

Queensland

Transport Operations (Passenger Transport) Act 1994

Current as at 20 September 2025

Amendments not yet in force
There are amendments for this title that have been enacted but have not yet commenced. The following amendments that have not commenced are not incorporated in this reprint but are annotated on the website for information—2017 Act No. 13, 2017 Act No. 18, 2024 Act No. 2, 2024 Act No. 49.

These annotations were incorporated on 20 September 2025. See the List of legislation in the Legislative history for uncommenced amendments enacted after this date.

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Queensland

Transport Operations (Passenger Transport) Act 1994

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Transport Operations (Passenger Transport) Act 1994

An Act about passenger transport, and for other purposes

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Transport Operations (Passenger Transport) Act 1994*.

2 Objectives of Act

(1) This Act is intended to achieve the provision of the best possible public passenger transport at reasonable cost to the community and government, keeping government regulation to a minimum.

(2) However, this Act recognises that market entry restrictions may be needed in the public interest.

(3) The overall objectives of this Act are, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, to—

(a) enable the effective planning and efficient management of public passenger transport in the State; and

(b) provide a system of public passenger transport in the State that—

(i) is responsive to community needs; and

(ii) offers an attractive alternative to private transport in a way that reduces the overall environmental,

Authorised by the Parliamentary Counsel

economic and social costs of passenger transport; and

(iii) addresses the challenges of future growth; and

(iv) provides a high level of accountability; and

(v) provides public passenger services at a reasonable cost to the community and government; and

(c) promote the personal safety of persons using public passenger transport; and

(d) provide a reasonable level of community access and mobility in support of the Government's social justice objectives; and

(e) provide an adequate framework for coordinating the different forms of public passenger transport to form a comprehensive, integrated and efficient system.

3 Definitions—the dictionary

(1) The dictionary at the end of this Act defines particular words used in this Act.

(2) To remove any doubt, the dictionary is a schedule.

4 Act binds all persons

(1) In this section—

government entity includes—

(a) the State, the Commonwealth or another State; or

(b) an instrumentality or agent of the State, the Commonwealth or another State.

(2) This Act binds all persons, including every government entity.

(3) However, a regulation may exempt a government entity from this Act or a provision of this Act.

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4A Act does not prevent local law from imposing additional requirements

This Act does not prevent a local government from making a local law imposing requirements that are additional to requirements under this Act for the protection of property or infrastructure relating to public passenger transport in its local government area.

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

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

(2) The reference to the particular provision includes the provision as it existed at any time before it was made, even though it was amended from time to time and even though the provision had a different number from time to time.

(3) Subsection (2) does not limit the *Acts Interpretation Act 1954*, section 14H.

Chapter 2 Responsibilities for transport strategies and programs

Part 1 Passenger transport strategies

5 Development of passenger transport strategies

(1) The chief executive must, from time to time, develop for the Minister's approval passenger transport strategies designed to give effect to the transport coordination plan in accordance with this Act's objectives.

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(2) In developing passenger transport strategies, the chief executive must take reasonable steps to engage in public consultation.

(3) The Minister may, at any time, direct the chief executive to prepare new passenger transport strategies for the Minister's approval or to amend passenger transport strategies in the way the Minister directs.

(4) The Minister may approve passenger transport strategies submitted for approval by the chief executive or require the chief executive to amend the strategies in the way the Minister directs.

(5) The Minister must table a copy of each passenger transport strategy, and each amendment of a passenger transport strategy, approved by the Minister in the Legislative Assembly within 5 sitting days after it is approved.

6 Contents of passenger transport strategies

(1) Passenger transport strategies must include—

(a) a statement of the specific objectives sought to be achieved; and

(b) proposals for the provision of public passenger transport; and

(c) criteria for deciding priorities for government spending on public passenger transport, and options for raising the necessary finance; and

(d) appropriate performance indicators for deciding whether, and to what extent, the objectives of the strategies have been achieved.

(2) Passenger transport strategies must aim to provide an adequate framework for coordinating and integrating the provision of passenger transport between the different transport modes and different levels of government.

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(3) Passenger transport strategies may also take into account agreements between the State and the Commonwealth, other States and local governments about passenger transport.

(4) If there is an integrated regional transport plan under the *Transport Planning and Coordination Act 1994* for an area, the passenger transport strategies for the area must not be inconsistent with, and must give effect to, the plan.

Part 2 Passenger transport implementation programs

7 Development of passenger transport implementation programs

(1) Before the start of each financial year, the chief executive must develop for the Minister's approval passenger transport implementation programs for the year and for 1 or more later years.

(2) A passenger transport implementation program must include a statement of—

(a) the policies, projects and financial provisions for implementing the passenger transport strategies; and

(b) the performance targets to be achieved.

(3) A passenger transport implementation program may include proposals to spend amounts not directly related to public passenger transport if the proposals would contribute to the effectiveness and efficiency of public passenger transport.

(4) In developing passenger transport implementation programs, the chief executive must take reasonable steps to engage in public consultation.

(5) A passenger transport implementation program must be made available to the public in a way decided by the Minister.

(6) The Minister may at any time direct the chief executive to amend a passenger transport implementation program.

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(7) The Minister may approve passenger transport implementation programs submitted for approval by the chief executive or require the chief executive to amend the programs in the way the Minister directs.

8 Consistency with passenger transport strategies

(1) Subject to directions of the Minister, a passenger transport implementation program must be consistent with the passenger transport strategies.

(2) If the Minister gives a direction under this section resulting in a passenger transport implementation program being inconsistent with passenger transport strategies, the Minister must table a copy of the direction in the Legislative Assembly within 5 sitting days after it is given.

9 Report on operation of passenger transport programs

Each annual report of the department must include a report on the implementation of passenger transport implementation programs during the year to which the report relates.

Part 3 Chief executive's general accountabilities

10 Obligations about public passenger transport

(1) The chief executive must ensure—

(a) public passenger transport is developed in a way that—

(i) takes into account best practice and national benchmarks; and

(ii) promotes, within overall transport objectives, the safety of passengers; and

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(iii) encourages efficient, competitive and commercial behaviour in the provision of public passenger transport; and

(iv) ensures a strategic and integrated approach to the provision of public passenger transport; and

(v) promotes energy efficiency and reduces adverse environmental impact; and

(b) public passenger transport operates to achieve—

(i) efficiency; and

(ii) cost effectiveness; and

(iii) the highest quality and accessibility of services, and effective infrastructure, consistent with reasonable cost; and

(c) funding provided by the State for public passenger transport is applied in an efficient, cost effective and equitable way.

(2) Each annual report of the department must include a report on how effect has been given to subsection (1) during the year to which the report relates.

Chapter 3 Operator accreditation

11 Purpose of operator accreditation

The purpose of operator accreditation is to encourage the high quality operation of public passenger services by—

(a) raising standards and awareness of operators in the areas of safety, service delivery and business acumen; and

(b) ensuring public passenger service operators are held accountable for complying with appropriate standards.

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12 What is *operator accreditation*

Operator accreditation is an accreditation that authorises the holder of the accreditation to provide, as an operator, a public passenger service of a particular kind.

14 Operator accreditation standards

Standards about operator accreditation may relate to—

(a) the applicant's capacity to ensure the appropriate operation and maintenance of public passenger vehicles; and

(b) the applicant's ability to provide a quality public passenger service; and

(c) an operator's responsibility to comply with vehicle design, safety and operational requirements; and

(d) the applicant's business management skills, including, expertise in timetabling, route planning, marketing, customer services and financial management; and

(e) the operator's responsibility to comply with or ensure that a driver complies with an Act, or a provision of an Act, that would promote safety or customer service; and

(f) other matters prescribed by regulation.

Note—

Chapter 9 deals with the making of standards.

15 Operator must hold operator accreditation

(1) A person must not provide, as an operator, a public passenger service unless the person holds operator accreditation for the service.

Maximum penalty—

(a) if the person does not hold operator accreditation—160 penalty units; or

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(b) if the person holds operator accreditation to provide a public passenger service other than the public passenger service provided by the person—20 penalty units.

(2) Subsection (1) does not apply to a person providing, as an operator, a public passenger service if the service is—

(a) not provided on a road; or

(b) provided using a light rail vehicle; or

(c) prescribed by regulation as a service to which this section does not apply.

16 Responsibility for system of operator accreditation

(1) The chief executive is responsible for administering the scheme of operator accreditation.

(2) If a person to whom the chief executive delegates powers about operator accreditation that are prescribed by regulation fails, without reasonable excuse, to comply with a condition of the delegation, the person commits an offence.

Maximum penalty—160 penalty units.

