it is likely to affect the provision of scheduled passenger services generally in the non-TransLink area.
- ‘(5) A special event declaration is sufficiently made if the chief executive publishes the declaration on the department’s website or in a newspaper circulating in the non-TransLink area.

Editor’s note—

At the commencement of this section, the department’s website is <<http://www.tmr.qld.gov.au>>.

‘67G Coordination power for scheduled passenger services to special events

‘The chief executive may coordinate the provision of scheduled passenger services to and from a special event in a non-TransLink area.

‘67H Chief executive’s approval required for special event services

- ‘(1) A person must not enter into or perform a contract or arrangement for the provision of scheduled passenger services to or from a special event in a non-TransLink area without the chief executive’s written approval.

Maximum penalty—200 penalty units.

Note—

See however section 187 (Deferral of application of s 67H for particular contracts and arrangements for special event services).

- ‘(2) A contract or arrangement made or entered into in contravention of subsection (1) has no effect to the extent of the contravention.

[s 120]

‘67I Special event approvals

- ‘(1) An approval by the chief executive under section 67H(1) (a *special event approval*) may—
- (a) be given on the chief executive’s own initiative; and
 - (b) be given for a specific scheduled passenger service to or from a special event or generally for a stated type of scheduled passenger service to or from a special event.
- ‘(2) A special event approval is sufficiently given if the chief executive publishes the approval on the department’s website or in a newspaper circulating in the non-TransLink area.
- ‘(3) The chief executive may impose conditions on the giving of a special event approval.
- ‘(4) The conditions may include a requirement that, before the special event approval applies to a person, the person must pay the chief executive a contribution to the chief executive’s costs of coordinating the relevant scheduled passenger services.’.

120 Amendment of s 113D (Transit officer must not be under the influence of alcohol or drugs)

Section 113D(1)(b), after ‘officer’s’—
insert—
‘saliva or’.

121 Amendment of s 113G (Revocation of appointment of transit officer)

- (1) Section 113G(1)(b)(iv), ‘urine’—
omit, insert—
‘saliva or urine’.
- (2) Section 113G(2), after ‘breath’—

insert—
, saliva’.

122 Replacement of ss 116 and 117

Sections 116 and 117—

omit, insert—

‘116 Chief executive may require transit officer to undergo alcohol test or drug test

- ‘(1) The chief executive may, by written notice, require a transit officer to submit to an alcohol test or drug test if—
- (a) the officer has been involved in an incident in which a person being detained under part 4A by the officer suffers a physical injury; or
 - (b) the chief executive reasonably suspects the officer is contravening, or has contravened, section 113D(1).

Note—

If a person appointed as a transit officer is asked to provide a specimen of breath for an alcohol test, or specimen of saliva or urine for a drug test, under this section and the person fails to provide the specimen, the person’s appointment may be revoked under section 113G.

- ‘(2) An alcohol test, or drug test, of a transit officer conducted under this section must be conducted by a relevant entity.
- ‘(3) A regulation may provide for requirements about notifying a transit officer of the results of an alcohol test or drug test conducted on the officer under this section.
- ‘(4) In this section—

alcohol test, of a transit officer, means a test of the breath of the officer for deciding whether the officer is over the low alcohol limit within the meaning of section 113D(2).

drug test, of a transit officer, means a test of the saliva or urine of the officer for deciding whether the saliva or urine has evidence of a dangerous drug, or prescribed substance, as defined under section 113D(5).

[s 123]

relevant entity means an entity the chief executive engages to conduct alcohol tests, or drug tests, of transit officers under this section.’

123 Amendment of s 129ZD (Amendment or revocation of exclusion order generally)

Section 129ZD(8), definition *prosecuting authority*—
omit, insert—

‘prosecuting authority means—

- (a) if the prosecutor who appeared before the court when the exclusion order was made was a Crown prosecutor—the director of public prosecutions, or someone authorised to accept the application on the director’s behalf; or
- (b) if the prosecutor who appeared before the court when the exclusion order was made was someone other than a Crown prosecutor—the commissioner of the police service, or someone authorised to accept the application on the commissioner’s behalf.’

