

Transport Operations (Road Use Management—Driver Licensing) Regulation 2021

Explanatory notes for SL 2021 No. 112

made under the

Photo Identification Card Act 2008

State Penalties Enforcement Act 1999

Tow Truck Act 1973

Transport Operations (Marine Safety) Act 1994

Transport Operations (Passenger Transport) Act 1994

Transport Operations (Road Use Management) Act 1995

Transport Planning and Coordination Act 1994

General Outline

Short title

Transport Operations (Road Use Management—Driver Licensing) Regulation 2021

Authorising laws

Section 49 of the *Photo Identification Card Act 2008*

Section 165 of the *State Penalties Enforcement Act 1999*

Section 43 of the *Tow Truck Act 1973*

Section 207 of the *Transport Operations (Marine Safety) Act 1994*

Section 155 of the *Transport Operations (Passenger Transport) Act 1994*

Section 171 of the *Transport Operations (Road Use Management) Act 1995*

Section 38 of the *Transport Planning and Coordination Act 1994*

Policy objectives and the reasons for them

The policy objective of the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2021* (the proposed Regulation) is to provide a legislative framework through which driver licencing functions operate including the issue, variation, renewal, suspension and cancellation of licences. In line with the nationally agreed national driver licensing system (NDLS), the proposed Regulation is intended to improve road safety through the adoption of a uniform system of licence classes and largely uniform rules for demerit points and licence sanctions.

The proposed Regulation also provides for the administration of the graduated licensing system. This system was implemented to help reduce fatalities on the roads, particularly among young drivers. Research suggests that young drivers, aged 16 to 24 years, are 60 per cent more likely to be involved in a serious crash than licensed mature adult drivers, aged 25 to 59 years.

The aim of the system is to develop safer, more proficient drivers. This is achieved by requiring novice drivers to gain experience and improve their driving skills before they are allowed to progress to a higher type or class of licence. The proposed Regulation sets out requirements that are integral to the system, including testing requirements, supervised driving, levels of experience, minimum age, and various other requirements or restrictions that apply as drivers progress through the system.

The proposed Regulation also ensures that Queensland driver licences are aligned with nationally agreed best practice. While the primary role of a driver licence is as an authority to drive, it is acknowledged that a driver licence card is used in the community as a form of identification. In this regard, Queensland driver licences are designed to be broadly consistent with the NDLS and are able to be checked against the National Exchange of Vehicle and Driver Information System. This in turn supports a one-person-one-licence framework nationally, whereby the risk of drivers obtaining licences in more than one jurisdiction is reduced. The proposed Regulation also supports driver licences as a form of identification through requirements such as maintaining the currency of personal information (such as an address) and ensuring driver licence cards (including the associated personal information) are only held by the correct individual. This in turn helps reduce instances of identity fraud.

These matters are currently regulated by the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* (2010 Regulation).

In accordance with Part 7 of the *Statutory Instruments Act 1992*, the 2010 Regulation will automatically expire on 31 August 2021. The proposed Regulation replaces the 2010 Regulation and continues to appropriately regulate the matters outlined above.

Achievement of policy objectives

The proposed Regulation will achieve the policy objectives listed above by continuing to regulate the matters currently regulated under the 2010 Regulation.

The provisions in the proposed Regulation represent a significant restructure of the 2010 Regulation. In particular, the provisions that relate to the progression through the graduated licensing system have been restructured to aid readability and interpretation.

The proposed Regulation also incorporates a number of minor changes to clarify existing policy and to reflect current drafting practices.

An outline of the proposed Regulation is provided as follows, which includes a description of changes that simplify and enhance the operation of the 2010 Regulation.

Chapter 1: Preliminary

Chapter 1 sets out preliminary matters for the proposed Regulation.

It includes a newly created part 2 which outlines key concepts to assist in the interpretation of the proposed Regulation. This part includes new sections that identify the classes, types and categories of Queensland driver licences.

The class of licence identifies the class of vehicle that the holder of the licence is authorised to drive, or learn to drive, under the licence (for example, a car, truck or motorbike).

The type of licence determines if additional restrictions about driving a vehicle apply to the holder of the licence, due to, for example, the holder's age, limited driving experience or prior history of driving.

Part 2 contains section 10 that deals with references in the proposed Regulation to foreign driver licences issued under the law of an experienced driver recognition country or a recognised country. The Dictionary defines these terms which are underpinned by the nationally agreed overseas driver licence recognition framework which is published by Austroads. Austroads is the collective of the Australian and New Zealand transport agencies, representing all levels of government. Countries may apply for recognition of their driver licences by demonstrating the similarity of their licensing framework against key criteria. Recognition enables the licence holders of that country to transfer their driver licence to Queensland without undertaking additional practical or theoretical tests.

Part 2 also contains section 11 which explains what time to count when working out the period of time a person has held a class, category or type of driver licence. Only the periods in which a person has held a valid licence may be counted. This will not include any periods of suspension. The proposed Regulation relies on how long a person has held a licence in various contexts, for example in determining whether a person is eligible for a higher class of licence.

The high-level description of the fundamental concepts of the driver licensing system that is contained in part 2 sets an overarching context for the detailed provisions in the remainder of the proposed Regulation.

Chapter 2: Driving under Queensland driver licences

Chapter 2 specifies the authority provided by the different driver licence classes to drive and learn to drive motor vehicles in Queensland. The chapter contains two hierarchical streams. The entry point to the licensing system is the stream initiated by a car licence which progresses through to the different classes of heavy vehicle licence. The other stream contained in the chapter is the motorbike stream.

Part 2 of Chapter 2 contains tables which set out the vehicles that the holder of a specified licence is authorised to drive and to learn to drive.

A person may upgrade their class of licence resulting in additional vehicles being able to be driven by the licence holder.

The proposed Regulation clarifies that a person driving under certain licensing sanctions (for example, a special hardship order) is not eligible to learn to drive a different class of vehicle.

Chapter 3: Eligibility for Queensland driver licences

Part 1 of Chapter 3 outlines that a person is eligible for a Queensland driver licence under this chapter only if the person satisfies each of the requirements stated for the licence that apply to the person. However, a person is not eligible for a Queensland driver licence if they have a mental or physical incapacity that is likely to adversely affect their ability to drive safely (see section 176) or if they are otherwise ineligible under section 180 (for example, the person does not reside in Queensland) or section 181.