17 Granting, renewing or refusing operator accreditation

(1) A regulation may make provision about granting, renewing, or refusing to grant or renew, operator accreditation.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to refuse to grant a person operator accreditation if—

(a) for an individual—the person has been convicted of a disqualifying offence or has been charged with a disqualifying offence and the charge has not been finally disposed of; or

(b) for a member of a partnership—the person, or another member of the partnership, has been convicted of a disqualifying offence or has been charged with a

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disqualifying offence and the charge has not been finally disposed of; or

(c) for a corporation—the corporation, or an executive officer of the corporation, has been convicted of a disqualifying offence or has been charged with a disqualifying offence and the charge has not been finally disposed of.

18 Provisional operator accreditation

A regulation may provide for granting, or refusing to grant, operator accreditation on a provisional basis.

19 Applicant to notify charge for disqualifying offence etc.

(1) If an applicant for an operator accreditation is charged with a disqualifying offence, the applicant must immediately notify the chief executive under the regulations.

(2) When the charge is dealt with, the applicant must immediately notify the chief executive under the regulations of the outcome of the charge.

Maximum penalty—10 penalty units.

20 Amendment, suspension and cancellation of operator accreditation

(1) A regulation may make provision about amending, suspending or cancelling operator accreditation.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's operator accreditation if—

(a) for an individual—the person is convicted of a disqualifying offence; or

(b) for a member of a partnership—the person, or another member of the partnership, is convicted of a disqualifying offence; or

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(c) for a corporation—the corporation, or an executive officer of the corporation, is convicted of a disqualifying offence.

(3) Without limiting subsection (1), a regulation may authorise the chief executive to immediately suspend a person's operator accreditation if—

(a) for an individual—the person is charged with a disqualifying offence or the chief executive otherwise considers it necessary in the public interest; or

(b) for a member of a partnership—the person, or another member of the partnership, is charged with a disqualifying offence or the chief executive otherwise considers it necessary in the public interest; or

(c) for a corporation—the corporation, or an executive officer of the corporation, is charged with a disqualifying offence or the chief executive otherwise considers it necessary in the public interest.

21 Accredited operator to notify charge for disqualifying offence etc.

(1) A person who is an accredited operator must immediately notify the chief executive under the regulations if—

(a) for an individual—the person is charged with a disqualifying offence; or

(b) for a member of a partnership—the person, or another member of the partnership, is charged with a disqualifying offence; or

(c) for a corporation—the corporation, or an executive officer of the corporation, is charged with a disqualifying offence.

(2) When the charge is dealt with, the person must immediately notify the chief executive under the regulations of the outcome of the charge.

Maximum penalty—10 penalty units.

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22 Member of partnership must inform another partner of charge for disqualifying offence etc.

(1) A member of a partnership that is an accredited operator must immediately inform, under the regulations, another member of the partnership if the member is charged with a disqualifying offence.

(2) When the charge is dealt with, the member must immediately inform, under the regulations, another member of the partnership of the outcome of the charge.

(3) An executive officer of a corporation that is an accredited operator must immediately inform, under the regulations, another executive officer of the corporation if the executive officer is charged with a disqualifying offence.

(4) When the charge is dealt with, the executive officer must immediately inform, under the regulations, another executive officer of the corporation of the outcome of the charge.

Maximum penalty—10 penalty units.

22A Operator accreditation is evidence of being the operator

In a proceeding for an offence against this Act, evidence that a person—

(a) is involved in providing a public passenger service; and

(b) holds operator accreditation;

is evidence that the person is the operator of the service.

22B Accredited operator to notify if authorised driver charged with or convicted of driver disqualifying offence

(1) This section applies if an accredited operator reasonably believes that an authorised driver who drives a vehicle for the operator has been charged with, or convicted of, a driver disqualifying offence.

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(2) The accredited operator must immediately notify the chief executive, in writing, about the charging or conviction of the authorised driver.

Maximum penalty—10 penalty units.

(3) However, the accredited operator need not comply with subsection (2) if the operator reasonably believes the chief executive has already been notified that the authorised driver has been charged with, or convicted of, the driver disqualifying offence.

(4) The accredited operator is not liable, civilly, criminally or under an administrative process, for complying with subsection (2).

(5) Without limiting subsection (4)—

(a) in a proceeding for defamation, the accredited operator has a defence of absolute privilege for publishing the information; and

(b) if the accredited operator would otherwise be required to maintain confidentiality about the information under an Act, oath, rule of law or practice—

(i) the accredited operator does not contravene the requirement by disclosing the information; and

(ii) the accredited operator is not liable to disciplinary action for giving the information.

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Chapter 4 Driver authorisation

Part 1 General

23 Purpose of driver authorisation

(1) The purpose of driver authorisation is to maximise public confidence in public passenger services in relation to the drivers of public passenger vehicles.

(2) Without limiting subsection (1), the purpose includes ensuring that drivers of public passenger vehicles—

(a) are suitable persons to drive public passenger vehicles having regard to the need to provide for the personal safety of passengers and their property, and the public; and

(b) conduct themselves responsibly with passengers and the public; and

(c) are responsible in the act of driving and are capable of safely operating the relevant type of vehicle; and

(d) are aware of their customer service responsibilities; and

(e) are held accountable for complying with appropriate standards.

(3) Without limiting subsection (1) or (2), the purpose also includes ensuring that drivers do not damage the reputation of public passenger transport.

(4) In deciding whether to grant driver authorisation to a person, or to renew or amend, impose a condition on, or suspend or cancel a person's driver authorisation, the chief executive must take into consideration—

(a) the purpose of driver authorisation mentioned in subsections (1) to (3); and

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(b) the paramount principle mentioned in section 33A that children and other vulnerable members of the community must be protected.

24 What is *driver authorisation*

Driver authorisation is an authorisation that authorises the holder of the authorisation to drive a vehicle to provide a public passenger service of a particular kind.

26 Driver authorisation standards

Standards about driver authorisation may—

(a) relate to the applicant's ability to drive safely a public passenger vehicle of the relevant category; and

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

(c) require compliance with the *Anti-Discrimination Act 1991*; and

(d) relate to customer service and other matters prescribed by regulation; and

(e) require compliance with another Act, or a provision of another Act, that would promote safety or customer service.

Note—

Chapter 9 deals with the making of standards.

27 Driver must hold driver authorisation

(1) A person must not drive a vehicle to provide a public passenger service unless the person holds driver authorisation for the service.

Maximum penalty—

(a) if the person does not hold driver authorisation—

(i) for a first offence—100 penalty units; or

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(ii) for a second or later offence—200 penalty units;

Note—

See sections 150B and 150C in relation to the application of the penalty for this subsection.

(b) if the person holds driver authorisation to provide a public passenger service other than the public passenger service provided by the person—20 penalty units.

(2) Subsection (1) does not apply to a person driving a vehicle to provide a public passenger service if the service is—

(a) not provided on a road; or

(b) provided using a light rail vehicle; or

(c) prescribed by regulation as a service to which this section does not apply.

27A Person must use drivers that hold driver authorisation

(1) A person must not provide a public passenger service unless the person uses a driver who holds driver authorisation for the service.

Maximum penalty—

(a) if the driver does not hold driver authorisation—160 penalty units; or

(b) if the driver holds driver authorisation to provide a public passenger service other than the public passenger service provided by the driver—20 penalty units.

(2) For subsection (1), a person provides a public passenger service if the person—

(a) is an operator of the service; or

(b) for a booked hire service—provides a booking service for the service.

(3) Subsection (1) does not apply to a person providing a public passenger service if the service is—

(a) not provided on a road; or

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(b) provided using a light rail vehicle; or

(c) prescribed by regulation as a service to which this section does not apply.

28 Responsibility for system of driver authorisation

(1) The chief executive is responsible for administering the scheme of driver authorisation.

(2) If a person to whom the chief executive delegates powers about driver authorisation that are prescribed by regulation fails, without reasonable excuse, to comply with a condition of the delegation, the person commits an offence.

Maximum penalty—160 penalty units.

28A Ineligibility for driver authorisation—category A driver disqualifying offences

A person is ineligible to apply for or hold driver authorisation if the person has been convicted of a category A driver disqualifying offence.

28B Driver authorisation—category B driver disqualifying offences

(1) This section applies if the chief executive is aware that a person who is an applicant for driver authorisation or who holds driver authorisation has been convicted of a category B driver disqualifying offence.

(2) The chief executive must give the person written notice of the chief executive's intention to refuse to grant or renew, or to cancel, the driver authorisation (the ***exclusion action***) unless the person demonstrates to the chief executive's satisfaction that an exceptional case exists.

Example of an exceptional case—

A person with no other criminal history was convicted of unlawful penile intercourse 30 years ago and placed on a good behaviour bond

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after being involved in a consensual sexual relationship with a 15 year old when the person was 17.

(3) The chief executive must give the person a written notice about the exclusion action—

(a) identifying the category B driver disqualifying offence of which the person has been convicted; and

(b) stating the requirements of subsection (7); and

(c) giving the person an opportunity to make written representations about the category B driver disqualifying offence and the exclusion action within 28 days.

(3A) Subsection (4) applies only if the person has been convicted of a category B driver disqualifying offence that is also a serious offence or disqualifying offence under the *Working with Children (Risk Management and Screening) Act 2000* to the extent that any qualification under that Act applies to the serious offence or disqualifying offence.

