



Queensland

Holidays and Other Legislation Amendment Act 2015

Act No. 14 of 2015



Queensland

Holidays and Other Legislation Amendment Act 2015

Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
Part 2	Amendment of Adult Proof of Age Card Act 2008	
3	Act amended	6
4	Amendment of s 9 (Application for new card by electronic communication)	6
5	Amendment of s 11 (Decision on application)	6
6	Amendment of s 26 (Chief executive must maintain a register)	7
7	Amendment of s 30 (Restricted written release of information in APA register)	7
8	Omission of pt 5 (Biometric data and other information relating to adult proof of age card holders)	7
9	Insertion of new pt 9	7
	Part 9 Transitional provision for Holidays and Other Legislation Amendment Act 2015	
	50 Digital photos and digitised signatures	8
10	Amendment of schedule (Dictionary)	8
Part 3	Amendment of Holidays Act 1983	
11	Act amended	9
12	Amendment of schedule (Public holidays)	9
Part 4	Amendment of Industrial Relations Act 1999	
13	Act amended	10
14	Amendment of sch 5 (Dictionary)	10
Part 5	Amendment of Police Powers and Responsibilities Act 2000	
15	Act amended	10
16	Amendment of s 195A (Definitions for pt 5A)	10

Contents

17	Amendment of s 195J (Giving copy of access approval order to relevant entity)	11
18	Amendment of s 195L (Destruction of registered digital photo) . .	11
19	Amendment of sch 6 (Dictionary)	11
Part 6	Amendment of Tow Truck Act 1973	
20	Act amended	12
21	Amendment of s 14A (Decision on application)	12
22	Omission of pt 3, div 2 (Biometric data and other information relating to driver's certificate or assistant's certificate)	12
23	Amendment of s 19H (Restricted written release of information). .	12
24	Insertion of new pt 8, div 3	13
	Division 3 Transitional provision for Holidays and Other Legislation Amendment Act 2015	
46	Digital photos and digitised signatures	13
25	Amendment of sch 2 (Dictionary)	13
Part 7	Amendment of Transport Operations (Marine Safety) Act 1994	
26	Act amended	14
27	Omission of pt 5, div 3A (Biometric data and other information relating to marine licences)	14
28	Amendment of s 63I (Restricted written release of information) .	14
29	Insertion of new pt 19, div 6	14
	Division 6 Provision for Holidays and Other Legislation Amendment Act 2015	
247	Digital photos and digitised signatures	14
30	Amendment of schedule (Dictionary)	15
Part 8	Amendment of Transport Operations (Passenger Transport) Act 1994	
31	Act amended	15
32	Omission of ch 4, pt 2 (Biometric data and other information relating to driver authorisation)	16
33	Amendment of s 35H (Restricted written release of information). .	16
34	Insertion of new ch 13, pt 15	16
	Part 15 Transitional provision for Holidays and Other Legislation Amendment Act 2015	
205	Digital photos and digitised signatures	16
35	Amendment of sch 3 (Dictionary)	16

Part 9	Amendment of Transport Operations (Road Use Management) Act 1995	
36	Act amended	17
37	Amendment of s 77 (Restricted written or electronic release of person's prescribed authority and traffic history information)	17
38	Omission of ch 5, pt 3A (Biometric data and other information relating to prescribed authority holders)	18
39	Insertion of new ch 7, pt 19	18
	Part 19 Transitional provision for Holidays and Other Legislation Amendment Act 2015	
	228 Digital photos and digitised signatures	18
40	Amendment of sch 4 (Dictionary)	18
Part 10	Amendment of Transport Planning and Coordination Act 1994	
41	Act amended	19
42	Amendment of s 3 (Definitions)	19
43	Insertion of new pt 4C	20
	Part 4C Biometric data and other information for prescribed authorities	
	Division 1 Preliminary	
	28E Definitions for pt 4C	21
	Division 2 Taking, keeping and using biometric data and other information	
	28EA Taking a digital photo and digitised signature for use under this or another Act	22
	28EB Extending shelf life of a digital photo and digitised signature 24	
	28EC Using a digital photo and digitised signature	25
	28ED Restricted access to a digital photo and digitised signature 26	
	28EE Deleting a digital photo or digitised signature from register or similar record	28
	28EF Destruction of a digital photo or digitised signature	28
	28EG Restricted access to information stored electronically on a smartcard identification authority	29
	28EH Retention period for a digital photo or digitised signature 30	
44	Amendment of s 36F (Keeping and using information obtained or kept under particular transport Acts or Adult Proof of Age Card Act 2008) 31	
45	Amendment of s 36G (Smartcard transport authority)	31
46	Insertion of new s 36GA	32