124 Insertion of new ch 13, pt 9

Chapter 13—

insert—

‘Part 9 **Transitional provisions for
Transport and Other
Legislation Amendment Act
2010**

‘Division 1 **Provisions for relocated provisions**

‘184 **Relocation of TransLink Act provisions**

- ‘(1) To remove any doubt, it is declared that the relocated provisions were not re-enacted by the *Transport and Other Legislation Amendment Act 2010*, 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) In an Act or document, a reference to a provision of the TransLink Act that is relocated to this Act by the *Transport and Other Legislation Amendment Act 2010* may, if the context permits, be taken to be a reference to the relocated provision in this Act.
- ‘(5) In this section—
- relocated provision* means a provision of the TransLink Act that is relocated to this Act by the *Transport and Other Legislation Amendment Act 2010*, section 132.

TransLink Act means the *Transport Operations (TransLink Transit Authority) Act 2008*.

‘Division 2 Other provisions

‘185 Provision for s 67B

‘(1) A declaration made under the previous declaration provision and in effect immediately before the commencement has effect on and from the commencement as if it were a declaration made under section 67B.

‘(2) In this section—

commencement means the commencement of this section.

previous declaration provision means the *Transport Operations (TransLink Transit Authority) Act 2008*, section 47 as in force before the commencement.

‘186 Provision for s 67D

‘(1) A written approval given under the previous approval provision and in effect immediately before the commencement has effect on and from the commencement as if it were an approval given under section 67D.

‘(2) In this section—

commencement means the commencement of this section.

previous approval provision means the *Transport Operations (TransLink Transit Authority) Act 2008*, section 49 as in force before the commencement.

‘187 Deferral of application of s 67H for particular contracts and arrangements for special event services

- ‘(1) This section applies to a contract or arrangement made or entered into in relation to a non-TransLink area before section 67H commences.
- ‘(2) Section 67H does not apply to the performance of the contract or arrangement until the first anniversary of the commencement of this section.’.

125 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

‘*non-TransLink area* means an area other than a TransLink area.

special event means—

- (a) for chapter 6, part 4, division 1—an event the subject of a declaration under section 67B; or
- (b) for chapter 6, part 4, division 2—an event the subject of a declaration under section 67F.

TransLink means the TransLink Transit Authority established under the *Transport Operations (TransLink Transit Authority) Act 2008*, section 9.’.

‘Part 15 **Transitional provisions for
Transport and Other
Legislation Amendment Act
2010**

‘221 Declaration for s 66(3)(k)

- ‘(1) This section applies to—
- (a) a local law relating to the regulation of vehicle access to a public place that is a local government controlled area made before the commencement; and
 - (b) any enforcement action taken in reliance on the local law before the commencement.
- ‘(2) To remove any doubt, it is declared that—
- (a) the local law is as valid, and is taken always to have been as valid, as if it were made after the commencement; and
 - (b) the enforcement action is as valid, and is taken always to have been as valid, as if it were taken after the commencement.
- ‘(3) In this section—
- commencement* means the commencement of section 66(3)(k).’.

130 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘local government controlled area means land or infrastructure owned, held in trust or otherwise controlled by a local government.’.

[s 137]

‘(3) Information that may be kept or used under subsection (1) or (2) does not include a digital photo and digitised signature.

‘(4) This section applies despite a provision of another Act.

‘(5) In this section—

digital photo means a facial image encoded in a digital form.

digitised signature means a person’s signature encoded in a digital image form.

particular transport Act means—

- (a) the *Tow Truck Act 1973*; or
- (b) the *Transport Infrastructure Act 1994*; or
- (c) the *Transport Operations (Marine Safety) Act 1994*; or
- (d) the *Transport Operations (Passenger Transport) Act 1994*; or
- (e) the *Transport Operations (Road Use Management) Act 1995*; or
- (f) the *Transport Security (Counter-Terrorism) Act 2008*.

‘36G Smartcard transport authority

‘(1) The chief executive may issue to a person a smartcard (***smartcard transport authority***) evidencing 1 or more transport authorities held by the person and containing information about the authorities.

‘(2) A regulation may provide for the following—

- (a) information that may be included on the smartcard;
- (b) a PIN to be used by the holder of the smartcard as a security measure to protect information stored electronically on it;
- (c) verification of a person’s connection to the person’s most recent digital photo relating to a smartcard transport authority.

