



Queensland

Transport Legislation Amendment Regulation (No. 3) 2010

Subordinate Legislation 2010 No. 295

made under the

Transport Operations (Road Use Management) Act 1995

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Transport Legislation Amendment Regulation (No. 3) 2010*.

Part 2 Amendment of Transport Operations (Road Use Management—Driver Licensing) Regulation 2010

2 Regulation amended

This part amends the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*.

3 Amendment of s 25 (Conditions on licence)

Section 25(2)—

insert—

Note—

See section 91W of the Act for compliance with the interlock condition.’.

4 Insertion of new pt 8A

After section 63—

insert—

‘Part 8A Alcohol ignition interlocks

‘63A Definitions for pt 8A

‘In this part—

applicant means a person who applies for an interlock exemption under chapter 5, part 3B, division 3 of the Act.

approved interlock means an interlock approved under section 63B.

interlock driver record, for a non-exempt interlock driver, means a record in the approved form that identifies the driver of a nominated vehicle at a particular time during the driver’s overlap period.

nominated vehicle see section 91I of the Act.

non-exempt interlock driver means a person whose Queensland driver licence is subject to the interlock condition.

overlap period, for a non-exempt interlock driver, means the period when a motor vehicle is a nominated vehicle for the driver and 1 or more other non-exempt interlock drivers.

record period, for a non-exempt interlock driver, means a continuous period comprising—

- (a) the driver’s overlap period; and
- (b) an additional period of 12 months.

‘63B Approved interlocks

‘The following interlocks are approved—

- Guardian WR3
- Drager Interlock XT.

‘63C Nomination of vehicle if more than 1 driver with an interlock condition—Act, s 91L(2)

‘For section 91L(2) of the Act, a particular vehicle can not be the nominated vehicle for more than 1 person unless—

- (a) the vehicle is fitted with a prescribed interlock that has the technical capability to identify the driver of the vehicle at a particular time, for example, by way of a PIN or swipe card; or
- (b) if paragraph (a) does not apply—each person keeps an interlock driver record.

‘63D Using technical capability to identify driver

- ‘(1) This section applies if section 63C(a) applies in relation to a nominated vehicle for a person.
- ‘(2) The person must use the technical capability of the vehicle’s prescribed interlock to identify the person as the driver of the vehicle while operating the vehicle.

Maximum penalty—20 penalty units.

‘63E Producing interlock driver record

- ‘(1) This section applies if section 63C(b) applies in relation to a non-exempt interlock driver.
- ‘(2) The chief executive may, during the record period for the driver, give the driver written notice requiring the driver to produce to the chief executive the driver’s interlock driver record for a nominated vehicle for the period stated in the notice.
- ‘(3) The driver must produce the record mentioned in subsection (2) within 7 days, unless the driver has a reasonable excuse.

Maximum penalty for subsection (3)—20 penalty units.

‘63F Destruction of interlock driver record prohibited

‘If an interlock driver record is required under this part to be kept by a non-exempt interlock driver, the driver or someone else must not destroy the record before the end of the record period for the driver.

Maximum penalty—20 penalty units.

‘63G Interlock driver record destroyed, lost or stolen

‘(1) This section applies if a non-exempt interlock driver becomes aware, or reasonably suspects, that the driver’s interlock driver record has been destroyed, lost or stolen during the record period for the driver.

‘(2) The driver must promptly give the chief executive written notice that the interlock driver record has been, or is suspected to have been, destroyed, lost or stolen.

Maximum penalty—20 penalty units.

‘63H Offences relating to use of another person’s means of identification

‘(1) This section applies if a particular vehicle is the nominated vehicle for more than 1 non-exempt interlock driver.

‘(2) A non-exempt interlock driver must not use another person’s means of identification to operate a nominated vehicle fitted with a prescribed interlock.

Maximum penalty—20 penalty units.

‘(3) A non-exempt interlock driver (the *first driver*) must not allow another non-exempt interlock driver to use the first driver’s means of identification to operate a nominated vehicle fitted with a prescribed interlock.