Contents

	36GA	Confidentiality	32
47		Insertion of new s 37A	33
	37A	Annual report about access to digital photos	33
48		Replacement of pt 7, hdg (Transitional provision for the Transport and Other Legislation Amendment Act 2014)	33
49		Insertion of new pt 7, div 2	34
	Division 2	Provisions for Holidays and Other Legislation Amendment Act 2015	
	40	Extension of shelf life of a digital photo or digitised signature under another Act.	34
	41	Retention period for a digital photo or digitised signature taken under another Act.	34
	42	Access to digital photos under other Transport Acts to be included in annual report	35
50		Insertion of new sch 1	36
	Schedule 1	Dictionary	



Queensland

Holidays and Other Legislation Amendment Act 2015

Act No. 14 of 2015

An Act to amend the Holidays Act 1983 and the Industrial Relations Act 1999 to restore the days on which public holidays are to be observed for Labour Day and the Birthday of the Sovereign, and to amend the Adult Proof of Age Card Act 2008, the Police Powers and Responsibilities Act 2000, the Tow Truck Act 1973, the Transport Operations (Marine Safety) Act 1994, the Transport Operations (Passenger Transport) Act 1994, the Transport Operations (Road Use Management) Act 1995 and the Transport Planning and Coordination Act 1994 for particular purposes

[Assented to 22 October 2015]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Holidays and Other Legislation Amendment Act 2015*.

2 Commencement

This Act, other than parts 3 and 4, commences on a day to be fixed by proclamation.

Part 2 Amendment of Adult Proof of Age Card Act 2008

3 Act amended

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

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

Section 9(1)(b), ‘section 31A’—

omit, insert—

the TPC Act, section 28EB

5 Amendment of s 11 (Decision on application)

(1) Section 11(1), ‘sections 10(2) and 31(5)’—

omit, insert—

section 10(2)

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

omit, insert—

the TPC Act, section 28EB

6 Amendment of s 26 (Chief executive must maintain a register)

Section 26(1)(h) and (i)—

omit.

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

(1) Section 30(4)—

omit.

(2) Section 30(5)—

renumber as section 30(4).

8 Omission of pt 5 (Biometric data and other information relating to adult proof of age card holders)

Part 5—

omit.

9 Insertion of new pt 9

After part 8—

insert—

Part 9 Transitional provision for Holidays and Other Legislation Amendment Act 2015

50 Digital photos and digitised signatures

A digital photo or digitised signature of a person kept under this Act by the chief executive immediately before the commencement is, on the commencement, taken to be kept under the TPC Act by the chief executive of the department in which that Act is administered.

10 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *digital photo*, *digitised signature*, *most recent digital photo*, *most recent digitised signature*, *prescribed smartcard Act*, *retention period*, *shelf life* and *take*—

omit.

- (2) Schedule—

insert—

digital photo, of a person, see the TPC Act, schedule 1.

digitised signature, of a person, see the TPC Act, schedule 1.

most recent digital photo, of a person, see the TPC Act, section 28E.

most recent digitised signature, of a person, see the TPC Act, section 28E.

shelf life, of a person's digital photo or digitised signature, see the TPC Act, section 28E.

TPC Act means the *Transport Planning and Coordination Act 1994*.

Part 3 Amendment of Holidays Act 1983

11 Act amended

This part amends the *Holidays Act 1983*.