‘(3) In this section—

smartcard means a document in the form of a card or something similar approved by the chief executive, and on which information may be stored electronically.

transport authority means—

- (a) a driver’s certificate or an assistant’s certificate under the *Tow Truck Act 1973*; or
- (b) driver authorisation under the *Transport Operations (Passenger Transport) Act 1994*; or
- (c) a prescribed authority (other than a Queensland driver licence) under the *Transport Operations (Road Use Management) Act 1995*.’.

Part 9 Minor and consequential amendments

138 Acts amended in schedule

- (1) The schedule amends the Acts it mentions.
- (2) However, subsection (1) does not apply in relation to a particular Act if another provision of this Act states that the schedule amends the particular Act.

Schedule Acts amended

sections 3, 84, 88, 95, 114, 136 and 138

Part 1 Amendments commencing on date of assent

Acts Interpretation Act 1954

1 Section 27A(3D)—

insert—

‘Example—

Under an Act an evidentiary certificate purporting to be signed by an office holder is evidence of the content in any proceeding (the *facilitation provision*). The Act confers a general power of delegation on the office holder. The office holder uses the power to delegate the function of issuing the certificate to someone else. Under subsections (3C) and (3D) (and (6) and (7)), the facilitation provision is taken to provide for the certificate purporting to be signed by the delegate as having been signed by the delegator.’.

Maritime Safety Queensland Act 2002

1 Section 13, ‘financial-institution’—

omit, insert—

‘financial institution’.

Transport Infrastructure Act 1994

- 1 Section 282H(5), definition *standard*, paragraph (a), ‘appendix’—**
omit, insert—
‘group’.
- 2 Section 287A(1), ‘*Integrated Planning Act 1997*—**
omit, insert—
‘*Sustainable Planning Act 2009*’.
- 3 Section 287A(4), from ‘*Integrated*’—**
omit, insert—
‘*Sustainable Planning Act 2009*, section 282 and chapter 6, part 5, division 2.’.
- 4 Section 287B, ‘*Integrated Planning Act 1997*—**
omit, insert—
‘*Sustainable Planning Act 2009*’.
- 5 Section 294(3), ‘146 and 147’—**
omit, insert—
‘124 and 125’.
- 6 Section 294(3), ‘168 to 175’—**
omit, insert—
‘146 to 153’.

- 7 Section 326(1)(b), ‘owing’—**
omit, insert—
‘owning’.
- 8 Sections 553(3) and 554(2), definition *prescribed development application*, ‘*Integrated Planning Act 1997*—**
omit, insert—
‘repealed *Integrated Planning Act 1997* or the *Sustainable Planning Act 2009*’.
- 9 Schedule 3, column 1, rows 2 and 3—**
insert—
‘33’.
- 10 Schedule 6, definition *transport*, first occurrence—**
omit.
- 11 Schedule 6—**
insert—
‘*establishment*, for—
(a) chapter 9, part 4, division 6—see section 330; or
(b) chapter 10, part 4, division 5—see section 378.
permitted road access location, for chapter 6, part 5, division 2, subdivision 2, see section 53.’.
- 12 Schedule 6, definition *public marine facility*, examples, 1 and 2—**
renumber as dot points.

Transport Legislation Amendment Act 2007

1 Section 31—

omit, insert—

‘31 Amendment of sch 2 (Reviewable decisions)

‘Schedule 2—

insert—

‘80J(1) amendment of the conditions of a peak demand taxi permit

80L suspension or cancellation of a peak demand taxi permit’.

Editor’s note—

Legislation ultimately amended—

- *Transport Operations (Passenger Transport) Act 1994*

Transport Operations (Marine Pollution) Act 1995

1 Section 7(1)(a), from ‘chapter’—

omit, insert—

‘chapter 8; or’.

2 Section 10(4), footnote—

omit, insert—

‘*Note—*

See section 6 for the precise meaning of MARPOL for this Act.’.

3 Section 11(4), from ‘waters’—

omit, insert—

‘waters in this Act.

Note—

See the dictionary in the schedule for the precise meaning of coastal waters for this Act.’.

4 Section 14(2), footnote—

omit, insert—

‘Note—

See, for example, the *Environmental Protection Act 1994*.’.