Part 2 contains the age and experience requirements for motor vehicle licences, other than motorbike licences. The part is structured to follow the progression through the graduated licensing system from the learner phase, through the provisional to the open licence phase for a C class (car) licence and for heavy vehicle licences. The part also sets out when a person is required to undertake the road rules knowledge test, the hazard perception test and the practical driving test. Part 2, division 4 sets out when a person is eligible for a different class of licence. It includes the experience requirements that must be fulfilled before a person is eligible to upgrade to the different heavy vehicle classes of licence (from licences that authorise the driving of light rigid vehicles through to a licence to drive large multi-combination heavy vehicles).

New provisions also expressly cater for how heavy vehicle licences are transferred into Queensland from interstate and overseas. They also cater for how a person, who currently does not hold, but has held, a Queensland heavy vehicle licence within the last 5 years, obtains a new heavy vehicle licence. These clarifications are in line with current practice.

Part 3 contains additional experience requirements for a young driver who is under 25 years of age. The part provides that a young driver must complete 100 hours of supervised driving before undertaking a practical driving test and record the details of the supervised driving in a logbook, unless an exemption is granted. Provision is made in division 4 for recognition of driving experience obtained outside of Queensland. A process for obtaining an exemption from logbook requirements is set out in division 5.

Part 4 contains the age and experience requirements for motorbike licences, starting with the less powerful motorbikes for which a class RE licence is required.

Queensland licence holders must first hold a provisional or open car licence for at least one year before they are eligible to apply for a class RE learner licence. This requirement is an integral component of Queensland's graduated licensing system and is designed to ensure new riders gain experience and build skills in a car before learning to ride on roads.

Part 4 also sets out when a person seeking a motorbike licence is required to undertake the motorbike road rules knowledge test, the motorbike hazard perception test, Q-Ride training, or a practical driving test (see Part 4, division 3 subdivision 5). Part 4, division 4 continues the requirement that, for a person to upgrade to a licence that would enable them to ride more powerful motorbikes (that is, a class R licence), they must have held their class RE licence for at least 2 years.

Part 5 sets out the changes in eligibility requirements for particular persons.

Division 1 deals with persons who have a special need for a class C learner licence or provisional licence. It provides that a person has a special need for a learner or provisional licence if the person needs to drive a motor vehicle in relation to employment, to attend an education institution or to get medical treatment for the person or a member of the person's family. A successful applicant must also be able to demonstrate that there is no other transport reasonably available and that a refusal to grant the licence would cause severe hardship to the person or the person's family because they have taken on a role of special responsibility in relation to the family. This must be beyond ordinary responsibility, for example, they are financially supporting their family or have taken on a primary carer's role.

Division 2 deals with persons who have a special need for a class HC learner licence. It allows for the grant of a class HC (heavy combination) learner licence to a person who has a special need for that licence. Under the graduated licensing system, a person wanting to progress via the quickest path to a class HC vehicle must have gained experience in a medium sized truck. However, section 132 acknowledges that those who reside in a remote area of Queensland may have difficulty accessing medium sized trucks and therefore cannot obtain the requisite driving experience. This can hinder employment opportunities that require a class HC licence. If a licence holder needs to drive a class HC vehicle for their employment, but they do not have access to a medium sized truck, they may apply for a class HC learner licence, provided special need can be demonstrated. This includes living in a remote area and needing the HC licence for employment. The following changes have been made:

- the definition of remote area has been changed from reliance upon local government areas to reliance on the Australian Bureau of Statistics' remoteness structure (section 132);
- access to a small truck (that is, a class LR (light rigid) truck) will no longer make a person ineligible for the grant of a special need HC learner licence;
- an applicant will be able to show the offer of employment in support of their application provided it is accompanied by documentation from the prospective employer that there is no available medium sized truck (class MR) for use by the applicant (section 132(2) and 133(2)); and
- evidence of residency will need to be provided (section 133(2)(b)).

Division 3 contains the age, experience and testing requirements for motorbike licences for persons with permanent physical incapacities. It applies to a person with a permanent physical incapacity such that the only type of motorbike that the person is able to ride is either a 2-wheeled motorbike with a sidecar attached or a 3-wheeled motorbike. A change has been made to recognise that a class R motorbike may be the only bike that can accommodate a person's particular physical incapacity (for example, the size of the person's wheelchair cannot be accommodated on a class RE motorbike). In that circumstance, it will no longer be necessary for the person to have held a different class of licence in the previous five years prior to being eligible for the class R motorbike licence.

Division 4 sets out that a person is a returning driver if they held a valid provisional, probationary or open licence to drive a class of vehicle more than 5 years ago. A returning driver is eligible for a licence authorising them to learn to drive the class of vehicle the person was previously authorised to drive. Subject to passing any relevant tests, they may subsequently be granted a provisional, probationary or open licence for the class of vehicle applied for, that is of the same type as their previous licence. In recognition of the previous experience gained by the person, upon re-entering the driver licensing system, the returning driver is not required to progress through the graduated licensing system as they would if they had little or no relevant driving experience.

Division 5 contains provisions that apply to foreign licence holders who are not able to transfer the non-Queensland driver licence directly.

This section sets out the eligibility for persons to be granted a Queensland learner licence. This may be needed to pass a practical driving test due to their non-Queensland licence expiring, or to practise driving on a Queensland road where their authority to drive on their non-Queensland licence has been withdrawn.

Part 6 contains general eligibility requirements for all Queensland driver licences.

Division 1, known as Jet's law, contains provisions relating to the eligibility of licence holders to drive when they have certain medical conditions.

The division provides that a person is not eligible for the grant or renewal of a Queensland driver licence if the chief executive reasonably believes the person has a mental or physical incapacity that is likely to adversely affect the person's ability to drive safely. The division also imposes an obligation on a licence holder to give notice about any mental or physical incapacity that is likely to adversely affect their ability to drive safely.

Division 2 sets out when a person is otherwise ineligible for the grant or renewal of a Queensland driver licence. This could apply where, for example, the person continues to hold a licence from another state.

Part 7 contains the exemptions from the requirement to pass a road rules test (division 1), or a practical driving test or to hold a competency declaration (division 2). In general, these exemptions are based on a person already having the requisite skills and experience to drive safely on Queensland roads. This must be demonstrated by having passed an equivalent test within the last five years, or by holding a current equivalent class of licence in specified circumstances. Division 3 contains offences in relation to a road rules test.

A change has been made to allow an emergency service worker who has been given a signed notice from the Commissioner of the Queensland Police Service to drive a specified class (LR, MR or HR) of heavy vehicle, without doing a practical driving test. Under the 2010 Regulation, this concession was limited to police officers.

Part 8 sets out requirements about restricted licences. A restricted licence is granted to give effect to a court order which allows the holder of the licence to drive only in connection with the person's means of earning a living during the time when they are otherwise disqualified from holding or obtaining a licence.