12 Amendment of schedule (Public holidays)

- (1) Schedule, entry for Birthday of the Sovereign and entry for Labour Day—

omit.

- (2) Schedule, after entry for 25 April (Anzac Day)—

insert—

Labour Day

A public holiday is to be observed on the first Monday in May.

Birthday of the Sovereign

A public holiday is to be observed on the first Monday in October.

[s 13]

Part 4 Amendment of Industrial Relations Act 1999

13 Act amended

This part amends the *Industrial Relations Act 1999*.

14 Amendment of sch 5 (Dictionary)

Schedule 5, definition *public holiday*, paragraph (a), seventh and eighth dot points—

omit, insert—

- Labour Day (the first Monday in May)
- Birthday of the Sovereign (the first Monday in October)

Part 5 Amendment of Police Powers and Responsibilities Act 2000

15 Act amended

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

16 Amendment of s 195A (Definitions for pt 5A)

- (1) Section 195A, definitions *registered digital photo* and *relevant entity*—

omit.

- (2) Section 195A—

insert—

chief executive (transport) means the chief executive of the department in which the TPC Act is administered.

registered digital photo means a digital photo kept under the TPC Act by the chief executive (transport).

TPC Act means the *Transport Planning and Coordination Act 1994*.

17 Amendment of s 195J (Giving copy of access approval order to relevant entity)

- (1) Section 195J, heading, ‘relevant entity’—

omit, insert—

chief executive (transport)

- (2) Section 195J, ‘the relevant entity who keeps the registered digital photo’—

omit, insert—

the chief executive (transport)

18 Amendment of s 195L (Destruction of registered digital photo)

Section 195L(1)(a), ‘or a prescribed smartcard Act’—

omit, insert—

, a prescribed smartcard Act or the TPC Act

19 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definition *relevant entity*—

omit.

- (2) Schedule 6—

insert—

[s 20]

chief executive (transport), for chapter 7, part 5A, see section 195A.

TPC Act, for chapter 7, part 5A, see section 195A.

Part 6 Amendment of Tow Truck Act 1973

20 Act amended

This part amends the *Tow Truck Act 1973*.

21 Amendment of s 14A (Decision on application)

Section 14A(1), ‘Subject to section 19A(5), the’—

omit, insert—

The

22 Omission of pt 3, div 2 (Biometric data and other information relating to driver’s certificate or assistant’s certificate)

Part 3, division 2—

omit.

23 Amendment of s 19H (Restricted written release of information)

(1) Section 19H(3)—

omit.

(2) Section 19H(4)—

renumber as section 19H(3).

24 Insertion of new pt 8, div 3

Part 8—

insert—

**Division 3 Transitional provision for
Holidays and Other
Legislation Amendment
Act 2015**

46 Digital photos and digitised signatures

A digital photo or digitised signature of a person kept under this Act by the chief executive immediately before the commencement is, on the commencement, taken to be kept under the TPC Act by the chief executive of the department in which that Act is administered.

25 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *digital photo*, *digitised signature*, *most recent digital photo*, *most recent digitised signature*, *prescribed smartcard Act*, *retention period*, *shelf life* and *take—*

omit.

- (2) Schedule 2—

insert—

digital photo, of a person, see the TPC Act, schedule 1.

digitised signature, of a person, see the TPC Act, schedule 1.

TPC Act means the *Transport Planning and Coordination Act 1994*.

[s 26]

Part 7

Amendment of Transport Operations (Marine Safety) Act 1994

26 Act amended

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

27 Omission of pt 5, div 3A (Biometric data and other information relating to marine licences)

Part 5, division 3A—

omit.

28 Amendment of s 63I (Restricted written release of information)

(1) Section 63I(4)—

omit.

(2) Section 63I(5) and (6)—

renumber as section 63I(4) and (5).

29 Insertion of new pt 19, div 6

Part 19—

insert—

Division 6

Provision for Holidays and Other Legislation Amendment Act 2015

247 Digital photos and digitised signatures

A digital photo or digitised signature of a person kept under this Act by the chief executive or the general

manager immediately before the commencement is, on the commencement, taken to be kept under the TPC Act by the chief executive of the department in which that Act is administered.