5 Section 26(2), footnote—

omit, insert—

‘Note—

The Criminal Code, section 23 deals with a person’s criminal responsibility for an act or omission that happens independently of the person’s will or for an event which is accidental. The Criminal Code, section 24 deals with a person’s criminal responsibility for an act or omission done under an honest and reasonable, but mistaken, belief in the state of things.’.

6 Section 27(1), from ‘offence’—

omit, insert—

‘Example—

A ship leaves port A with a quantity of oil residues held in a tank or space and, without leaving coastal waters, arrives at port B with a lesser quantity in the tank or space. This subsection places an onus on the ship’s master to explain why there is a discrepancy in the quantity.

Maximum penalty—3500 penalty units.’.

7 Sections 28(1), 34A(2), 36(1), 43, 56, 84(1), 95(12)(b)(iii), 109(1)(b), 122(1), 128(4) and 134(b), footnote—

omit.

8 Sections 35(2), 42(3), 47(3), 55(2) and 61(2), footnote—

omit, insert—

‘Note—

See the note to section 26(2) for information about sections 23 and 24 of the Code.’.

9 Section 36(1)—

insert—

‘Note—

See Annex II, regulation 3.’.

10 Section 40, definition *harmful substance*, from ‘MARPOL’—

omit, insert—

‘the International Maritime Dangerous Goods Code.’.

11 Section 84(1)—

insert—

‘Note—

See Article 220(2) of the United Nations Convention on the Law of the Sea 1982.’.

12 Section 95(12)(b)(iii)—

insert—

‘Note—

Section 109 imposes on an authorised officer a requirement to give notice of any damage done in the exercise of a power.’.

13 Section 109(1)(b)—

insert—

‘Note—

See section 95(2)(b).’.

14 Section 122(1)—

insert—

‘Note—

See also the Protection of the Sea (Civil Liability) Act 1981 (Cwlth) and the Protection of the Sea (Oil Pollution Compensation Funds) Act 1993 (Cwlth).’.

15 Section 128(4)—

insert—

‘Note—

See, for example, part 10 of the Acts Interpretation Act 1954.’.

16 Schedule, definitions *coastal waters, garbage, harmful substance, incident, oil, oil tanker and ship*, footnote—

omit.

17 Schedule, definition *coastal waters*—

insert—

‘Note—

Coastal waters of the State is defined in the Acts Interpretation Act 1954, section 36.’.

Transport Operations (Marine Pollution) Regulation 2008

1 Section 3, ‘schedule 9’—

omit, insert—

‘schedule 8’.

-
- 2** Sections 10(d), 12(c), 15(1), 23(2)(c) and (3)(b), 24(4), 25(d) and (e)(iii), 27(3), 28(2)(c), 29(1), 30(b), 31(d), 33(1), 36(2) and (3), 37, 40(1), 60, 63(2)(c), 64(1) and (2)(a) and (b), 65(2)(b), 66 and 67(2), note—
omit.
- 3** Section 17(4) and 35(4), definitions *recordable event* and *recordable operation*, ‘schedule 2’—
omit, insert—
‘schedule 1’.
- 4** Section 36(4), definition *relevant footnote*, note, ‘Schedule 3’—
omit, insert—
‘Schedule 2’.
- 5** Section 45, ‘schedule 5’—
omit, insert—
‘schedule 4’.
- 6** Sections 55(4)(b) and 57, ‘schedule 7’—
omit, insert—
‘schedule 6’.
- 7** Schedule 3, heading, ‘schedule 9’—
omit, insert—
‘schedule 8’.

Schedule

- 8** **Schedule 9, definitions *100m line, 500m line, coastal 100m line, coastal 500m line, fringing reef, geodesic, H.A.T., highest astronomical tide, high water, island 500m line, L.A.T., lowest astronomical tide, low water, median line, rock 500m line and the mainland*, ‘schedule 8’—**
omit, insert—
‘schedule 7’.
- 9** **Schedule 9, definitions *Administration, category X substance, category Y substance, category Z substance, Code and IBC Code*, ‘schedule 3’—**
omit, insert—
‘schedule 2’.
- 10** **Schedule 9, definitions *Annex I, Annex II and Annex V*, ‘as set out in schedule 1’—**
omit.
- 11** **Schedule 9, definitions *levels of sewage quality characteristics and relevant level*, ‘schedule 7’—**
omit, insert—
‘schedule 6’.