Within this chapter, the terms *convicted*, *convicts* and *conviction* are used. These terms are to be interpreted by reference to the definition of *convicting* that appears in the *Transport Operations (Road Use Management) Act 1995* (TORUM Act).

Chapter 4: Applying for and holding Queensland driver licences

Chapter 4 contains provisions about:

- applying for the grant or renewal of a Queensland driver licence;
- the duration of a driver licence;
- conditions which a licence may be subject to; and
- the unauthorised holding of a Queensland driver licence – for example holding a licence other than in the person's name.

The maximum duration of a driver licence has been specified as five years. The 2010 Regulation allowed the chief executive to issue a licence for up to 10 years. However, in practice, there is a five-year maximum duration to ensure ongoing monitoring of licensees. The 2010 Regulation's fee schedule also only allowed the purchase of a licence for up to a five-year period.

Chapter 5: Driving under Non-Queensland driver licences and defence force licences

Part 1 contains a purpose statement indicating that the chapter states when the holder of a non-Queensland driver licence or defence force licence is authorised under the licence to drive, or learn to drive, a motor vehicle on a Queensland road.

Part 2, division 1 contains the general authority to drive and indicates that the non-Queensland driver licence holder may drive the same class of vehicle that the holder is authorised to drive in the licence-issuing jurisdiction.

Division 1 also provides that a person must comply with the conditions of their non-Queensland licence while driving in Queensland.

New section 208 requires that a non-Queensland licence holder who is driving in Queensland must give notification of any new permanent or long-term medical condition that is likely to adversely affect the person's ability to drive safely. This provision mirrors the requirement that currently applies to Queensland licence holders to notify the Department of Transport of Main Roads (TMR) of such medical conditions. Medical fitness to drive is a key component of Queensland's road safety strategy as medical-related issues have been identified as a contributing factor in crashes resulting in injury or death. The requirement in the proposed Regulation to report adverse medical conditions, regardless of where they are licenced, helps to ensure that drivers are medically fit to drive on Queensland roads.

The new provision requires non-Queensland licence holders to only notify of newly-developed permanent or long-term conditions that have not previously been notified to the jurisdiction they obtain their licence from, or conditions that have increased in severity, since they previously notified TMR or the jurisdiction that issued their licence.

Division 2 incorporates the existing grounds on which a non-Queensland driver licence holder may have their authority to drive on a Queensland road withdrawn. This could apply where, for example, the licence holder fails a practical driving test. The effect of the division is also that non-Queensland licence holders must obtain a Queensland driver licence within 3 months of becoming a resident.

Division 3 provides that a person may use their current non-Queensland driver licence to take a practical driving test or undertake Q-Ride training even if their general authority to drive has been withdrawn under division 2.

Division 4 provides for the recognition of licences issued by the Australian Defence Force, where the vehicle being driven is a defence force vehicle.

Chapter 6: Restrictions on driving

Part 1 contains the obligation for those learning to drive to be properly supervised by a person with the requisite experience. That is, the supervisor must hold and have held for at least one year an open type licence for the relevant vehicle. Section 216 also includes a clarification in relation to the seating requirement for a supervisor in a motor vehicle other than a motorbike. That is subsection (2)(b)(ii) provides that if the vehicle does not have passenger seating next to the learner, the supervisor must be seated near the learner. For example, a supervisor of someone learning to drive a bus should sit in the closest row of passenger seating rather than towards the back of the bus where they do not have a clear view of the actions performed by the learner or the road ahead. Similarly, a heavy vehicle with only one seat in the front cabin could have the supervisor positioned in the row immediately behind the front cabin, in a position with clear vision of the road.

Section 217 provides that if the supervisor is a passenger on a motorbike, they need to be in a sidecar attached to the motorbike, and not sit on the back, pillion style. Alternatively, they could supervise from their own motorbike on a road, positioned in a location that they could either observe the learner or demonstrate skills to them.

Sections 216 and 217 reflect how Queensland's supervision requirements apply to learner drivers and riders from interstate. That is, if there are supervision requirements in their home jurisdiction, the interstate learner can choose to comply with either the interstate supervision requirements, or Queensland's supervision requirements. This is of significance where a person crosses a border with a supervisor while complying with their own state's requirements. If Queensland's requirements are different (for example, require a person to have held the licence for one year on an open as opposed to just holding an open licence), it would be unreasonable to expect the person to be able to obtain another supervisor while on the road.

Part 2 contains provisions about the display of L plates and P plates by novice drivers. These drivers cannot drive unless the required plates are displayed.

Part 3 contains provisions aimed at young licence holders and their passengers. This recognises the increased crash risk associated with novice drivers, due to inexperience and overconfidence. This part contains restrictions which aim to decrease this risk and relate to:

- mobile phone usage (division 2);
- the driving of high-powered vehicles (division 3);
- late night driving by young drivers who are on a driving sanction (division 4); and
- transporting late at night more than 1 passenger who is under 21 and who is not an immediate family member (division 5).

Provisions dealing with high-powered vehicles have been restructured and clarify that if a modification to increase power is made to an exempted high-powered vehicle, the vehicle loses its exempt status. Minor changes also ensure that the exemption provisions properly reflect the difference between personal and business exemptions.

Part 3 also contains exemption provisions in relation to some of the restrictions contained in the part and division 6 sets out the grounds for amending, suspending or cancelling certificates of exemptions.

Part 4 contains the following other restrictions on driving:

- A restriction about riding a motorbike with a passenger unless the person has held a specified licence for the period indicated;
- A restriction about towing a vehicle on a road unless the person occupying the driver's seating position of the towed vehicle holds a licence, other than a learner licence, to drive the towed vehicle; and
- A requirement that a driver who is 75 years or older must carry a valid medical certificate while driving.

Chapter 7: Demerit points

This chapter contains the demerit point scheme that applies for transport offences specified in schedule 5.

Part 2 deals with the allocation of demerit points generally and also includes instances of when additional demerit points may be added. For example, if a person commits more than one mobile phone offence within a one-year period, four additional demerit points will be allocated for the second offence (that is, in addition to the four points that already apply to the second offence). The part also applies this approach of 'double demerit points' for offences related to driver seatbelt offences, motorbike helmet offences, and speeding offences of more than 20km/h over the speed limit, where the driver commits a second offence in the category within a one-year period.

Part 3 provides that when a person accumulates more than the specified number of demerit points within a continuous specified time period, that person can choose between having the person's licence suspended for the requisite suspension period or agreeing to be of good behaviour while driving for a year. The effect of choosing the good behaviour option is that the person can continue to drive during their one-year good behaviour period. If, however, the person is allocated 2 or more demerit points during this period, the person's driver licence will be suspended for double the requisite suspension period.