(4) The chief executive must ask the chief executive (employment screening) whether the chief executive (employment screening) considers an exceptional case exists.

(4A) For subsection (4), the chief executive may give to the chief executive (employment screening) the information, including any written representations mentioned under subsection (3)(c), the chief executive reasonably considers necessary for the chief executive (employment screening) to consider whether an exceptional case exists.

(4B) Also for subsection (4), the chief executive is taken to have made the request under that subsection if the chief executive obtains confirmation from the chief executive (employment screening) that a person is the holder of a working with children clearance under the *Working with Children (Risk Management and Screening) Act 2000* that is not suspended under that Act.

(5) The chief executive (employment screening) may give the chief executive the advice requested under subsection (4).

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(5A) However, if subsection (4B) applies, the chief executive (employment screening) is taken to have advised the chief executive that the chief executive (employment screening) considers that an exceptional case exists.

(6) Without limiting the chief executive's power to take the exclusion action if the advice of the chief executive (employment screening) was requested under subsection (4), the chief executive—

(a) must take the advice of the chief executive (employment screening) into account; and

(b) can not be satisfied that an exceptional case exists if the chief executive (employment screening) advises the chief executive that the chief executive (employment screening) considers an exceptional case does not exist.

(7) The chief executive must consider any written representations made by the person and must take the exclusion action unless the chief executive, subject to subsection (6) and the paramount principle mentioned in section 33A, is satisfied that an exceptional case exists.

(8) Nothing in this section limits action the chief executive may take under any other provision of this Act.

28C Driver authorisation—category C driver disqualifying offences

(1) This section applies if the chief executive is aware that a person who is an applicant for driver authorisation or who holds driver authorisation has been convicted of a category C driver disqualifying offence.

(2) Without limiting the grounds on which the chief executive may deal with the application or the driver authorisation, the chief executive may do any of the following (the ***proposed action***)—

(a) refuse to grant driver authorisation to the person;

(b) refuse to renew the person's driver authorisation;

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(c) suspend or cancel the person's driver authorisation.

(3) The chief executive must give the person written notice of the proposed action.

(4) Nothing in this section limits action the chief executive may take under any other provision of this Act.

29 Granting, renewing or refusing driver authorisation

(1) A regulation may make provision about granting, renewing, or refusing to grant or renew, driver authorisation.

(2) Without limiting subsection (1), a regulation may authorise the chief executive—

(a) to impose a condition when granting driver authorisation to a person or renewing a person's driver authorisation; or

(b) to refuse to grant driver authorisation to a person or to renew the person's driver authorisation if the person—

(i) has been convicted of a category C driver disqualifying offence; or

(ii) has been charged with a driver disqualifying offence and the charge has not been finally disposed of.

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

(a) an authorising document;

(b) an authorising document to be in the form of a card or something similar approved by the chief executive and on which information may be stored electronically;

(c) a PIN to be used by the holder of driver authorisation as a security measure to protect information stored electronically on an authorising document.

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

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(a) an authorising document may include on it information about—

(i) the kinds of public passenger services for which the holder of the authorisation is an authorised driver; or

(ii) another transport authority held by the person under a prescribed transport Act, if allowed under that Act; or

(b) information about driver authorisation may be included on another transport authority.

Note—

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

(5) In this section—

prescribed transport Act means—

(a) the *Tow Truck Act 2023*; or

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

transport authority means—

(a) a driver accreditation or an assistant accreditation under the *Tow Truck Act 2023*; or

(b) a prescribed authority (other than a Queensland driver licence) under the *Transport Operations (Road Use Management) Act 1995*.

29AA Smartcard driver authorisation is property of the State

(1) A smartcard driver authorisation is and remains the property of the State.

(2) Subsection (1) applies even though a person other than the State—

(a) has the right to use information that is on the smartcard driver authorisation or stored electronically on it; or

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(b) has the right to have information stored on the smartcard driver authorisation.

(3) The State is not legally liable for an act or omission relating to the keeping or use of the smartcard driver authorisation.

29A Restricted driver authorisation

(1) A regulation may make provision about an operator, who holds operator accreditation to operate a public passenger service, granting on behalf of the chief executive a restricted driver authorisation to authorise a person to drive a public passenger vehicle while, and only while, it is being used by the operator to provide the service.

(2) Without limiting subsection (1), a regulation may—

(a) limit the persons to whom restricted driver authorisation may be granted; or

(b) exclude an operator from granting restricted driver authorisation; or

(c) provide for restrictions applying to a driver under restricted driver authorisation.

30 Provisional driver authorisation

A regulation may provide for granting, or refusing to grant, driver authorisation on a provisional basis, including provisional authorisation in an emergency.

31 Applicant to notify charge for driver disqualifying offence etc.

(1) If an applicant for driver authorisation is charged with a driver disqualifying offence, the applicant must immediately notify the chief executive under the regulations.

Maximum penalty—100 penalty units.

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(2) When the charge is dealt with, the applicant must immediately notify the chief executive under the regulations of the outcome of the charge.

Maximum penalty—100 penalty units.

32 Amendment, suspension and cancellation of driver authorisations

(1) A regulation may make provision about amending, suspending or cancelling driver authorisations.

(1A) Without limiting subsection (1), a regulation may authorise the chief executive to amend, including immediately amend, a person's driver authorisation by imposing a condition on the authorisation.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's driver authorisation if the person is convicted of a category B or category C driver disqualifying offence.

(3) Without limiting subsection (1), a regulation may authorise the chief executive to immediately suspend a person's driver authorisation if the person is charged with a driver disqualifying offence or the chief executive otherwise considers it necessary in the public interest.

33 Authorised driver must notify charge for driver disqualifying offence etc.

(1) An authorised driver must immediately notify the chief executive under the regulations if the driver is charged with a driver disqualifying offence.

Maximum penalty—100 penalty units.

(2) When the charge is dealt with, the authorised driver must immediately inform the chief executive under the regulations of the outcome of the charge.

Maximum penalty—100 penalty units.

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33A Protection of children and vulnerable members of the community

(1) This section applies to the following when making decisions about driver authorisation—

(a) the chief executive;

(b) persons constituting a review panel under the *Transport Planning and Coordination Act 1994*;

(c) a court hearing an appeal against a decision about driver authorisation.

(2) If, because an applicant for, or a holder of, driver authorisation has been charged with or convicted of a driver disqualifying offence or for any other reason, the safety of children or other vulnerable members of the community becomes relevant, the paramount principle is that children and other vulnerable members of the community must be protected.

34 Authorised driver must notify suspension or cancellation of licence etc.

If a licence or other authorisation required under another Act to drive a vehicle of a type to which a person's driver authorisation relates is suspended or cancelled, the person must immediately notify the chief executive under the regulations.

Maximum penalty—100 penalty units.

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

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

Maximum penalty—20 penalty units.

(2) In this section—

damaged, in relation to an authorising document—

(a) means—

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

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

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

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

(b) includes destroyed.

35 Driver's obligation to notify of suspension or cancellation of licence etc.

(1) This section applies to a person who is an authorised driver and who drives a vehicle to provide a public passenger service if—

(a) the person is not the operator of the service; or

(b) for a booked hire service—another person provides booking services for the service.

(2) The person must immediately give written notice to the operator or other person if—

(a) a licence or other authorisation required under another Act to drive a vehicle of a type to which the person's driver authorisation relates is suspended or cancelled; or

(b) if the public passenger service is of a kind for which driver authorisation is required under this Act—the person's driver authorisation is suspended or cancelled.

Maximum penalty—100 penalty units.

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Part 3 Restricted release of information about driver authorisation

35H Restricted written release of information

(1) The chief executive may release, in writing, information kept under this Act about a person's driver authorisation to—

(a) on receiving an application in the approved form—

(i) the person; or

(ii) with the person's written consent—another person; or

(b) the commissioner of the police service for the purpose of any function of the commissioner or any function of the police service.

(2) Also, the chief executive may release, in writing, to an entity information kept under this Act about a person's driver authorisation if—

(a) the person produces the person's authorising document to the entity as proof of the person's identity; and

(b) the entity applies in the approved form for the information; and

(c) the information is necessary to verify the validity of the driver authorisation.

(3) An application mentioned in subsection (1)(a) or (2)(b) may be made electronically.

35I Restricted oral release of particular information

(1) The chief executive may orally release, to a person, information kept under this Act about the person's driver authorisation.

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(2) However, subsection (1) applies only if the chief executive is satisfied that the person is the person to whom the information relates.

Example for subsection (2)—

The chief executive may be satisfied as required under subsection (2) if the person correctly answers a series of questions, or produces a document, for identifying the person.

Chapter 5 Market entry restrictions

36 Market entry restrictions

(1) A regulation may declare that a public passenger service is to be provided with market entry restrictions.