30 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *digital photo*, *digitised signature*, *most recent digital photo*, *most recent digitised signature*, *prescribed smartcard Act*, *retention period*, *shelf life* and *take*—

omit.

- (2) Schedule—

insert—

digital photo, of a person, see the TPC Act, schedule 1.

digitised signature, of a person, see the TPC Act, schedule 1.

TPC Act means the *Transport Planning and Coordination Act 1994*.

- (3) Schedule, definition *marine licence*, ‘divisions 3A and’—

omit, insert—

division

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

31 Act amended

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

[s 32]

32 Omission of ch 4, pt 2 (Biometric data and other information relating to driver authorisation)

Chapter 4, part 2—

omit.

33 Amendment of s 35H (Restricted written release of information)

(1) Section 35H(3)—

omit.

(2) Section 35H(4)—

renumber as section 35H(3).

34 Insertion of new ch 13, pt 15

Chapter 13—

insert—

**Part 15 Transitional provision
for Holidays and Other
Legislation
Amendment Act 2015**

205 Digital photos and digitised signatures

A digital photo or digitised signature of a person kept under this Act by the chief executive immediately before the commencement is, on the commencement, taken to be kept under the TPC Act by the chief executive of the department in which that Act is administered.

35 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions *digital photo*, *digitised signature*, *most recent digital photo*, *most recent digitised signature*,

prescribed smartcard Act, retention period, shelf life and take—

omit.

(2) Schedule 3—

insert—

digital photo, of a person, see the TPC Act, schedule 1.

digitised signature, of a person, see the TPC Act, schedule 1.

TPC Act means the *Transport Planning and Coordination Act 1994*.

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

36 Act amended

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

37 Amendment of s 77 (Restricted written or electronic release of person's prescribed authority and traffic history information)

(1) Section 77(6)—

omit.

(2) Section 77(7) and (8)—

renumber as section 77(6) and (7).

[s 38]

38 Omission of ch 5, pt 3A (Biometric data and other information relating to prescribed authority holders)

Chapter 5, part 3A—

omit.

39 Insertion of new ch 7, pt 19

Chapter 7—

insert—

**Part 19 Transitional provision
for Holidays and Other
Legislation
Amendment Act 2015**

228 Digital photos and digitised signatures

A digital photo or digitised signature of a person kept under this Act by the chief executive immediately before the commencement is, on the commencement, taken to be kept under the TPC Act by the chief executive of the department in which that Act is administered.

40 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *digital photo*, *digitised signature*, *most recent digital photo*, *most recent digitised signature*, *prescribed smartcard Act*, *retention period*, *shelf life* and *take*—

omit.

- (2) Schedule 4—

insert—

digital photo, of a person, see the TPC Act, schedule 1.

digitised signature, of a person, see the TPC Act, schedule 1.

TPC Act means the *Transport Planning and Coordination Act 1994*.

Part 10 Amendment of Transport Planning and Coordination Act 1994

41 Act amended

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

42 Amendment of s 3 (Definitions)

(1) Section 3, definition *transport Act*—

omit.

(2) Section 3—

insert—

administrator, for part 4C, see section 28E.

digital photo, of a person, means the person's facial image encoded in a digital form.

digitised signature, of a person, means the person's signature encoded in a digital form.

grant, for part 4C, see section 28E.

most recent digital photo, of a person, for part 4C, see section 28E.

most recent digitised signature, of a person, for part 4C, see section 28E.

[s 43]

prescribed authorisation Act, for part 4C, see section 28E.

prescribed authorisation document, for part 4C, see section 28E.

prescribed authority, for part 4C, see section 28E.

retention period, for part 4C, see section 28E.

shelf life, for part 4C, see section 28E.

take, a digital photo or digitised signature, for part 4C, see section 28E.

transport Act means an Act prescribed by regulation to be a transport Act.