A person who has a class C learner licence is not eligible to choose to be of good behaviour while driving for a year and must instead serve a three-month period of suspension.

Within this chapter, the terms *convicted* and *conviction* are used. These terms are to be interpreted by reference to the definition of *convicting* that appears in the TORUM Act.

Chapter 8: Suspension for driving more than 40km/h over speed limit

Chapter 8 provides that a person who has been convicted of driving more than 40km/h over the speed limit will have their driver licence suspended for 6 months. This is in addition to the allocation of demerit points.

Within this chapter, the term *convicted* is used. This term is to be interpreted by reference to the definition of *convicting* that appears in the TORUM Act.

Chapter 9: Section 79E orders

Chapter 9 contains provisions about *section 79E orders* that may be granted under the TORUM Act. A section 79E order authorises an open licence holder to continue driving until their court hearing when their Queensland driver licence has been suspended under section 79B(2) of the TORUM Act, due to the commission of a serious alcohol-related driving offence.

Part 1 sets out preliminary matters and Parts 2 and 3 set out matters envisaged by the TORUM Act, such as who is eligible for a section 79E order, how an application may be made, the criteria for deciding an application, and the types of restrictions that a court may or must apply to the licence. An order may only be granted if the court is satisfied of a number of matters. These include that the applicant is a fit and proper person to continue to drive, and that a refusal to make the order would cause extreme hardship to the applicant or their family by depriving the applicant of their means of earning a living.

Part 2 also sets out the circumstances in which a person will be ineligible to apply for a section 79E order including, having a prior licence suspension within the previous 5 years.

Within this chapter, the term *convicted* is used. This term is to be interpreted by reference to the definition of *convicting* that appears in the TORUM Act.

Chapter 10: Special hardship orders

Chapter 10 contains provisions about *special hardship orders*. A person may apply for a special hardship order if they are a Queensland licence holder and have contravened their good driving behaviour commitment under chapter 7, part 3 and have consequently been allocated a suspension period for double the time their licence would have been suspended had they nominated the suspension. A person may also apply if they have had their licence suspended for driving more than 40km/h over the speed limit.

Part 3 sets out circumstances in which a person will be ineligible to apply for a special hardship order including, for example, having a prior licence suspension within the past 5 years.

Part 4 provides that a court may make a special hardship order only if the court is satisfied that the applicant is a fit and proper person to continue to drive, having regard to the applicant's traffic history and the safety of other road users and the public generally. Only holders of open and provisional licences are eligible for a special hardship order.

A clarification in section 317 puts beyond doubt that the court may make a special hardship order on either or both of the grounds of:

- extreme hardship due to depriving the applicant of their means of earning a living;
- severe and unusual hardship other than by depriving the applicant of their means of earning a living.

Within this chapter, the terms *convicted* and *conviction* are used. These terms are to be interpreted by reference to the definition of *convicting* that appears in the TORUM Act.

Chapter 11: Repeat offender education program exemptions

Chapter 11 contains provisions which relate to the brief intervention education program and the repeat offender education program as provided for in the TORUM Act. The brief intervention education program is a short online program for all first-time drink drivers. The repeat offender education program is an intensive multi-session face-to-face program for repeat drink drivers, applied as a requirement to complete the interlock program.

This chapter includes provisions to support the grounds for an exemption from the repeat offender education program envisaged by section 91H of the TORUM Act including:

- section 91H(1)(b) of the TORUM Act provides that the chief executive may grant an exemption if a refusal to grant the exemption would cause the applicant severe hardship within the meaning prescribed by regulation. Section 329 of the proposed Regulation specifies what is and what is not to be regarded as severe hardship for the purposes of section 91H(1)(b);
- section 91H(2) of the TORUM Act provides that an exemption is available if it would be unreasonable to require the applicant to complete the program if it is not available online and:

- the nearest place where the program is provided is greater than the time prescribed by regulation. Section 330 prescribes a travelling time of two hours;
- the nearest place where the program is provided is not reasonably accessible using a motor vehicle and the applicant's residence is in a location prescribed by a regulation. Section 331 prescribes Queensland islands where the applicant cannot access the mainland by bridge or by a ferry service which would allow the person to attend the program; or
- the applicant's residence is outside a radius prescribed by regulation from the nearest place where the program is provided. Section 332 prescribes the radius as 150 kilometres.

Chapter 12: Alcohol ignition interlocks

This chapter contains various provisions which support the alcohol ignition interlock requirements in the TORUM Act.

In particular, part 3 sets out the circumstances in which a person may be granted an exemption from the alcohol ignition interlock requirements.

Division 1 provides that for the purpose of the 'nearest place of business' exemption envisaged by section 91Q(3)(a)(iii)(A) of the TORUM Act, a person must live outside a radius of 150 kilometres from an interlock installer's place of business.

Division 2 provides that an exemption may be granted if:

- the applicant's place of residence is on a Queensland island that is not connected by a bridge to the mainland or another island, and where there is no interlock installer;
- it is not possible to fit an interlock to the only motor vehicle reasonably available to an applicant;
- a family member has a medical condition that prevents the family member providing sufficient breath to operate the interlock fitted to the only vehicle that is reasonably available to both the family member and the applicant; and
- a refusal to grant the exemption would cause severe hardship other than on grounds of employment or education.

Part 4 contains provisions dealing with the automatic extension of a person's prescribed period as envisaged by the TORUM Act.

Chapter 13: Dealing with Queensland driver licences

Part 1, divisions 1 to 4 provide the grounds for the chief executive to amend, suspend or cancel a driver licence using the show cause process. Section 358 in division 2 provides for immediate suspension of a driver licence when certain grounds are met and where public safety may be endangered.

Division 5 containing new section 362 provides that if a person wishes to have an A or B condition removed or an A condition changed to a B condition, the person must pass a practical driving test demonstrating that the holder is capable of driving a vehicle with the transmission or gearbox the holder would be authorised to drive if the condition is omitted or changed. This commonly occurs when a person who has a condition authorising them to drive an automatic vehicle applies for a manual transmission licence.

Part 2 imposes obligations on licence holders to ensure their personal details remain current in TMR's records. The part also contains various administrative provisions dealing with such matters as applying for a replacement licence.

Part 3 contains provisions about marine licence information being included on a Queensland driver licence.