(2) Before a regulation is made under subsection (1), the Minister must be of the opinion that the following criteria are met, or can be met or substantially met—

(a) the level of services would be greater than the level that would otherwise be provided;

(b) access to public passenger transport would be greater than would otherwise be achieved;

(c) service innovation would be greater than would otherwise be achieved;

(d) the particular public passenger services would better meet the Government's social justice objectives at a lower cost to the Government than would otherwise be achieved.

36AA No compensation for changes to market entry restrictions

(1) Compensation is not payable if a regulation under section 36(1) is made, amended or repealed.

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(2) Also, compensation is not payable if, because of a regulation mentioned in subsection (1)—

(a) anything previously permitted is prohibited or regulated; or

(b) anything previously prohibited is permitted or regulated; or

(c) anything previously regulated is no longer regulated or regulated in a different way.

(3) This section does not prevent a regulation providing for payment of compensation.

Chapter 5A Essential public transport infrastructure

36A Declaration of essential public transport infrastructure

(1) A regulation may declare infrastructure to be essential public transport infrastructure.

(2) However, the declaration may be made only if—

(a) the infrastructure is used, or may be used, for the provision of a public passenger service; and

(b) the Minister is satisfied that the infrastructure—

(i) makes up part of the transport network for public passenger services; and

(ii) is essential to the continuity of public passenger services.

(3) The declaration must identify the infrastructure and the public passenger service.

(4) In this section—

infrastructure includes land and any other property.

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36B Chief executive's power to give direction about use of essential public transport infrastructure

(1) The chief executive may, by written notice, give the owner of essential public transport infrastructure a direction—

(a) to allow any operator of the relevant service for the infrastructure to use the infrastructure on stated conditions fixed by the chief executive; and

(b) not to change the infrastructure in a way that restricts that use.

(2) However, before giving the direction, the chief executive must—

(a) give the relevant parties a reasonable opportunity to make written submissions about the proposed direction; and

(b) consider any submissions made under paragraph (a); and

(c) be satisfied that—

(i) the relevant parties have not been able to reach an agreement about the use under the proposed declaration; and

(ii) there is no other reasonably practicable alternative to the direction that will secure the use.

(3) The direction must—

(a) identify the infrastructure and the relevant service; and

(b) state a reasonable period within which the direction must be complied with; and

(c) include, or be accompanied by, an information notice about the decision to give the direction and the decision to fix the conditions.

(4) The direction is an ***essential infrastructure direction***.

(5) In this section—

relevant parties means—

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(a) the owner and anyone else who would, under section 36C, be bound by the proposed direction; and

(b) any operator of the relevant service.

relevant service means the public passenger service identified in the declaration that declared the essential public transport infrastructure.

36C Persons bound by essential infrastructure direction

An essential infrastructure direction binds—

(a) the owner and any lessee of the infrastructure to which the direction relates; and

(b) to the extent the infrastructure consists of land—any person with an interest in the land; and

(c) a transferee of the infrastructure from a person mentioned in paragraph (a) or (b); and

(d) a transferee of the infrastructure from a person mentioned in paragraph (c); and

(e) anyone else who has control of the infrastructure.

36D Failure to comply with essential infrastructure direction

A person who is bound by an essential infrastructure direction must comply with the direction.

Maximum penalty—1,665 penalty units.

36E Record of essential infrastructure direction in land registry

(1) This section applies if an essential infrastructure direction relates to land.

(2) As soon as practicable after giving the direction, the chief executive must give the registrar written notice of the giving of the direction.

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(3) The registrar must keep records showing that the direction has been given.

(4) The registrar must keep the records in a way that a search of any register kept by the registrar will show that the direction has been given.

(5) If the direction is amended or repealed, the chief executive must give written notice of that fact to the registrar.

(6) As soon as practicable after receiving a notice under subsection (5), the registrar must—

(a) for an amendment—change the records to reflect the amendment; or

(b) if the direction is repealed—remove the particulars of the direction from the records.

(7) In this section—

registrar means the registrar of titles under the *Land Title Act 1994* or another person responsible for keeping a register for dealings in land.

36F Compensation

(1) A person bound by an essential infrastructure direction may claim compensation from the State for costs incurred by the person in complying with the direction.

(2) The amount of the compensation is to be decided by agreement between the chief executive and the claimant or, if there is no agreement, by an arbitrator.

(3) The arbitrator must be appointed by—

(a) agreement between the chief executive and the claimant; or

(b) if the chief executive and the claimant can not agree—the Institute of Arbitrators & Mediators Australia or, if that body ceases to exist, another body that represents arbitrators.

(4) The compensation must not include any component for—

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(a) loss of income or profit for any use of the infrastructure other than that required to be allowed under the direction; or

(b) diminution in the value of the infrastructure or land related to the infrastructure because of the direction.

(5) Without limiting the matters an arbitrator may or may not take into account, a regulation may provide for matters to be considered, or not considered, in deciding the amount of compensation.

(6) The *Commercial Arbitration Act 2013* applies to the arbitration.

Chapter 6 Service contracts

Part 1 Preliminary

Division 1 Application of service contracts

37 Purpose of service contracts

The purpose of service contracts is to hold operators accountable for minimum performance levels to ensure the communities served under the contracts receive, at a reasonable cost, quality and innovative public passenger services.

38 What are service contracts

(1) A ***service contract*** is a contract between the chief executive for the State and an operator under which the operator is required to provide a public passenger service for an area or route in a way that meets or exceeds performance levels stated in the contract.

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(2) If—

(a) a regulation has been made under section 36 (Market entry restrictions) for a public passenger service; and

(b) the chief executive has declared, under section 42 (Declaration that service contracts are required), that a service contract is required to provide the service for an area or a route;

a service contract may provide the operator with the exclusive right to operate the public passenger service for the area or route.

38B Chief executive may enter into service contracts

The chief executive may, for the State, enter into a service contract.

39 Scope of service contracts

The categories of public passenger service for which service contracts may be required are—

(a) scheduled passenger services; and

(b) ferry services; and

(c) another category of public passenger services prescribed by regulation.

40 Service contracts to include minimum service levels

(1) A service contract must state minimum service levels to be complied with by the holder.

(2) Minimum service levels for a particular public passenger service must specify—

(a) the periods when the public passenger service is to be provided; and

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(b) the nature, frequency and extent of the public passenger service during the periods or particular parts of the periods.

(3) Minimum service levels must have regard to—

(a) the needs of the community for whose benefit the service is provided; and

(b) service levels in comparable communities, whether in Queensland, elsewhere in Australia or in a foreign country; and

(c) the cost of service provision.

41 Other matters to be included in service contracts

(1) A service contract may—

(a) establish performance outcomes for frequency, regularity, punctuality and accessibility; and

(b) establish performance outcomes for customer information and service; and

(c) establish principles for fare setting; and

(ca) establish principles for fare collection; and

(d) establish performance levels for the quality and type of public passenger vehicles; and

(e) establish criteria for government payments under the contract; and

(ea) require the holder to charge fares decided by the chief executive; and

(f) require the holder to provide or fund infrastructure associated with providing the public passenger service; and

(g) require the holder to have or develop a business plan outlining how the performance levels are to be achieved; and

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(h) require the holder to establish a management information system to monitor, record and report periodically on performance; and

(i) require the holder to provide the chief executive with information the chief executive may require; and

(j) establish performance outcomes for other aspects of the way the holder provides the public passenger service or carries on business; and

(ja) require the holder to provide improved levels of productivity; and

(k) provide for the payment of compensation by the holder if the holder contravenes a condition of the contract, including, for example, compensation for the cost of providing the service through another holder; and

(l) include other terms required by the chief executive.

(2) The chief executive—

(a) is obliged under a service contract to act in a reasonable way to facilitate the contract's operation; and

(b) has the other obligations stated in the contract.

Division 2 Requirement for service contracts

42 Declaration that service contracts are required

(1) This section applies to a public passenger service to which a regulation under section 36 applies.

(2) The chief executive may, by notice on the department's website, declare that a service contract will be required to provide a public passenger service of a specified kind for a specified area or route.

(3) In the notice given under subsection (2) or another notice on the department's website, the chief executive must fix the day on and from which the service contract is required.

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(4) Before deciding to make a declaration under subsection (2), the chief executive must—

(a) give written notice of the proposed declaration to all operators providing a public passenger service of the kind and for the area or route to be specified in the proposed declaration; and

(b) allow the operators at least 28 days to make written submissions to the chief executive, about the proposed declaration; and

(c) consider any submissions made under paragraph (b).

42A Other declarations that service contracts are required

A regulation may declare that, on and from a day to be fixed by the chief executive by gazette notice, a service contract will be required to provide a scheduled passenger service that is a ferry service operating in a specified area or on a specified route.

42B Amendment of service contract area or route

(1) The chief executive may, by notice on the department's website, amend the service contract area or route the subject of a declaration under section 42.