- (3) Section 3, as amended, all definitions—
relocate to schedule 1, as inserted by this Act.
- (4) Section 3, ‘In this Act—’—
omit, insert—

The dictionary in schedule 1 defines particular words used in this Act.

43 Insertion of new pt 4C

After section 28DA—

insert—

Part 4C Biometric data and other information for prescribed authorities

Division 1 Preliminary

28E Definitions for pt 4C

In this part—

administrator means—

- (a) for the *Transport Operations (Marine Safety) Act 1994*—the general manager under the *Maritime Safety Queensland Act 2002* or the chief executive; or
- (b) for a transport Act (other than the *Transport Operations (Marine Safety) Act 1994*)—the chief executive; or
- (c) for a prescribed authorisation Act (other than a transport Act)—the office holder (however described) whose function it is, under the Act, to decide whether to grant a prescribed authority.

grant includes issue and give.

most recent digital photo, of a person, means the most recent digital photo of the person kept under this Act by the chief executive.

most recent digitised signature, of a person, means the most recent digitised signature of the person kept under this Act by the chief executive.

prescribed authorisation Act means an Act prescribed by regulation for this definition.

[s 43]

prescribed authorisation document means a prescribed authority on which a person's digital photo is reproduced.

prescribed authority means a certificate, licence or other authority or document prescribed under a regulation for this definition.

retention period, for a person's digital photo or digitised signature, see section 28EH(2).

shelf life, of a person's digital photo or digitised signature, means 10 years after the person's digital photo or digitised signature is taken under this Act or, if taken before the commencement under another Act, under that Act.

take, a digital photo and digitised signature of a person, includes obtain.

Division 2 Taking, keeping and using biometric data and other information

28EA Taking a digital photo and digitised signature for use under this or another Act

- (1) A person (***applicant***) must allow the chief executive to take and keep for use under this Act, or for use as provided under another Act, a digital photo and digitised signature of the applicant (as required by the chief executive) if the applicant—
 - (a) applies to the administrator for a prescribed authorisation Act for the grant, renewal, amendment or replacement of a prescribed authority (the ***authority applied for***); or
 - (b) applies to, or asks, the administrator for a transport Act about something else relevant to the administration of a transport Act and, to deal with the application or request, the

administrator considers it reasonably necessary to use facial recognition technology to establish the applicant's connection to the most recent digital photo of the person the applicant is claiming to be.

- (2) Subsection (1) does not apply if the applicant withdraws the application or request.
- (3) Subsection (1)(a) does not apply if—
 - (a) as allowed under this Act, the chief executive is keeping the applicant's most recent digital photo and most recent digitised signature; and
 - (b) the chief executive has no evidence to suggest that the applicant's most recent digital photo is not a true likeness of the applicant; and
 - (c) the shelf life of the applicant's most recent digital photo and most recent digitised signature, or the most recent extension of the shelf life under section 28EB, has not ended and will not end before the expiry of any prescribed authorisation document that is granted on the approval of the authority applied for.
- (4) If an applicant makes an application mentioned in subsection (1)(a) to the administrator for a prescribed authorisation Act that is not a transport Act, the chief executive must advise the administrator if—
 - (a) the applicant has not complied with subsection (1)(a); or
 - (b) the chief executive is not satisfied there is a sufficient connection between the digital photo taken under subsection (1)(a) and the most recent digital photo of the person the applicant is claiming to be; or

[s 43]

- (c) the chief executive is satisfied there is a sufficient connection between the digital photo taken under subsection (1)(a) and the most recent digital photo of someone other than the person the applicant is claiming to be.
- (5) The administrator for a transport Act must refuse to consider any application or request mentioned in subsection (1) if—
 - (a) the applicant has not complied with subsection (1); or
 - (b) the administrator is not satisfied there is a sufficient connection between the digital photo taken under subsection (1) and the most recent digital photo of the person the applicant is claiming to be; or
 - (c) the administrator is satisfied that there is a sufficient connection between the digital photo taken under subsection (1) and the most recent digital photo of someone other than the person the applicant is claiming to be.
- (6) Subsection (5) has effect despite any other provision of a transport Act.