Maximum penalty—20 penalty units.

Examples of means of identification for subsections (2) and (3)—

a PIN or swipe card

‘63I Interlock exemption (island living)—Act, s 91Q(3)(c)

‘(1) For section 91Q(3)(c) of the Act, the chief executive may grant an applicant an interlock exemption if the chief executive is satisfied that—

- (a) the applicant’s principal place of residence is on a Queensland island; and
- (b) a prescribed interlock installer does not have a place of business on the island; and
- (c) the island is not connected by a bridge to the mainland; and
- (d) the island is not connected by a bridge to another island that is connected by a bridge to the mainland.

‘(2) In this section—

Queensland island does not include the following islands—

- Coochiemudlo Island
- Fraser Island
- Karragarra Island
- Lamb Island
- Macleay Island
- Magnetic Island
- North Stradbroke Island
- Orpheus Island
- Russell Island.

‘63J Interlock exemption (remote area)—Act, s 91Q(3)(c)

‘For section 91Q(3)(c) of the Act, the chief executive may grant an applicant an interlock exemption if the chief executive is satisfied the applicant’s principal place of residence is outside a radius of 150km from the nearest place of business of a prescribed interlock installer.

**‘63K Interlock exemption (severe hardship)—Act,
s 91Q(3)(c)**

- ‘(1) For section 91Q(3)(c) of the Act, the chief executive may grant an applicant an interlock exemption in the circumstances mentioned in this section if the chief executive is satisfied of the matters mentioned in this section.
- ‘(2) Subsection (3) applies if it is not physically possible to fit a prescribed interlock to the only motor vehicle reasonably available to be driven by the applicant.
- ‘(3) The chief executive may grant the applicant an interlock exemption if—
 - (a) a refusal to grant the exemption would cause severe hardship to the applicant and there is no other transport reasonably available to the applicant; or
 - (b) a refusal to grant the exemption would cause severe hardship to a family member of the applicant and there is no other transport reasonably available to the family member.
- ‘(4) Subsection (5) applies if a family member of the applicant has a medical condition, as evidenced by a doctor’s certificate provided to the chief executive, that prevents the family member from providing a sufficient breath sample to operate an approved interlock.
- ‘(5) The chief executive may grant the applicant an interlock exemption if—
 - (a) there is only 1 motor vehicle that is reasonably available to be driven by the applicant or family member; and
 - (b) a refusal to grant the exemption would cause severe hardship to the applicant; and
 - (c) there is no other transport reasonably available to the applicant or family member.
- ‘(6) Subsections (7) and (8) apply only if subsections (2) and (4) do not apply.

-
- ‘(7) The chief executive may grant the applicant an interlock exemption if—
- (a) a refusal to grant the exemption would cause severe hardship to the applicant in a way other than by—
 - (i) preventing the applicant from driving in the course of the applicant’s employment, or to or from the applicant’s place of employment; or
 - (ii) preventing the applicant from driving to or from an educational institution the applicant attends; and
 - (b) there is no other transport reasonably available to the applicant.
- ‘(8) The chief executive may grant the applicant an interlock exemption if—
- (a) a refusal to grant the exemption would cause severe hardship to a family member of the applicant in a way other than by—
 - (i) preventing the applicant from driving the family member to or from the family member’s place of employment; or
 - (ii) preventing the applicant from driving the family member to or from an educational institution the family member attends; and
 - (b) there is no other transport reasonably available to the family member.
- ‘(9) For subsections (4) to (8), the chief executive must not grant an interlock exemption merely because the applicant can not afford the cost of fitting (if any) a prescribed interlock to, or maintaining the interlock in, a motor vehicle.

Note—

See the department’s website at <www.tmr.qld.gov.au> for details of the financial assistance scheme that is available if a person has financial difficulties and can not meet the costs associated with fitting a prescribed interlock to, or maintaining the interlock in, a motor vehicle.