(2) However, the amendment may be made only if the chief executive is satisfied the amendment is necessary—

(a) to extend the service into developing areas; or

(b) because of changed traffic conditions; or

(c) for public safety; or

(d) to improve the service in the public interest.

(3) The notice must fix the day on which the amendment takes effect.

(4) Before deciding to make the amendment, the chief executive must—

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(a) give written notice of the proposed amendment to each affected operator; and

(b) allow each affected operator at least 28 days to make written submissions to the chief executive about the proposed amendment; and

(c) consider any submissions made under paragraph (b).

(5) In this section—

affected operator means—

(a) each holder of a service contract for the service contract area or route whose interests are materially affected by the proposed amendment; and

(b) if the amendment is to add an area or route—any operator providing a public passenger service of the kind specified in the declaration for the additional area or the additional route.

43 Obligation to hold service contracts

(1) A person must not provide a public passenger service for an area or route if the area or route is a service contract area or route for public passenger services of that kind unless the person is entitled to provide the public passenger service under—

(a) a service contract; or

(b) a written agreement with the chief executive; or

(c) with the chief executive's approval, a written agreement with the holder of a service contract.

Maximum penalty—

(a) if a holder of a service contract has the exclusive right to operate the public passenger service for the area or route—160 penalty units; or

(b) if the service contract area or route is in the integrated mass transit area—160 penalty units; or

(c) in any other case—30 penalty units.

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(2) For a service contract area or route that is not in the integrated mass transit area, a written agreement with the chief executive mentioned in subsection (1)(b) may be made only if—

(a) the chief executive has invited a service contract holder for the service contract area or route to offer to provide the public passenger service and the holder—

(i) refused the invitation; or

(ii) makes an offer that, in the chief executive's opinion, is not appropriate for the public passenger service; or

(iii) did not respond to the invitation within the time allowed for a response to it; or

(b) the public passenger service is not a service of a kind to which an existing service contract applies.

(3) A person must not provide a service for which a service contract is required under section 42A unless the person is entitled to provide the service under a service contract.

Maximum penalty—30 penalty units.

Division 3 Administrative provisions

44 Term of service contracts

(1) A service contract is for a term of not more than 7 years.

(2) Subsection (1) is also subject to sections 47 and 47A.

45 Conditions of service contracts

(1) A service contract is subject to conditions agreed by the parties.

(2) A service contract may provide for payment, by the holder, of an amount to the chief executive for a breach of a key performance indicator.

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(3) The payment can not be more than the equivalent of 40 penalty units.

(4) The payment is payable on demand by the chief executive and may be recovered as a debt payable to the chief executive.

(5) This section does not limit section 47 or the chief executive's right to damages for a breach of service contract, including damages arising out of a breach of a key performance indicator.

(6) In this section—

key performance indicator, for a service contract, means a term of the service contract identified in the contract as a key performance indicator.

46 Review of holder's performance

(1A) This section does not apply to a prescribed school service contract or a ferry service contract.

(1B) Subsections (4) to (7) do not apply to an integrated mass transit service contract.

(1) The chief executive may arrange for reviews of a holder's performance under a service contract.

(2) However, each service contract, other than an emergency service contract or a service contract for a term of less than 2 years, must be reviewed as near as practicable to the middle of the term of the contract (a ***midterm review***).

(3) A service contract may also be reviewed at another time if the parties agree.

(4) Each holder under a service contract must, for a midterm review, conduct a market based needs assessment for public passenger services of the relevant type for the contract area or route.

(5) The chief executive may make, and distribute to holders, guidelines to which operators must have regard in conducting assessments under subsection (4).

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(6) The chief executive must take into account any relevant research done by the holder.

(7) If, on a review, it is shown that the holder—

(a) has taken all reasonable steps to fulfil the contract and actively promoted the use of public passenger transport; but

(b) has not achieved the patronage levels agreed to by the chief executive and the holder;

the chief executive may review the holder's minimum service levels or work with the holder to achieve increased patronage.

(7A) On a review of an integrated mass transit service contract, the chief executive must take into account whether the holder is meeting the requirements of the holder's service contract.

(8) If, after a review, the chief executive is of the opinion the holder's performance has been inadequate in a significant respect, the chief executive—

(a) must notify the holder of the inadequacy; and

(b) may require the holder to take specified steps to remedy the inadequacy.

(9) If a holder fails to take the required steps to remedy the inadequacy within the time allowed by the chief executive, the chief executive may, by notice to the holder, terminate the service contract.

(10) Compensation is not recoverable from anyone (including the chief executive and the State) for or in relation to the termination of the service contract under subsection (9).

47 Amendment, suspension or cancellation of service contracts for breach of service contracts

(1) The chief executive may, by notice given to a holder, amend, suspend or cancel the holder's service contract if—

(a) the holder contravenes a condition of the contract; or

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(b) the chief executive reasonably believes a contravention of the contract by the holder is imminent.

(1A) However, the chief executive may not amend a holder's service contract to increase an amount payable to the chief executive for a breach of a key performance indicator.

(2) Before taking action against a holder under subsection (1), the chief executive must give the holder written notice of the intended action, and allow the holder an opportunity to make written representations about the intended action within 10 working days.

(3) The chief executive may, by notice given to a holder, immediately amend, suspend or cancel the holder's service contract if the chief executive reasonably believes that the holder is unable to provide any or all of the services required under the contract.

(4) A holder may claim compensation from the State if the holder incurs a cost, damage or loss because of the amendment, suspension or cancellation of the holder's service contract under subsection (3).

(5) Compensation or costs that may be recovered under subsection (4) may be claimed and ordered in a proceeding brought in a court having jurisdiction for the recovery of a debt in the amount claimed.

(6) A court may order the payment of compensation only if it is satisfied—

(a) there were no reasonable grounds for believing that the holder was unable to provide any or all of the services required under the contract; and

(b) it is just to make the order in the circumstances of the particular case.

(7) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.

(8) Subsection (4) has effect to the exclusion of any other remedy.

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(9) The amendment, suspension or cancellation of a service contract under this section is declared to be an excluded matter for the Corporations Act, section 5F in relation to the Corporations Act, section 440C.

47A Renewal of service contracts

(1) Despite section 44(1), a service contract, other than an emergency service contract, may contain a provision giving the holder of the contract the option of renewing the contract for 1 further term only.

(2) However, the option for renewal may not be exercised if the chief executive has given the holder a notice under subsection (3).

(3) The chief executive may, for this section, decide that the holder's performance under the contract has been unsatisfactory and give the holder written notice of the decision and the reasons for it.

(4) This section does not limit sections 62 and 62AAD.

48 Transfer or surrender of service contracts etc.

(1) The holder of a service contract may, with the chief executive's approval—

(a) transfer to another person all the holder's rights and liabilities in relation to providing future services under the contract; or

(b) if the contract relates to more than 1 area, route or service, transfer to another person all the holder's rights and liabilities in relation to providing future services under the contract for 1 or more of the areas, routes or services; or

(c) surrender the contract.

(2) On the transfer of rights and liabilities under subsection (1), for all purposes of this Act—

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(a) the transferee becomes the holder of a new service contract consisting of the transferred rights and liabilities for the remaining period of the original contract; and

(b) the transferor becomes the holder of a new service contract for the balance of the original rights and liabilities under the contract.

Example—

If an original service contract is for 2 school service routes, and 1 of the routes is transferred under this section, there are now 2 separate contracts for the purposes of an entitlement to a first opportunity to an offer for a new contract under section 62AC.

Division 4 Emergency service contracts

48A Chief executive may enter into emergency service contract

The chief executive may enter into a service contract if the chief executive is satisfied the contract is necessary as a matter of urgency—

(a) to establish a public passenger service; or

(b) to ensure the continuity of a public passenger service; or

(c) to provide a public passenger service in an interim period while another service contract for the service is being offered or negotiated.

48B Entering into an emergency service contract

(1) The chief executive may—

(a) invite offers from the public or operators, in whatever way the chief executive considers appropriate, for an emergency service contract; and

(b) decide the period within which offers must be made.

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(2) Despite subsection (1), the chief executive may enter into an emergency service contract without inviting offers for the contract if satisfied the contract is necessary to ensure the continuity of a public passenger service.

48C Term of emergency service contract

(1) An emergency service contract is, despite section 44(1), for the term of not more than 2 years decided by the chief executive.

(2) However, if the chief executive has entered into an emergency service contract without inviting offers for the contract, the contract can not be for a term of more than 12 months.

Part 2 Scheduled passenger services

Division 1 Preliminary

49 Application of part

This part applies only to scheduled passenger services.

51 Concessions under a service contract

(1) A service contract may require the holder to provide a concession to a class of persons.

(2) If—

(a) a standard service contract requires the holder to provide a concession to a class of persons; and

(b) subsection (3) does not apply;

the contract must provide for the State to reimburse the holder for the concession.

(3) If a standard service contract requires the holder to provide a concession to a class of persons prescribed by regulation, the

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contract may provide for the State to reimburse the holder for the concession.