28EB Extending shelf life of a digital photo and digitised signature

- (1) The chief executive may extend the shelf life of the most recent digital photo and most recent 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.

28EC Using a digital photo and digitised signature

- (1) The chief executive may use a person's most recent digital photo and most recent digitised signature for either of the following purposes—
 - (a) to help identify the person for the purpose of any application or request under section 28EA(1);
 - (b) to reproduce the person's digital photo and digitised signature on a prescribed authorisation document.
- (2) The chief executive may also use a person's most recent digital photo and most recent digitised signature in an investigation of, or a proceeding for, an offence that—
 - (a) happens—
 - (i) in making an application or request mentioned in section 28EA(1) for which the digital photo and digitised signature are taken; or
 - (ii) during the retention period for the digital photo and digitised signature; and
 - (b) involves a person obtaining or attempting to obtain, by a false statement or misrepresentation or in any other dishonest way—
 - (i) the grant, renewal, amendment or replacement of a prescribed authority; or
 - (ii) something else under a transport Act.

28ED Restricted access to a digital photo and digitised signature

(1) The chief executive may allow a person to access the person's digital photo kept under this Act if—

- (a) the person establishes, to the chief executive's reasonable satisfaction, it is the person's digital photo; and

Examples of how a person may establish a digital photo is the person's digital photo—

- allowing the use of facial recognition technology
- presenting a valid Australian passport

- (b) the person applies to the chief executive, in the approved form, for the access.

(2) The chief executive may allow an entity that grants driver licences under a corresponding law to the *Transport Operations (Road Use Management) Act 1995* to access a person's digital photo kept under this Act if the access is for granting a driver licence under the corresponding law.

(3) An application mentioned in subsection (1)(b) may be made by electronic communication.

(4) The chief executive must allow a police officer to access a person's digital photo kept under this Act if any of the following apply—

- (a) the access is for exercising a power in relation to a prescribed authorisation Act that is a transport Act or the Criminal Code, section 328A;
- (b) the access is for exercising a power in relation to a corresponding law to the *Transport Operations (Road Use Management) Act 1995*;

- (c) the access is authorised under the *Police Powers and Responsibilities Act 2000*.
- (5) The chief executive must allow the administrator of a prescribed authorisation Act, other than a transport Act, to access a person's digital photo and digitised signature kept under this Act (as required by the administrator) if the administrator considers it reasonably necessary to use the photo or signature in an investigation of, or proceeding for, an offence that—
 - (a) happens—
 - (i) in making the application under the prescribed authorisation Act for which the person's digital photo and digitised signature are taken under section 28EA(1)(a); or
 - (ii) during the retention period for the digital photo and digitised signature; and
 - (b) involves a person obtaining or attempting to obtain, by a false statement or misrepresentation or in any other dishonest way, the grant, renewal, amendment or replacement of a prescribed authority under the prescribed authorisation Act.
- (6) In this section—

access, a digital photo or digitised signature, means obtain a copy of the digital photo or digitised signature.

corresponding law, to the *Transport Operations (Road Use Management) Act 1995*, means a law of the Commonwealth or another State that provides for the same matter as that Act.

[s 43]

28EE Deleting a digital photo or digitised signature from register or similar record

When the retention period for a person's digital photo or digitised signature kept under this Act ends, the chief executive must delete the person's digital photo or digitised signature from any register or similar record kept under this Act by the chief executive.

28EF Destruction of a digital photo or digitised signature

- (1) This section applies to a copy of a person's digital photo or digitised signature—
 - (a) accessed under this part by the administrator of a prescribed authorisation Act that is not a transport Act; and
 - (b) in the possession of that administrator, including by electronic communication.
- (2) The administrator may retain the copy for the period necessary to conduct an investigation of, or for use in a proceeding for, an offence mentioned in section 28ED(5).
- (3) However, the administrator must take reasonable steps to destroy each copy of a person's digital photo or digitised signature accessed for the investigation or prosecution of an offence if a proceeding for the offence has not started within 1 year after the day the photo or signature was first accessed.
- (4) The destruction of a copy of a digital photo or digitised signature must be carried out within a reasonable period—
 - (a) after the administrator stops having a reason to retain the photo or signature under subsection (2); or
 - (b) if subsection (3) applies.