Part 4 contains provisions about surrendering and seizing Queensland driver licences and a provision aimed at preventing the wilful damage of a Queensland driver licence. The licence seizure provisions in sections 376 and 377 have been more closely aligned to section 49 of the TORUM Act. Section 378 sets out when the obligation to return a seized licence arises and reflects a similar provision in the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2018*.

Chapter 14: Making applications, giving incapacity notices and reconsideration of decisions

Part 1 provides for how particular applications may be made and notices given under the proposed Regulation. For example, the part allows the chief executive to identify on TMR's website the way specified applications must be made, for example, that an application for a driver licence can be made orally.

Part 2 identifies the decisions that are subject to a review process and the procedures associated with that review.

Chapter 15: Miscellaneous

Part 1 and schedule 7 provide for the fees relating to driver licensing. Part 1 also sets out:

- instances of when a person is exempt from the payment of particular fees;
- the circumstances in which the chief executive can, waive the payment of a fee or provide a refund of fees; and
- when an applicant for a class C learner licence may pay a reduced fee for a learner licence.

Part 2 contains miscellaneous provisions including:

- a declaration that the provisions about young driver licence holders are not unlawful discrimination; and
- a provision relevant to determining whether a vehicle is a class HC vehicle.

Chapter 16: Transitional provisions

Chapter 16 contains various transitional provisions.

Chapter 17: Amendment of legislation

Chapter 17 makes consequential amendments to other regulations as a result of the proposed Regulation.

Schedule 1

Schedule 1 sets out the classes of motor vehicles under the proposed Regulation.

Schedule 2

Schedule 2 contains the licence codes for types of Queensland driver licence.

Schedule 3

Schedule 3 contains codes for conditions of Queensland driver licences.

Schedule 4

Schedule 4 contains marine licence indicator codes and marine licence indicator condition codes.

Schedule 5

Schedule 5 identifies the number of demerit points that apply to each specified offence under transport legislation.

Schedule 6

Schedule 6 sets out the reviewable decisions in the proposed Regulation.

Schedule 7

Schedule 7 contains the fees that apply under the proposed Regulation.

Schedule 8

Schedule 8 identifies permitted high-powered vehicles for the purpose of the definition of *high-powered vehicle* in schedule 9.

Schedule 9

Schedule 9 contains the Dictionary of defined terms for the proposed Regulation.

Consistency with policy objectives of authorising law

The proposed Regulation is consistent with the policy objective of the TORUM Act to provide a scheme for managing the use of the State's roads that will improve road safety and the environmental impact of road use in ways that contribute to overall transport effectiveness and efficiency.

All other consequential amendments are consistent with the policy objectives of the relevant authorising laws.

Inconsistency with policy objectives of other legislation

The proposed Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The benefit of remaking the proposed Regulation will be to continue to provide a robust licensing framework for the benefit and safety of all road users, including providing for a graduated licencing scheme to help reduce fatalities on the roads, particularly for young drivers. The restructure of the proposed Regulation will aid the readability and interpretation of the driver licensing provisions.

The cost of remaking the proposed Regulation will be minimal and will be met from existing resources.

The fees are set out in Schedule 7 of the proposed Regulation includes fees relating to testing, licences, various applications and release of information requests. These fees reflect the administrative and running cost of a safe, private and robust driver licensing system for all Queenslanders. This includes investing in and maintaining sophisticated technology, such as facial recognition software and licence production standards that make the licence extremely hard to tamper with or duplicate. One of the primary benefits of this is the reduced ability for a person's identity to be stolen. For TMR to continue to administer and maintain these products and services, the costs associated with them are required to be recovered.

Consistency with fundamental legislative principles

Issues relating to the fundamental legislative principles are discussed below.

Legislation should have sufficient regard to the rights and liberties of individuals (*Legislative Standards Act 1992 (LSA)*, section 4(2)(a))

Equality under the law

Provisions in the proposed Regulation impose different requirements on potential licence holders and current licence holders based on their age (see, for example, chapter 3, part 3 and chapter 6). This raises the issue of equality before the law – that is, that all persons should be treated in the same way under the law and should not be discriminated against on the basis of their age.

Young drivers (defined under the proposed Regulation to be drivers under the age of 25) as a road user group are over-represented in Queensland road crash statistics. Research suggests that young drivers aged 16 to 24 years are 60 per cent more likely to be involved in a serious crash than drivers aged 25 to 59 years. Therefore, the provisions in the proposed Regulation imposing additional requirements and restrictions on young drivers are justified by the need to protect drivers, their passengers and all other road users. These provisions are envisaged by section 150AA(2) of the TORUM Act. This section provides that a provision of a regulation about the management of young drivers, that is declared under the proposed Regulation as a provision that is not unlawful discrimination on the basis of age, is not unlawful discrimination on the basis of age for the *Anti-Discrimination Act 1991*. (See also section 399 of the proposed Regulation)

Consistency with principles of natural justice (LSA section 4(3)(b))

- Withdrawal of authority to drive for failing a practical driving test.

Chapter 5 of the proposed Regulation allows non-Queensland licence holders to drive in Queensland on the authority of their non-Queensland licence. This chapter also provides safeguards to ensure that road safety considerations are adequately taken into account. That is, the chapter sets out the circumstances in which the authority of the licence holder to drive in Queensland may be withdrawn, based on road safety considerations.

One of the grounds on which a person's authority to drive may be withdrawn is if that person fails a practical driving test.

The holder of a non-Queensland driver licence who takes up residence in Queensland must obtain a Queensland driver licence within three months to be able to continue to drive in Queensland. If the person's current licence was issued by an overseas jurisdiction, the person must pass a practical driving test prior to obtaining a Queensland licence. This is unless that jurisdiction is approved by Austroads as having a similar licencing system to that of the National Driver Licensing System of Australia.

A person's authority to drive a class of motor vehicle in Queensland based on their non-Queensland driver licence will be withdrawn if the person fails the practical driving test. This withdrawal of authority means that if a person failed a practical driving test for a higher class of vehicle (such as a truck), not only will their authority to drive a truck be withdrawn but also their authority to drive a car.

The factors leading to a person failing a practical driving test are not arbitrary. These are serious infractions that reflect a lack of skill necessary for safe driving. For this reason, it is appropriate that the person be prevented from not only driving the class of vehicle in which they undertook their test, but also from driving a lower class of motor vehicle, such as a car as it is likely the infraction is fundamental to the way the person drives generally.

Customers who are overseas licence holders must make telephone bookings to undertake a practical driving test. As part of the customer service centre's (CSC) procedures, customers are advised that should they fail the test, their authority to drive any class of motor vehicle in Queensland will be withdrawn.