52 Approval of basis for funding or other financial assistance by State

(1) The chief executive may enter into a service contract providing for funding or other financial assistance by the State only if the Minister has approved the basis on which the funding or other financial assistance is to be provided.

(2) In considering whether to give an approval under subsection (1), the Minister must have regard to the principle that funding or other financial assistance by the State for scheduled passenger services should be provided principally for—

(a) scheduled passenger services that the Government requires to be provided and that would not be provided, or provided at the same level, without funding or other financial assistance by the State; and

(b) reimbursement for government specified fare concessions.

(3) Each annual report of the department must include—

(a) for each holder of a service contract who received State funding or other financial assistance during the year to which the report relates—details of the funding or other financial assistance; and

(b) reasons for the funding or other financial assistance.

Division 2 General provisions for service contracts for general route services

54A Application of div 2

This division applies to all service contracts for general route services, other than integrated mass transit service contracts.

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55 Entering into a service contract for a general route service—no existing operators

If—

(a) an area or route is identified under section 42 for a general route service; and

(b) no-one has an entitlement under section 56(1) for the area or route;

the chief executive must, by public notice, invite offers from the public, whether by tender or in another way, for a service contract to provide the general route service for the area or route.

56 Entitlement of existing operators

(1) This section applies if—

(a) the chief executive proposes to enter into a service contract (a ***new contract***) under section 38B for an area or route declared under section 42; and

(b) there is an operator (an ***existing operator***) who already provides a general route service of the same kind for part or all of the area or route as the service that is to be provided under the new contract; and

(c) there is no holder of an existing service contract who must be invited to offer for the contract under section 62(1A).

(2) The existing operator is entitled to the first opportunity, exercised in the way set out in section 57, to offer for the new contract.

(3) This section does not apply to—

(a) a service contract holder operating under a service contract for the area or route—

(i) that states that section 62 does not apply to it; or

(ii) if the chief executive has—

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(A) issued a notice under section 46(9) or 62A to the holder; or

(B) issued a notice to the holder suspending or cancelling the holder's service contract under section 47(1); or

(C) received notice from the holder that the holder intends to surrender the holder's service contract; or

(b) a person providing a service, of the kind that is required to be provided under the service contract, under a written agreement with the holder.

57 Entering into a service contract for a general route service

(1) This section applies if an existing operator has an entitlement under section 56 in relation to a new contract.

(2) The chief executive must, by written notice, invite the operator to offer, whether by tender or in another way, for a service contract to provide the public passenger service for the area or route under the new contract.

(3) However, the chief executive must, by public notice, invite offers from the public, whether by tender or in another way, for the service contract if—

(a) no offer is made to the invitation within 60 days after it is made, or any extended time under subsection (4); or

(b) the operator makes an offer that the chief executive decides is unacceptable under section 59.

(4) The chief executive may by written notice to the existing operator, within the 60 days, extend that time, once only, by a maximum of 60 days.

(5) Despite subsection (3)(b), if—

(a) the operator makes an offer within the time allowed under subsection (3)(a); and

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(b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 59;

the chief executive may defer inviting public offers to allow an opportunity for a contract to be concluded with the operator.

59 Matters to be considered

(1) The chief executive—

(a) is not obliged to accept any offer for a service contract; and

(b) may only accept an offer for a service contract if the chief executive considers the offer to be acceptable for the contract.

(2) In deciding if an offer for a service contract is acceptable, the chief executive must have regard to at least the following—

(a) the needs of the community for whose benefit the service is to be provided;

(b) the ability of each offerer to meet the minimum service levels and other standards of performance specified in the offer;

(c) the cost of providing the service;

(d) the need for sustainability and continuity of services;

(e) any matters prescribed under a regulation.

(3) In deciding between 2 or more acceptable offers, the chief executive must select the offer the chief executive considers to be the best having regard to the matters mentioned in subsection (2)(a) to (e).

(4) In this section—

offer for a service contract, includes an offer under section 60(2) to provide a service for an amended service area or route.

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60 Service contract for amended service contract area or route

(1) This section applies if, under section 42B, a service contract area or route for a general route service is amended to add an area or route to the service contract area or route.

(2) The chief executive must, by written notice, invite the existing holder of the service contract for the service contract area or route the first opportunity to offer to provide the service for the amended area or route.

(3) If—

(a) the existing holder makes no offer within 60 days after the notice is given; or

(b) the holder makes an offer that the chief executive decides is unacceptable under section 59;

the chief executive must, by public notice, invite offers from the public to provide the service for the amended area or route (a ***public invitation***).

(4) Despite subsection (3), if—

(a) the holder makes an offer within the 60 days; and

(b) the chief executive considers the offer substantially complies with the requirements of an offer that would be acceptable under section 59;

the chief executive may defer the making of a public invitation to allow an opportunity for a service contract for the amended area or route to be concluded with the holder.

61 Compensation

(1) This section applies if—

(a) an existing operator is not awarded a service contract for the service contract area or route, or part of the service contract area or route, for which the operator was providing services; or

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(b) a decision is made under section 60, and an existing service contract holder—

(i) does not offer to provide the service for the amended service contract area or route; or

(ii) is not awarded a service contract to provide the service for the amended service contract area or route.

(1A) The chief executive may require the holder of the new or amended service contract, as a condition of it, to pay compensation to the existing operator or service contract holder.

(2) If offers for the new service contract were invited from the public, the chief executive may act under subsection (1A) only if the invitation stated that this section applied to the contract.

(3) The amount of compensation is to be decided by agreement between the holder of the new or amended service contract and the existing operator or service contract holder or, if there is no agreement, by an arbitrator appointed by the parties.

(4) Without limiting the matters an arbitrator may or may not take into account, a regulation may make provision about matters to be considered, or not considered, in deciding the amount of compensation.

(5) The *Commercial Arbitration Act 2013* applies to the arbitration.

62 Offer of new service contract

(1) This section applies if the chief executive—

(a) decides a service contract holder's performance under a service contract (the ***existing contract***) has been satisfactory; and

(b) proposes to offer a new service contract for the same kind of service provided under the existing contract, at

the end of its term, for the same, or substantially the same, service contract area or route.

(1A) The chief executive must, by written notice, invite the holder to offer, whether by tender or in another way, for the new service contract.

(2) The chief executive may invite offers from the public or someone else only if the holder—

(a) refuses the invitation; or

(b) fails to respond to the invitation within a time (of at least 60 days) allowed by the chief executive; or

(c) fails to make an offer that is acceptable or, despite section 59, is substantially acceptable.

(3) This section does not apply in relation to an existing contract—

(a) that is—

(i) an emergency service contract; or

(ii) a service contract in relation to which an option to renew may be exercised; or

(b) that states that this section does not apply to it.

62A Notice to be given

If the chief executive decides, for section 62, a service contract holder's performance under a service contract has not been satisfactory, the chief executive must give the holder written notice of the decision and the reasons for it.

Division 2AA Integrated mass transit service contracts

62AAA What is the *integrated mass transit area*

(1) The ***integrated mass transit area*** is—

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(a) the service contract areas or routes mentioned in schedule 1B; and

(b) another service contract area or route in the SEQ area, as prescribed under a regulation.

(2) In this section—

SEQ area means the combined local government areas of the following local governments under the *Local Government Act 1993* as that Act was in force immediately before 15 March 2008—

(a) the cities of Brisbane, Caloundra, Gold Coast, Ipswich, Logan, Redcliffe and Toowoomba;

(b) the shires of Beaudesert, Boonah, Caboolture, Esk, Gatton, Kilcoy, Laidley, Maroochy, Noosa, Pine Rivers and Redland.

62AAB Definition for div 2AA

In this division—

prescribed day, in relation to a notice under this division, means the day stated in the notice, being not less than 28 days after the date of the notice.

62AAC What is an *integrated mass transit service contract*

(1) An ***integrated mass transit service contract*** is a service contract for a general route service in the integrated mass transit area, under which contract—

(a) the holder charges the fare set by the chief executive; and

(b) the State retains the revenue; and

(c) the State pays the holder for the services provided.

(2) An integrated mass transit service contract does not give the holder the exclusive right to operate a general route service in the service contract area or route the subject of the contract.

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(3) For subsection (1), it does not matter whether the service contract was entered into before or after the commencement of this section.

62AACA Entering into an integrated mass transit service contract

(1) This section applies if—

(a) a declaration under section 42 is made for a service contract area or route (the ***new area or route***); and

(b) the chief executive proposes to provide a general route service (the ***new service***) for the new area or route, under an integrated mass transit service contract.

(2) The chief executive may—

(a) invite an affected operator, by written notice, to offer, by the prescribed day, to provide the new service (an ***operator invitation***); or

(b) invite any or all holders of integrated mass transit service contracts, by written notice, to offer, by the prescribed day, to provide the new service (a ***holder invitation***); or

(c) invite the public, by public notice, to offer to provide the new service (a ***public invitation***).