- (5) In this section—
- destroy*, a digital photo or digitised signature, includes—
- (a) delete an electronic copy of the photo or signature; and
 - (b) end the way in which the photo or signature may be accessed electronically.

28EG Restricted access to information stored electronically on a smartcard identification authority

- (1) A person may access information stored electronically on a smartcard identification authority only if—
- (a) the person is the holder of the smartcard identification authority; or
 - (b) the person has the holder's consent to access the information; or
 - (c) the person is an authorised officer for the smartcard identification authority and the access to the information is for exercising a power under the Act under which the smartcard identification authority is granted; or
 - (d) the person is a police officer who is authorised under the *Police Powers and Responsibilities Act 2000* to access the information.

Maximum penalty—20 penalty units.

- (2) In this section—
- access*, in relation to information stored electronically on a smartcard identification authority, means view or take a copy of the information.

[s 43]

authorised officer, for a smartcard identification authority, means a person—

- (a) authorised, under an Act, to perform a function or exercise a power in relation to the smartcard identification authority; and
- (b) prescribed under a regulation for this definition.

smartcard identification authority means a prescribed authority in the form of a card, or something similar, that is approved by the administrator of the prescribed authorisation Act under which the authority is issued and on which information may be stored electronically.

28EH Retention period for a digital photo or digitised signature

- (1) This section sets out the retention period for a person's digital photo or digitised signature taken under this Act.
- (2) Unless subsection (3) applies, the ***retention period*** for a person's digital photo or digitised signature taken under section 28EA(1) is—
 - (a) if an application mentioned in section 28EA(1)(a) is granted or the person's digital photo or digitised signature taken under section 28EA(1)(b) is to be used under section 28EC(1)(b)—30 years after the relevant day; or
 - (b) if an application mentioned in section 28EA(1)(a) is not granted—the shorter of the following periods—
 - (i) 6 months after the relevant day;
 - (ii) the period decided by the chief executive; 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 28EC(2) is started within the retention period worked out under subsection (2)(b) or (c) of this section for a person’s digital photo or digitised signature; and
- (b) the chief executive reasonably requires a person’s digital photo or 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 or digitised signature is the longer period mentioned in paragraph (b) of this subsection.
- (4) In this section—
- relevant day***, in relation to a person’s digital photo or digitised signature, means the day on which the digital photo or digitised signature is taken.

44 Amendment of s 36F (Keeping and using information obtained or kept under particular transport Acts or Adult Proof of Age Card Act 2008)

Section 36F(5), definitions *digital photo* and *digitised signature*—
omit.

45 Amendment of s 36G (Smartcard transport authority)

Section 36G(3), definition *transport authority*—
omit, insert—

[s 46]

transport authority means a certificate, licence, appointment or other authority prescribed under a regulation for this definition.

46 Insertion of new s 36GA

After section 36G—

insert—

36GA Confidentiality

- (1) A person must not disclose, record or use information the person gained—
 - (a) through involvement in the administration of this Act; or
 - (b) because of an opportunity provided by the involvement.

Maximum penalty—200 penalty units.

- (2) However, a person may disclose, record or use the information—
 - (a) in the discharge of a function under this Act; or
 - (b) if it is authorised—
 - (i) under another Act or a regulation; or
 - (ii) by the person to whom the information relates; or
 - (c) in a proceeding before a court or tribunal in which the information is relevant.
- (3) Also, a person may disclose information, other than a person's digital photo or digitised signature, to the administrator of a prescribed authorisation Act that is not a transport Act—
 - (a) to the extent it is relevant to an application mentioned in section 28EA(1)(a); or

- (b) if the person reasonably suspects the information is relevant to the possible commission of an offence against the prescribed authorisation Act.
- (4) Subsection (3) does not limit section 28ED(5).
- (5) In this section—
 - disclose* information means—
 - (a) intentionally or recklessly disclose the information; or
 - (b) allow access to the information.
 - information* includes a person's digital photo and digitised signature.