- ‘(10) In this section—

family member, of an applicant—

- (a) means—
 - (i) the applicant’s spouse; or
 - (ii) a child, stepchild, foster child or ward of the applicant; or
 - (iii) a parent or step-parent of the applicant; or
 - (iv) a grandparent, or the spouse of a grandparent, of the applicant; or
 - (v) a brother or sister of the applicant; or
 - (vi) a stepbrother or stepsister of the applicant; or
 - (vii) a foster child or ward of a parent or step-parent of the applicant; or
 - (viii) an approved carer of the applicant; or
 - (ix) a child, stepchild, foster child or ward of an approved carer of the applicant; or
 - (x) a guardian of the applicant; or
 - (xi) a child, stepchild, foster child or ward of a guardian of the applicant; and
- (b) if the applicant is an Aboriginal person, includes another person who, under Aboriginal tradition, is regarded as—
 - (i) a family member mentioned in paragraph (a); or
 - (ii) an aunt or uncle of the applicant; and
- (c) if the applicant is a Torres Strait Islander, includes another person who, under Island custom, is regarded as—
 - (i) a family member mentioned in paragraph (a); or
 - (ii) an aunt or uncle of the applicant.

foster child, of an applicant, means a child for whom the applicant is an approved carer.

grandparent, of an applicant, means a parent of—

-
- (a) a parent of the applicant; or
 - (b) a step-parent of the applicant.’.

5 Amendment of s 71 (Certificate of exemption—high-powered vehicles)

Section 71(9), definition *approved carer*—
relocate to schedule 9.

6 Amendment of s 74 (Peer passengers)

Section 74(6), definition *ward*—
relocate to schedule 9.

7 Amendment of s 106 (Persons who are eligible, or not eligible, to apply for order)

Section 106(3)(e)—
omit, insert—

- ‘(e) a suspension, cancellation or disqualification that was set aside on appeal other than under—
 - (i) section 29 of the repealed regulation as in force before the commencement of section 30U of the repealed regulation; or
 - (ii) section 30D of the repealed regulation as in force before the commencement of section 30U of the repealed regulation;

Note—

Section 30U of the repealed regulation commenced on 29 October 2007.’.

8 Amendment of sch 1 (Fees)

- (1) Schedule 1—

[s 9]

insert—

‘20 Application under section 91P of the Act for an interlock exemption 33.30’.

(2) Schedule 1, items 4 and 5—

omit, insert—

‘4 Grant or renewal of a learner licence other than in the form of a smartcard driver licence under section 23—

(a) for each 3 year period or part of a 3 year period 72.60

(b) additional fee for grant of licence with licence code I 251.00

5 Grant or renewal of a learner licence in the form of a smartcard driver licence under section 23—

(a) for each 3 year period or part of a 3 year period 92.45

(b) additional fee for grant of licence with licence code I 251.00’.

(3) Schedule 1, items 6 and 7—

insert—

‘(f) additional fee for grant of licence with licence code I 251.00’.

9 Amendment of sch 2 (Licence codes)

Schedule 2, part 1, entry for licence code I—

omit, insert—

‘I. licensee may only drive a nominated vehicle fitted with a prescribed interlock, or while carrying, and in accordance with, an exemption certificate given under section 91R(3) of the Act’.

Part 3 Amendment of Transport Operations (Road Use Management—Road Rules) Regulation 2009

10 Regulation amended

This part amends the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*.

11 Amendment of s 221 (Using hazard warning lights)

(1) Section 221(1)(f), ‘alcohol interlock device’—

omit, insert—

‘alcohol ignition interlock’.

(2) Section 221(2)—

omit.

12 Amendment of s 224 (Using horns and similar warning devices)

Section 224(b), ‘alcohol interlock device’—

omit, insert—

‘alcohol ignition interlock’.

13 Amendment of sch 5 (Dictionary)

Schedule 5, definition *alcohol interlock device*—

omit.

ENDNOTES

- 1 Made by the Governor in Council on 21 October 2010.
- 2 Notified in the gazette on 22 October 2010.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Transport and Main Roads.

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