Transport Operations (Passenger Transport) Act 1994

- 1** **Section 14 and schedule 1A, part 2, ‘Editor’s note’—**
omit, insert—
‘Note’.
- 2** **Section 36B(1), ‘to’, first mention—**
omit.

-
- 3 Section 36B(1)(a), before ‘allow’—**
insert—
‘to’.
- 4 Section 42(1), ‘(Market entry restrictions)’—**
omit.
- 5 Section 55(a), ‘(Declaration that service contracts are required)’—**
omit.
- 6 Section 80B, ‘financial-institution’—**
omit, insert—
‘financial institution’.
- 7 Section 97, from ‘the following’—**
omit, insert—
‘section 93, 94, 95 or 96 has not been complied with.’.
- 8 Sections 126N(2) and 126NA(2)(b) and (d), ‘officer’—**
omit, insert—
‘person’.
- 9 Section 126OA(4), ‘authorised officer’—**
omit, insert—
‘authorised person’.
- 10 Schedule 3, definitions *established route, insult and local government road*—**
omit.

11 Schedule 3, definition *taxi service area*, '(Taxi service areas)'—

omit.

Transport Operations (Road Use Management) Act 1995

1 Section 35(2)(a), 'Editor's note'—

omit, insert—

'Note'.

2 Section 39C(1)(b), 'good'—

omit, insert—

'goods'.

3 Section 50AA(6D), 'a person who is an individual', second mention—

omit, insert—

'the person'.

4 Section 51L(1)(b), from 'if' to 'owner—'—

omit, insert—

'the chief executive decides under section 51J(3) or (4) not to give a notice to the removed thing's owner and'.

5 Sections 53B(6), 53C(4), 57B(2AA) and 162D(2), 'Editor's note'—

omit, insert—

'Note'.

-
- 6 Section 56(3)(b), before ‘uses’—**
insert—
‘the applicant’.
- 7 Section 66(9), definition *shared path* and editor’s note—**
omit, insert—
‘*shared path* see the Queensland Road Rules, section 242(2).’.
- 8 Section 67, ‘in chapter 5,’—**
omit.
- 9 Section 78(3)(b), editor’s note—**
omit, insert—
‘*Note—*
See section 127(4)(b) for the effect of a suspension because of the allocation of demerit points under the driver licensing regulation.’.
- 10 Section 78(3)(d) and (e), ‘*Transport Operations (Road Use Management—Road Rules) Regulation 1999*’—**
omit, insert—
‘Queensland Road Rules’.
- 11 Section 78(3)(d) and (e), editor’s notes—**
omit.
- 12 Section 78(6), definition *disqualified driver*, paragraphs (b)(ii) and (c)(ii), ‘*Transport Operations (Road Use Management—Road Rules) Regulation 1999*’—**
omit, insert—
‘Queensland Road Rules’.

- 13 Section 78(6), definition *disqualified driver*, editor's notes—**
omit.
- 14 Section 79(1), after 'who'—**
insert—
'.'
- 15 Section 79(1B), 's 328A'—**
omit, insert—
'section 328A'.
- 16 Section 79(2E), from 'class' to 'Code'—**
omit, insert—
'class 1A to class 1E passenger vessels as described in part B, chapter 3, clause 3.5.1, table 4 of the National Standard for Commercial Vessels'.
- 17 Section 79(7), 'who while under the influence of liquor or a drug'—**
omit, insert—
'who, while under the influence of liquor or a drug,'.
- 18 Section 79B(7), definition, *analysis certificate*—**
omit.
- 19 Section 79G, heading, 's 79E'—**
omit, insert—
'section 79E'.

-
- 20 Section 79G(3), definitions *relevant charge* and *suspended licence*, ‘of the Act’—**
omit.
- 21 Section 80(5), after ‘for that purpose’, first mention—**
insert—
‘.’
- 22 Section 80(16)(b), ‘section (15AB)(b)(i)’—**
omit, insert—
‘subsection (15AB)(b)(i)’.
- 23 Section 80(22D), ‘who while the person’s driver licence is suspended under subsection (22AA)’—**
omit, insert—
‘who, while the person’s driver licence is suspended under subsection (22AA)’.
- 24 Section 80(30), ‘s 79’—**
omit, insert—
‘section 79’.
- 25 Section 80AA(2)(b), ‘for’—**
omit.
- 26 Section 84(1D), definition *drives a vehicle (other than a motor vehicle), a tram, a train or an animal dangerously*, ‘animal dangerously’—**
omit, insert—
‘animal on a road dangerously’.