47 Insertion of new s 37A

After section 37—

insert—

37A Annual report about access to digital photos

- (1) Within 4 months after the end of each financial year, the chief executive must prepare and give to the Minister an annual report stating the number of occasions during the financial year on which access within the meaning of section 28ED was allowed under section 28ED(4) to digital photos kept under this Act.
- (2) The Minister must table a copy of the report in the Legislative Assembly within 14 days after the Minister receives it.

48 Replacement of pt 7, hdg (Transitional provision for the Transport and Other Legislation Amendment Act 2014)

Part 7, heading—

[s 49]

omit, insert—

Part 7 Transitional provisions

Division 1 Provision for Transport and Other Legislation Amendment Act 2014

49 Insertion of new pt 7, div 2

After section 39—

insert—

Division 2 Provisions for Holidays and Other Legislation Amendment Act 2015

40 Extension of shelf life of a digital photo or digitised signature under another Act

- (1) This section applies to an extension of the shelf life of a person's digital photo or digitised signature by the chief executive under another Act before the commencement.
- (2) For section 28EB(2), the shelf life is taken to have been extended under section 28EB(1).

41 Retention period for a digital photo or digitised signature taken under another Act

- (1) This section applies to a digital photo or digitised signature taken or kept, under an Act, other than this Act, by the general manager within the meaning of the *Maritime Safety Queensland Act 2002* or the chief executive before the commencement.

-
- (2) On the commencement, the *retention period* for a person's digital photo or digitised signature for this Act is—
- (a) if the photo or signature was taken under the *Adult Proof of Age Card Act 2008*—the retention period that applied to the photo or signature under repealed section 37 of that Act; or
 - (b) if the photo or signature was taken under the *Tow Truck Act 1973*—the retention period that applied to the photo or signature under repealed section 19F of that Act; or
 - (c) if the photo or signature was taken under the *Transport Operations (Marine Safety) Act 1994*—the retention period that applied to the photo or signature under repealed section 63G of that Act; or
 - (d) if the photo or signature was taken under the *Transport Operations (Passenger Transport) Act 1994*—the retention period that applied to the photo or signature under repealed section 35F of that Act; or
 - (e) if the photo or signature was taken under the *Transport Operations (Road Use Management) Act 1995*—the retention period that applied to the photo or signature under repealed section 91G of that Act.

42 Access to digital photos under other Transport Acts to be included in annual report

- (1) This section applies if, in a financial year, access to digital photos could be had under this Act, section 28ED and under any of the following provisions—
- (a) *Adult Proof of Age Card Act 2008*, section 33;

[s 50]

- (b) *Tow Truck Act 1973*, section 19C;
 - (c) *Transport Operations (Marine Safety) Act 1994*, section 63C;
 - (d) *Transport Operations (Passenger Transport) Act 1994*, section 35C;
 - (e) *Transport Operations (Road Use Management) Act 1995*, section 91C.
- (2) The number of occasions during the financial year on which access to a digital photo was allowed under section 28ED(4) that is to be included in the annual report prepared under section 37A must also include the number of occasions during the financial year on which access to a digital photo was allowed under the following provisions—
- (a) *Adult Proof of Age Card Act 2008*, section 33(3);
 - (b) *Tow Truck Act 1973*, section 19C(3);
 - (c) *Transport Operations (Marine Safety) Act 1994*, section 63C(3);
 - (d) *Transport Operations (Passenger Transport) Act 1994*, section 35C(3);
 - (e) *Transport Operations (Road Use Management) Act 1995*, section 91C(3).
- (3) For the annual report prepared under section 37A, it is enough to mention the total number of occasions that access was allowed without mentioning the particular provision under which the access was allowed.

50 Insertion of new sch 1

After part 7—

insert—

Schedule 1 Dictionary

section 3

© State of Queensland 2015
Authorised by the Parliamentary Counsel