(3) If the chief executive makes an operator invitation and either—

(a) an affected operator makes no offer, or if there is more than 1 affected operator, no affected operator makes an offer, by the prescribed day; or

(b) if 1 or more offers are made, the chief executive decides no offer made is acceptable under section 62AAE;

the chief executive may make a holder invitation or a public invitation.

(4) If the chief executive makes a holder invitation and no holder of an integrated mass transit service contract—

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(a) makes an offer by the prescribed day; or

(b) makes an offer that the chief executive decides is acceptable under section 62AAE;

the chief executive may make a public invitation.

(5) However, if—

(a) an offer is made in response to an operator invitation or a holder invitation by the prescribed day; and

(b) the chief executive considers the offer substantially complies with the requirements of an offer that would be acceptable under section 62AAE;

the chief executive may defer the making of a public invitation to allow an opportunity for a service contract to be concluded with the offerer.

(6) In this section—

affected operator means an operator providing a general route service of the kind specified in the declaration for all or part of the new area or route.

62AAD Offer of new integrated mass transit service contract

(1) This section applies if the chief executive—

(a) decides the performance of a holder of an integrated mass transit service contract (the ***existing contract***) has been satisfactory; and

(b) proposes, at the end of the term of the existing contract, to invite offers for a new integrated mass transit service contract—

(i) for the same kind of general route service provided under the existing contract; or

(ii) for those services and additional services for the same area or route defined in the existing contract.

(2) The chief executive must, by written notice, invite the holder to offer for the new integrated mass transit service contract.

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(3) The chief executive may invite offers from any or all other holders of integrated mass transit service contracts or from the public only if the holder—

(a) refuses the invitation; or

(b) fails to respond to the invitation by the prescribed day; or

(c) fails to make an offer that is acceptable or, despite section 62AAE, is substantially acceptable.

(4) This section does not apply in relation to an existing contract—

(a) that is an emergency service contract; or

(b) that is a service contract in relation to which an option to renew may be exercised; or

(c) that states this section does not apply to it.

62AAE Matters to be considered generally when considering offers for integrated mass transit service contracts

(1) The chief executive—

(a) is not obliged to accept any offer for an integrated mass transit service contract; and

(b) may only accept an offer for an integrated mass transit service contract if the chief executive considers the offer to be acceptable for the contract.

(2) In deciding if an offer for an integrated mass transit service contract is acceptable, the chief executive must have regard to at least the following—

(a) the ability of each offerer to meet the minimum service levels and other standards of performance specified in the invitation to offer;

(b) the cost of providing the general route service;

(c) the need for sustainability and continuity of services;

(d) any matters prescribed under a regulation.

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(3) In deciding between 2 or more acceptable offers, the chief executive must select the offer the chief executive considers to be the best having regard to the matters mentioned in subsection (2)(a) to (d).

62AAF Unsatisfactory performance of integrated mass transit service contract holder

If the chief executive decides, for section 62AAD, that a service contract holder's performance under an integrated mass transit service contract has not been satisfactory, the chief executive must give the holder written notice of the decision and the reasons for it.

62AAG Service contract for amended service contract area or route

(1) This section applies if—

(a) under section 42B, a service contract area or route is amended (the ***amended service area or route***); and

(b) the chief executive proposes to provide a general route service (the ***amended service***) for the amended service area or route, under an integrated mass transit service contract.

(2) The chief executive may—

(a) invite an affected operator, by written notice, to offer, by the prescribed day, to provide the amended service (an ***operator invitation***); or

(b) invite any or all holders of integrated mass transit service contracts, by written notice, to offer, by the prescribed day, to provide the amended service (a ***holder invitation***); or

(c) invite the public, by public notice, to offer to provide the amended service (a ***public invitation***).

(3) If the chief executive makes an operator invitation and either—

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(a) an affected operator makes no offer, or if there is more than 1 affected operator, no affected operator makes an offer, by the prescribed day; or

(b) if 1 or more offers are made, the chief executive decides no offer made is acceptable under section 62AAE;

the chief executive may make a holder invitation or a public invitation.

(4) If the chief executive makes a holder invitation and no holder of an integrated mass transit service contract—

(a) makes an offer by the prescribed day; or

(b) makes an offer that the chief executive decides is acceptable under section 62AAE;

the chief executive may make a public invitation.

(5) However, if—

(a) an offer is made in response to an operator invitation or a holder invitation by the prescribed day; and

(b) the chief executive considers the offer substantially complies with the requirements of an offer that would be acceptable under section 62AAE;

the chief executive may defer the making of a public invitation to allow an opportunity for a service contract to be concluded with the offerer.

(6) In this section—

affected operator means—

(a) the holder of an integrated mass transit service contract providing a general route service of the specified kind within the area or route incorporated into the amended service area or route under the amendment under section 42B (the ***incorporated area***); or

(b) any other operator providing a general route service of that kind within the incorporated area; or

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(c) each holder of a service contract for the service contract area or route whose interests are materially affected by the amendment.

specified kind means the kind of general route service specified under the declaration under section 42 for the service.

62AAH Compensation

(1) This section applies if an affected operator under section 62AACA or 62AAG—

(a) did not offer to provide the new service or the amended service under that section; or

(b) is not awarded an integrated mass transit service contract to provide the new service or the amended service.

(2) The affected operator may claim compensation from the State.

(3) The amount of compensation payable to the affected operator is to be decided by agreement between the chief executive and the operator or, if there is no agreement, by an arbitrator appointed by the chief executive and the operator.

(4) Without limiting the matters an arbitrator may or may not take into account, a regulation may provide for matters to be considered, or not considered, in deciding the amount of compensation.

(5) The *Commercial Arbitration Act 2013* applies to the arbitration.

62AAI What happens when integrated mass transit service contract is surrendered, cancelled or terminated

(1) This section applies if an integrated mass transit service contract is surrendered, cancelled or terminated, whether by the chief executive or by the operator.

(2) The chief executive may do either of the following—

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(a) invite any or all holders of integrated mass transit service contracts, by written notice, to offer by the prescribed day for the integrated mass transit service contract;

(b) invite the public, by public notice, to offer for the integrated mass transit service contract.

(3) If the chief executive acts under subsection (2)(a) and either—

(a) no holder of an integrated mass transit service contract makes an offer by the prescribed day; or

(b) if 1 or more offers are made, the chief executive decides no offer made is acceptable under section 62AAE;

the chief executive may invite offers from the public under subsection (2)(b) for the integrated mass transit service contract.

(4) However, if—

(a) an offer is made under subsection (2)(a) by the prescribed day; and

(b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 62AAE;

the chief executive may defer inviting offers from the public under subsection (2)(b) to allow an opportunity for a contract to be concluded with the offerer.

Division 2A Inviting offers for prescribed school service contracts

62AA Application of div 2A to previous prescribed school service contracts

A reference in this division to a prescribed school service contract that has been entered into with the chief executive includes a contract entered before the commencement of this division.

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62AC Entitlement of satisfactorily performing existing operator under a service contract

(1) This section applies if—

(a) an operator is providing a school service for an area or route under a prescribed school service contract; and

(b) the chief executive proposes, at the end of the contract's term, to enter into a prescribed school service contract for the same, or substantially the same, area or route; and

(c) no notice has been given to the operator under subsection (4) for the contract.

(2) The chief executive must give the operator the first opportunity to offer for the contract by giving the operator a notice under subsection (3).

(3) The notice must invite the operator to make an offer, in a stated way, for the contract within a stated period of not less than 60 days.

(4) The chief executive may, for this section, decide that a contract holder's performance under the contract has been unsatisfactory and give the holder written notice of the decision and the reasons for it.

(5) This section does not apply in relation to a contract—

(a) that is an emergency service contract; or

(b) that states that this section does not apply to it.

62AD First opportunity to offer may be given to existing operator of school services under a service contract

(1) This section applies if—

(a) no operator is entitled under section 62AC to a first opportunity to offer for the contract; and

(b) 1 or more operators are providing school services for a school under a service contract; and

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(c) the chief executive proposes to enter into a prescribed school service contract for school services for the school.

(2) The chief executive may give each operator the first opportunity to offer for the contract by giving a notice under subsection (3) to each operator.

(3) The notice must invite the operator to make an offer, in a stated way, for the contract within a stated time of not less than 60 days.

(4) This section does not apply in relation to an emergency service contract.

62AE When public offer must be invited, and when offers may be invited in another way

(1) This section applies if the chief executive proposes to enter into a prescribed school service contract and—

(a) no operator is entitled to, or is to be given, the first opportunity to make an offer for the contract under section 62AC or 62AD; or

(b) an operator has been given a notice under section 62AC or 62AD inviting the operator to offer for the contract and—

(i) the operator fails to make an offer within the time stated in the notice; or

(ii) the operator refuses the invitation; or

(iii) the operator makes an offer that the chief executive decides is unacceptable under section 59.