This advice helps to ensure that the customer is fully aware of the risks of failing the practical driving test. In circumstances where customers would like to ultimately obtain a higher class of licence, they are able to make an informed decision as to whether they would initially like to do a practical driving test in a car, prior to taking a test in a truck.

If the person fails their practical driving test they may book another practical driving test after the requisite cooling off period is served, for example 24 hours after the first failed attempt. However, if they would prefer to gain more supervised driving experience to address the feedback received from the examiner, before resitting the test, they are also eligible for a learner licence that would enable them to continue to learn to drive the relevant class of vehicle under supervised conditions.

- Immediate suspension of a licence or withdrawal of authority to drive for medical reasons.

Information may be provided to the chief executive about a medical condition that may adversely affect the licence holder's ability to drive safely by the Queensland or non-Queensland licence holder, or by a medical professional. If, based on this information, the chief executive considers that the person may have a medical condition that is likely to adversely affect the person's ability to drive safely, and public safety is endangered, the chief executive may by written notice immediately suspend a Queensland licence holder's licence. They can also withdraw the non-Queensland licence holder's authority to drive in Queensland.

Driver medical fitness is an important consideration in achieving good road safety outcomes. Drivers must meet certain nationally agreed medical standards to ensure their health status does not unduly increase their crash risk. These factors have been agreed by peak medical bodies and experts in their field. Medical-related factors have been identified as a contributing factor in crashes that have killed or severely injured people. Between 2010-2019, 71 lives were lost, and 2401 people hospitalised, as a result of crashes on Queensland roads involving drivers with a medical condition.

The significant danger presented by a person driving when they are not medically fit to drive justifies the need for the chief executive to be empowered to immediately act to suspend a Queensland licence or to withdraw a non-Queensland licence holder's authority to drive. To allow a person to continue to drive where the chief executive has reliable information that they are not fit to drive, would breach the duty put upon TMR to create a safe road environment.

Importantly, however, the chief executive can only act on information given by the licence holder, or about the person given by a health professional. The licence holder is then notified:

- of the action they can take to potentially regain their ability to drive in Queensland, including obtaining a new medical opinion;
- that they may apply for a reconsideration of the decision; and
- that they may apply to the Queensland Civil and Administrative Tribunal (QCAT) for a review of the decision on reconsideration.

If the person can show, for example, through medical reports that they are fit to drive, the person's ability to drive in Queensland will be reinstated.

As indicated above by the notification that the person is given, the decision to suspend a Queensland licence holder's licence or to withdraw a non-Queensland licence holder's authority to drive is a reviewable decision and a person who is not satisfied with the decision reached on internal review, also has the option of having that reviewed decision considered by QCAT.

Reversal of the onus of proof (LSA section 4(3)(d))

Section 248 of the proposed Regulation aims to reduce driver distraction for young novice drivers. It does this by allowing only 1 passenger under 21 years of age in a car driven by a young driver between the hours of 11pm and 5am. This is because a young driver's risk of crashing is higher when they have more than one peer passenger at night. This is due to a number of factors such as the increased potential for distraction or increased pressure from peers to perform risky driving behaviours, both of which are heightened where passenger intoxication is a factor.

This restriction does not apply to passengers who are immediate family members. However, the driver bears the onus of establishing that the driver has an immediate family relationship with the passenger.

In order for this road safety initiative aimed at reducing driving distraction to be effective in practice, a reversal of the onus of proof is considered necessary. Placing the onus on the driver to prove that a passenger is a family member facilitates enforcement and encourages compliance. For the purposes of enforcement, officers have no ability to practically establish whether or not peer passengers are family members.

Further, the matter that is the subject of proof by the defendant – that is, proving a family relationship – is peculiarly within the defendant's knowledge and would be more difficult for the State to establish than it would for the defendant to establish.

The proposed Regulation also contains a number of requirements for a person to produce a certificate of exemption or a particular record, to return a document, or to take a particular action in relation to a document. Where a person fails to comply with one of these requirements, the proposed Regulation places an evidentiary onus on them to establish on the balance of probabilities, that they had a reasonable excuse for that failure. This applies in relation to the following requirements:

- section 240 in relation to producing a current certificate of exemption when driving a high-powered vehicle;
- section 247 in relation to producing a current certificate of exemption for late night driving;

- section 250 which requires the holder of a certificate of exemption to advise the chief executive of a change of circumstances;
- section 338 in relation to producing the person's interlock driver record for a stated period, when requested by the chief executive in writing;
- sections 360 and 361 in relation to complying with a notice to return a Queensland driver licence or returning driver certificate. The proposed Regulation provides that a reasonable excuse might be that the licence or certificate has been, or the holder of the licence or certificate reasonably suspects it has been, destroyed, lost or stolen;
- section 363 which requires a person to advise the chief executive of a change of address and to attach the change of address label to the back of their licence; and
- sections 367, 368 and 369 which require a licence holder to apply for a replacement licence, driver licence receipt or replacement label, if the holder becomes aware that their licence, receipt, or change of address label has been damaged, lost or stolen.

Section 321 of the proposed Regulation also provides that a person does not commit the offence of not applying for the correct licence within 14 days of having a special hardship order made, if the person has a reasonable excuse.

While these provisions impose an evidentiary onus on a person to establish that they have a reasonable excuse for failing to comply with requirements in the proposed Regulation, these provisions are considered appropriate. This is because they ensure that evidence can be produced by the party best able to satisfy the requirements of the statutory protection. The basis for establishing a reasonable excuse is peculiarly within the defendant's knowledge and would be more difficult for the State to establish than it would for the defendant to establish.

Sufficient regard to Aboriginal tradition and Island custom (LSA section 4(3)(j))

The proposed Regulation contains:

- a provision which specifies when an alcohol ignition interlock exemption may be granted under the TORUM Act;
- an exemption provision which, in certain circumstances, allows a young driver to drive a high-powered vehicle; and
- a requirement that young drivers must not drive late at night with more than 1 passenger under 21 years who is not an immediate family member.

For a person to obtain the benefit of any of these provisions, requires the consideration of whether there is a sufficiently close family relationship between the driver and another person. Each of the provisions contains a definition which sets out when a person is to be regarded as being in a close family relationship with the driver.

The 2010 Regulation took into account Aboriginal tradition and Torres Strait Island custom in the corresponding provision dealing with alcohol ignition interlock exemptions. It did this by including in the definition of 'family member of an applicant' anyone who was regarded under either Aboriginal tradition or Torres Strait Island custom as being a family member mentioned in the first part of the definition. It also included anyone who was regarded under Aboriginal tradition or Torres Strait Island custom as an aunt or uncle of the applicant. This definition has been retained in the proposed Regulation.