- 27 Section 86(2)(e), after ‘licence;’—**
insert—
‘or’.
- 28 Section 87(4)(b), after ‘limited to’—**
insert—
‘the following’.
- 29 Section 150AC(3)—**
omit.
- 30 Section 151A(1), ‘The’—**
omit, insert—
‘This’.
- 31 Sections 153G(2)(a) and 157A(1)(a) and (b), at the end,
‘or’—**
omit.
- 32 Section 161J(3)(b), after ‘that’—**
insert—
‘it’.
- 33 Section 161R(3)(b)(ii), at the end—**
insert—
‘or’.
- 34 Section 168A(4), definition *transport Act*, paragraph (b)—**
omit, insert—
‘(b) the dangerous goods regulation.’.

-
- 35 Section 168AA(7)(a) and (b), at the end, ‘and’—**
omit.
- 36 Chapter 7, part 8, heading, and part 9, heading, ‘provision’—**
omit, insert—
‘provisions’.
- 37 Schedule 4, definition *tramcar*—**
omit.
- 38 Schedule 4—**
insert—
‘amending Act, for chapter 7, part 9, see section 206.
dangerous driving offence, for sections 90A to 90D, see section 90A.
designated offence, for sections 90A to 90D, see section 90A.
disqualified, for sections 90A to 90D, see section 90A.
driver licensing regulation means a regulation in force under chapter 5, part 10 to the extent it is about the management of drivers.
install, for chapter 5, parts 2 and 6, see section 67.
photographic detection device see section 113.
relevant disqualifying provision, for sections 90A to 90D, see section 90A.
relocated provision, for chapter 7, part 3, see section 186.
remove, for chapter 5, parts 2 and 6, see section 67.
Road Transport Reform Act, for chapter 7, part 3, see section 186.
section 89 disqualification, for sections 90A to 90D, see section 90A.

section 90 disqualification, for sections 90A to 90D, see section 90A.

structure, for chapter 5, parts 2 and 6, see section 67.

Traffic Act, for chapter 7, part 3, see section 186.’.

39 Schedule 4, definition *on*—

omit, insert—

‘*on*—

- (a) for a place, includes within, under and over the place; and
- (b) for chapter 5, parts 2 and 6, see section 67.’.

40 Schedule 4, definition *prescribed heavy vehicle*, paragraph (a)(vi)—

renumber as paragraph (a)(v).

41 Schedule 4, definition *prescribed heavy vehicle*, paragraph (b), ‘(vi)’—

omit, insert—

‘(v)’.

42 Schedule 4, definition *relevant emergency service officer*, paragraphs (e) and (f), ‘paragraph’—

omit, insert—

‘any of paragraphs’.

Transport Operations (TransLink Transit Authority) Act 2008

1 **Schedule 2, definition *disqualified person*, paragraph (a)(i), ‘contact’—**

omit, insert—

‘contract’.

Transport Planning and Coordination Act 1994

1 **Section 3, definitions *public passenger service*, first occurrence, and *transport decision*—**

omit.

2 **Section 8D(6)(c), ‘(2)’—**

omit, insert—

‘(4)(a)(ii)’.

3 **Section 8D(7), ‘(2)(b)’—**

omit, insert—

‘(4)(b)’.

4 **Section 27(3)(b), ‘subsection (aa)’—**

omit, insert—

‘subsection (1)(aa)’.

Transport Security (Counter-Terrorism) Act 2008

1 Section 16(1)(b), from ‘AS/NZS’—

omit, insert—

‘AS/NZS ISO 31000:2009 Risk management—Principles and guidelines.’.

Part 2 Other amendments

Transport Operations (Road Use Management) Act 1995

1 Section 150AB(1)(d)(iii) and (iv)—

omit, insert—

‘(iii) schedulers for heavy vehicles;’.

2 Section 150AB(1)(d)(v) and (vi)—

renumber as section 150AB(1)(d)(iv) and (v).

3 Chapter 6, part 2, heading, from ‘offences’—

omit, insert—

‘other particular offences about heavy vehicles’.