A similar extension of the definition of family member was not in the 2010 Regulation in relation to the other two provisions mentioned above.

The proposed Regulation extends the definition of family member to recognise family relationships under Aboriginal tradition and Torres Strait Island custom for the purpose of the high-powered vehicle exemption in the same way as the provision for alcohol ignition interlock exemption.

The proposed Regulation, however, does not extend the definition of family member in the same way for the purpose of the peer passenger restriction.

The peer passenger restriction in section 248 allows only 1 passenger under 21 in a car driven by a young driver between the hours of 11pm and 5am.

This restriction does not apply to passengers who are immediate family members. The definition for the purpose of the restriction covers family relationships that apply across all cultural backgrounds. In addition, the definition recognises those individuals who are regarded as a child of the driver according to Aboriginal tradition or Torres Strait Island custom.

The purpose of the restriction is to ensure that a young driver with limited driving experience does not have the additional distractions that other young people can bring. That is, the restriction is aimed at minimising the number of passengers aged under 21 years. The provision attempts to incorporate a balance by allowing passengers who are immediate family members of any age, in addition to 1 other person under 21. If there is not some reasonable boundary around who is to be regarded as an immediate family member of the driver, the purpose of the provision might not be achieved. This is because a broad definition could potentially allow a carload of young people. This in turn could create a dangerously distracting environment, or increase risk taking behaviours. For this reason, the extension of the definition to recognise family relationships under Aboriginal tradition and Torres Strait Island custom has been limited to traditional and customary recognition of children of the driver.

As the proposed Regulation expressly recognises the unique kinship ties for an Aboriginal person and a Torres Strait Islander, it is believed that the proposed Regulation has sufficient regard to Aboriginal tradition and Torres Strait Islander custom.

Appropriateness of penalties

The majority of the offence provisions that have remained unchanged from the 2010 Regulation have a maximum penalty amount of 20 penalty units and a penalty infringement notice penalty of no more than 2 penalty units. These include, but are not limited to, offences such as:

- a learner driver failing to be appropriately supervised;

- a licence holder failing to comply with a condition of their licence; and
- a novice driver failing to display the relevant L or P plate.

However, after a review of all penalties in the proposed Regulation, a number of the penalties have been changed to reflect the severity of the offence, to provide greater consistency between offences of similar severity and to better comply with best practice guidelines for penalty infringement amounts. These changes are outlined below.

The maximum penalty for the offence of failing to promptly attach a change of address label or replacement change of address label to the back of a licence has been reduced from 20 to 10 penalty units. This reflects that technological developments have made accessing information about a licence holder by, for example, an enforcement officer, an easier process. This mitigates the possibility of the adverse consequences of someone not attaching a change of address label to the back of their licence.

The penalty infringement fine has been reduced from 1 3/5 penalty units to 1 penalty unit for the following offences:

- a young driver failing to produce a current certificate exemption to drive a high-powered vehicle; and
- a young driver subject to a licensing sanction failing to produce a current certificate of exemption allowing them to drive late at night.

These changes were made to bring the penalties into alignment with other offences dealing with the failure to produce a document required for driving. The changes also better reflect the severity of the offence, of failing to produce a certificate. These provisions aid in the enforcement of offences. That is, they are related to the administration of the licencing scheme as opposed to road safety and the reduction in the penalty reflects that these offences are of a less serious nature than driving in contravention of the proposed Regulation without a valid exemption.

The maximum penalty for the following offence provisions has been increased from 20 penalty units to 30 penalty units while the infringement notice penalty remains unchanged at 3 penalty units:

- a passenger of a learner driver using a mobile phone in loudspeaker mode;
- a passenger of a provisional driver using a mobile phone in loudspeaker mode;
- a novice driver driving a high-powered vehicle without an exemption;
- a young driver subject to a licensing sanction driving late at night without an exemption; and
- a young driver carrying more than 1 person under 21 years who is not an immediate family member late at night.

These maximum penalties were changed to reflect that failure to comply with the requirements could result in serious road safety consequences, particularly for young and novice drivers who continue to be overrepresented in fatal road crash statistics. As such, the penalty should be higher than other offences in the proposed Regulation dealing with less serious road safety matters.

The maximum penalty for the two offences related to inexperienced motorbike rider (class RE and R) carrying a passenger is being increased from a maximum penalty of 20 penalty units to 30 penalty units and the infringement notice fine from 2/3 penalty units to 3 penalty units. This is to reflect the road safety implications of novice riders carrying passengers without the required experience, putting themselves and their passengers at heightened risk. It also brings the penalty into line with the penalties for the offence of a similar nature that relate to novice drivers carrying passengers at certain times.

While a number of the offence provisions outlined above have a maximum penalty exceeding 20 penalty units, it is considered that these penalties, in addition to the other penalties in the proposed Regulation, are appropriate and proportionate to the seriousness of the specific offences. Section 171(2) of the TORUM Act provides that a regulation may prescribe offences for a contravention of a regulation and fixing a maximum penalty of not more than 80 penalty units for a contravention.

Legislation should have sufficient regard to the institution of Parliament (LSA section 2(b))

Matter appropriate to subordinate legislation (section 4(5)(c) of LSA)

Chapter 14, Part 2 of the proposed Regulation provides for the reconsideration of a range of decisions made under the proposed Regulation. Generally, in Queensland legislation, a review of decisions should be provided for in an Act rather than through subordinate legislation.

However, location of these reconsideration provisions in subordinate legislation is consistent with the suite of legislation under the TORUM Act. Specifically, the Act contains broad regulation-making powers which provide for subordinate legislation to cover not only the bulk of Queensland's driver licensing scheme, but also the vehicle registration scheme, the proposed Regulation of light vehicle standards, the Queensland Road Rules and the majority of the rules governing the transportation of dangerous goods.

In relation to the driver licensing scheme, the TORUM Act authorises the proposed Regulation to cover areas such as the process for applying for a driver licence, the eligibility and testing requirements to be granted the various types and classes of licences, the progression of a licence holder through those types and classes, the demerit points scheme and the circumstances in which a licence can be suspended, specific restrictions that might apply to young drivers, provisions relating to the alcohol ignition interlock scheme and a range of other provisions that relate to the operation and administration of the scheme.

In this context, it is appropriate that the reconsideration provisions be located within the same instrument that the decisions it relates to are located.

There are also a range of important safeguards included in the proposed Regulation relating to decisions and the reconsideration of them. Specifically, where an adverse decision is made the relevant person will receive, or be entitled to receive, an *information notice* that sets out:

- the decision that has been made;
- a statement of reasons for that decision, the content of which must comply with section 27B of the *Acts Interpretation Act 1954*;

- advice that they may apply for a reconsideration of the decision under section 387;
- how they can make that application for reconsideration; and
- the timeframe within which they may apply for that reconsideration.

The provision of reasons for the decision allows the person, when they apply for reconsideration, to provide any additional material they believe is relevant to the decision and to directly address any issues raised by the chief executive when coming to the decision.

As a further protection for the person, section 388(2) requires that the application for reconsideration may only be dealt with by a person who did not make the original decision and who holds a more senior office than, or office at the same level as, the person who made the original decision.

Importantly also, the *information notice* must include advice that:

- for a decision that is a licensing decision, the person is able, under section 131(4) of the TORUM Act, to apply to QCAT for a review of the decision on the reconsideration; and
- for a decision other than a licensing decision the person is able, under section 65A of the TORUM Act, to apply to QCAT for a review of the decision on the reconsideration.

Licensing decisions are defined in section 131(24) of the TORUM Act to be decisions of the chief executive to:

- refuse to grant or renew the person's Queensland driver licence; or
- amend, suspend or cancel the person's Queensland driver licence; or
- immediately amend or suspend the person's Queensland driver licence; or
- impose a condition on a Queensland driver licence.

This further right, as set out in the proposed Regulation, for the person to apply to QCAT under the relevant sections of the TORUM Act to review the reconsidered decision ensures the rights of the individual are protected. It also provides an appropriate link between the subordinate legislation and the review rights that exist in the TORUM Act.

Subordinate legislation – sub-delegation of power (section 4(5)(e) of LSA)

The proposed Regulation provides definitions of 'experienced driver recognition country' and 'recognised country' as indicated below:

- *experienced driver recognition country* means a country approved by Austroads and listed on its website as having obtained experienced driver recognition status; and
- *recognised country* means a country approved by Austroads and listed on its website as a recognised country.

It is necessary to determine if a holder of a non-Queensland driver licence is from a country included in one of the above definitions. This is for the purpose of determining whether the person is required to pass a written road rules test and a practical driving test prior to being issued with a Queensland driver licence.

The definitions are dependent upon an assessment by Austroads and therefore raise the issue of sub-delegation of power.

Austroads conducts strategic research to identify emerging transport issues and engages with international transport and road authorities. Recognition and the determination of the status of driver licences issued in jurisdictions outside Australia and New Zealand is a process managed by Austroads. This ensures that the process associated with the recognition of these licences is consistent and informed by in-depth research. Therefore, any sub-delegation of power to Austroads in this context is appropriate.

The proposed Regulation also allows the chief executive to approve training courses for driving a class MC vehicle. If a person has successfully completed an approved course, the person can be granted a class MC licence without doing a practical driving test.

Class MC vehicles are large multi-combination heavy vehicles. TMR does not provide practical driving tests for class MC vehicles. This is outsourced to external training providers who deliver training and assessments on behalf of TMR. This is to ensure that the service is delivered in a cost-effective manner and to align with national policy for assessing applicants for a class MC licence.

Allowing the chief executive to approve suitable courses, facilitates the approval of high-quality training material designed to ensure that students will be taught all necessary skills to drive an MC vehicle. This process also provides the flexibility needed to keep pace with changing courses and their availability to adopt new training options in a timely manner.

The sub-delegation of the power to the chief executive to determine which courses are appropriate for the issue of a class MC licence is therefore considered to be appropriate.

The proposed Regulation also allows the chief executive to determine when it would be unreasonable to require the holders of non-Queensland driver licences to produce their non-Queensland driver licence prior to being granted a Queensland driver licence (section 180(3) and (4)). This allows the chief executive the discretion to determine what is reasonable in the circumstances. Given the different scenarios that could arise in different applications, it is not possible to identify and to therefore specifically regulate for each of these different matters. This discretion in the proposed Regulation would allow the chief executive to not require the production of the non-Queensland licence, if for example, the non-Queensland licence had been lost or stolen.

The proposed Regulation also allows the chief executive to determine, in the case of a non-Queensland driver licence that is a foreign licence, what sort of documentary evidence of the person's licence must be produced to indicate the existence of a foreign licence. Section 180(4) provides that an example of that documentary evidence is a letter from the entity that issued the foreign driver licence confirming the person holds the licence. Due to the breadth of potential documentary evidence available and not wanting to unnecessarily restrict the documents that an applicant may wish to rely on, the sub-delegation of power to the chief executive to make this determination is therefore considered to be appropriate.

Chapter 14, Part 1 of the proposed Regulation provides that the chief executive may, by publishing a notice on TMR's website, approve a way in which an application under the proposed Regulation may be made or require stated information to be included in, or to accompany, an application.

As this allows the chief executive, rather than the proposed Regulation itself, to specify an application process, it may raise issues of sub-delegation of power.

Any infringement of the fundamental legislative principles is, however, justified by the increased flexibility it provides to not only the chief executive but also, very importantly, to customers of TMR. For example, it allows the chief executive to approve applications being made orally by telephone or over the counter at a CSC or being made by electronic communication such as by email.

This process has been in place for four years and the feedback from both TMR staff and customers has been overwhelmingly positive. It allows, for example, a person to ring the TMR call centre and upon providing appropriate identification, to receive certain information about their driver licence, for example, how many demerit points they have accrued on their licence. Previously, a customer would have been required to attend the CSC in person and complete a paper form to receive this information. This not only is a convenient option for customers, it can also have a direct road safety benefit by providing the customer with the most up-to-date information about their licence status.

The majority of interactions a person would have with the Queensland Government would be through TMR. TMR places a great emphasis on its customers' experience and the flexibility provided by this provision is essential in ensuring that TMR can be responsive to customers' needs and can utilise modern technology in its interactions with customers.

Any infringement of the fundamental legislative principles is justified by the benefits to the Queensland public by these provisions.

Consultation

Consultation on the proposed Regulation has been undertaken with the Australian Defence Force, the Queensland Trucking Association, the Royal Automobile Club of Queensland (RACQ), the Royal Australian College of General Practitioners, the Australian Driver Trainers Association and the now disbanded Motorcycle Riders Association of Queensland. No significant concerns were raised by these stakeholders.

The Office of Best Practice Regulation was consulted on the proposed Regulation and advised that it considers a continued need for regulation and the proposed Regulation's effectiveness have been demonstrated and that the proposed amendments are unlikely to lead to significant adverse impacts. No further regulatory impact analysis was required under the *Queensland Government Guide to Better Regulation*.