(2) The chief executive must, by public notice, invite offers from the public, within a stated reasonable time, for a service contract to provide the service.

(3) However if—

(a) an operator makes an offer, within the time stated in a notice given under section 62AC or 62AD; and

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(b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 59;

the chief executive may defer inviting public offers to allow an opportunity for a contract to be concluded with the operator.

(4) The chief executive may invite offers, other than by public notice under subsection (2), in any way the chief executive considers appropriate, but only if the chief executive has already invited offers from the public under subsection (2).

(5) A time allowed to a person, under a notice or otherwise, for making an offer does not prevent the person from making an offer or further offer after that time.

62AF Prohibition on making offers to allow first opportunity

(1) This section applies if the chief executive proposes to enter into a prescribed school service contract and 1 or more operators are entitled to, or are to be given, the first opportunity to make an offer for the contract under section 62AC or 62AD.

(2) The chief executive must not invite anyone else to offer for the contract other than under section 62AE(2) or (4).

Part 4 Special events

67B Definition for pt 4

In this part—

non-integrated mass transit area means an area other than the integrated mass transit area.

67C Declaration of special event

(1) The chief executive may declare that an event to be carried out is a special event (a ***special event declaration***).

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(2) A special event declaration may be for a stated event or all events, or all events of a stated type, to be carried out at a stated place.

(3) A special event declaration may be made only if the chief executive considers that—

(a) there will be at least 5,000 participants or spectators at the event or events the subject of the declaration; and

(b) either—

(i) significant road closures or bus stop relocations are likely to be part of the management of transport to or from the event or events; or

(ii) the provision of transport services to or from the event or events is likely to rely on an increased use of vehicles or other facilitates funded by the chief executive.

(4) For subsection (3)(b)(i), a road closure or bus stop relocation is significant if it is likely to affect the provision of scheduled passenger services generally—

(a) if the event or events the subject of the declaration are to be carried out in the integrated mass transit area—in the integrated mass transit area; or

(b) otherwise—in the non-integrated mass transit area.

(5) A special event declaration is sufficiently made if the chief executive publishes the declaration on the department's website or in a newspaper circulating—

(a) if the event or events the subject of the declaration are to be carried out in the integrated mass transit area—in the integrated mass transit area; or

(b) otherwise—in the non-integrated mass transit area.

67D Coordination power for scheduled passenger services to special events

The chief executive may coordinate the provision of scheduled passenger services to and from a special event.

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67E Chief executive's approval required for special event services

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

Maximum penalty—200 penalty units.

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

67F Special event approvals

(1) An approval by the chief executive under section 67E(1) (a ***special event approval***) may—

(a) be given on the chief executive's own initiative; and

(b) be given for a specific scheduled passenger service to or from a special event or generally for a stated type of scheduled passenger service to or from a special event.

(2) A special event approval is sufficiently given if the chief executive publishes the approval on the department's website or in a newspaper circulating—

(a) if a special event the subject of the approval is to be carried out in the integrated mass transit area—in the integrated mass transit area; or

(b) otherwise—in the non-integrated mass transit area.

(3) The chief executive may impose conditions on the giving of a special event approval.

(4) The conditions may include a requirement that, before the special event approval applies to a person, the person must pay the chief executive a contribution to the chief executive's costs of coordinating the relevant scheduled passenger services.

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Chapter 7 Personalised transport services

Part 1 Preliminary

68 Main purpose of chapter

The main purpose of this chapter is to regulate taxi services, booked hire services and booking services to ensure—

(a) taxi services and booked hire services are provided safely using vehicles that are safe; and

(b) taxi services, booked hire services and booking services are accessible to members of the public generally and to particular classes of people, including, for example, people with disability, older people and people in regional and remote areas of Queensland; and

(c) all persons who are involved in providing taxi services, booked hire services and booking services are suitable to provide the services and are accountable.

69 Definitions for chapter

In this chapter—

hire on-the-spot, in relation to a vehicle and its driver, means arranging, in person, the hire of the vehicle and its driver for a journey to start immediately or shortly after the vehicle and its driver are hired.

relevant transport legislation means the following legislation—

(a) this Act;

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

(c) the *Motor Accident Insurance Act 1994*.

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70 What is a *taxi service*

(1) A ***taxi service*** is a public passenger service for a journey that starts in Queensland—

(a) provided by the hire of—

(i) a motor vehicle that has not more than 12 seating positions, including the driver's position; and

(ii) a person to drive the vehicle; and

(b) under which the vehicle plies or stands for hire by members of the public in a public place.

(2) For this chapter, the circumstances in which a vehicle plies or stands for hire by members of the public in a public place include the circumstances in which the vehicle and its driver are made available for hire on-the-spot by members of the public, including, for example, by—

(a) the vehicle standing at a taxi rank or other place where members of the public might reasonably expect taxis to be available for hire on-the-spot; or

(b) the vehicle having a sign, marking, light or other thing on it that might reasonably indicate to members of the public it is a taxi or another vehicle available for hire on-the-spot.

(3) For subsection (1), it does not matter where the journey ends or if the journey involves leaving and re-entering Queensland.

71 What is a *booked hire service*

(1) A ***booked hire service*** is a public passenger service for a journey that starts in Queensland—

(a) provided by the hire, other than the hire on-the-spot, of—

(i) a motor vehicle that has not more than 12 seating positions, including the driver's position, or is a limousine; and

(ii) a person to drive the vehicle; and

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(b) that may be used by the public, or a substantial part of the public, whether or not use of the service is subject to compliance with a condition.

Example of a condition for using a public passenger service—

holding an account or membership to use the service

(2) For subsection (1), it does not matter where the journey ends or if the journey involves leaving and re-entering Queensland.

72 What is a *booking service*

(1) A ***booking service*** is a service under which a person arranges a booking for the person or another person to drive a motor vehicle to provide a booked hire service.

(2) A person arranges a booking for the person to drive a motor vehicle to provide a booked hire service by accepting the booking.

(3) A person arranges a booking for another person to drive a motor vehicle to provide a booked hire service—

(a) if the person uses a booking system that requires the other person to accept the booking—by arranging for the booking to be accepted by the other person; or

(b) otherwise—by assigning the booking to the other person.

(4) For this section, a booking may be accepted by, or assigned to, a person in any way, including, for example—

(a) in person; or

Example of a booking accepted in person—

The driver of a motor vehicle accepts, in person, a booking from a person to drive the person for a journey to start in 2 days.

(b) by telephone or other telecommunication device; or

(c) by using an electronic booking system.

Example of an electronic booking system—

an electronic system that offers bookings to drivers and allows drivers to use an app on an electronic device to accept bookings

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(5) Also, for this section, it does not matter if the person who arranges a booking is in another State or a place that is outside Australia.

73 When a person *provides* a taxi service or booked hire service

For this chapter, a person ***provides*** a taxi service or booked hire service using a motor vehicle if the person—

(a) is an operator of the service; or

(b) drives the vehicle; or

(c) for a booked hire service—provides a booking service for the service.

Part 2 Taxi services and booked hire services

Division 1 Providing services

74 Taxi service may only be provided using a taxi

(1) A person must not provide a taxi service using a motor vehicle that is not a taxi.

Maximum penalty—

(a) if the person is the driver of the motor vehicle—

(i) for a first offence—200 penalty units; or

(ii) for a second or later offence—400 penalty units; or

(b) otherwise—

(i) for a first offence—200 penalty units; or

(ii) for a second offence—400 penalty units; or

(iii) for a third or later offence—3,000 penalty units.

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(2) A person in control of a motor vehicle that is not a taxi must not engage in conduct that involves the vehicle plying or standing for hire by members of the public in a public place.

Maximum penalty—

(a) for a first offence—200 penalty units; or

(b) for a second or later offence—400 penalty units.

Note—

See section 70(2) for particular circumstances in which a vehicle plies or stands for hire.

(3) Subsection (2) does not apply if the motor vehicle has more than 12 seating positions, including the driver's position.

(4) This section does not apply to a taxi service prescribed under a regulation as a taxi service to which this section does not apply.

Note—

See sections 150B and 150C in relation to the application of the penalty for subsections (1) and (2).

75 Restriction on providing booked hire service for particular taxi service area

(1) This section applies if a regulation under section 36 declares that a booked hire service is to be provided in a stated taxi service area with the market entry restriction of using a motor vehicle that is a taxi or limousine.

(2) A person must not provide a booked hire service for a journey that starts in the taxi service area using a motor vehicle that is not a taxi or limousine.

Maximum penalty—

(a) if the person is the driver of the motor vehicle—

(i) for a first offence—200 penalty units; or

(ii) for a second or later offence—400 penalty units; or

(b) otherwise—

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(i) for a first offence—200 penalty units; or

(ii) for a second offence—400 penalty units; or

(iii) for a third or later offence—3,000 penalty units.

Note—

See sections 150B and 150C in relation to the application of the penalty for this subsection.

(3) For subsection (2), it does not matter where the journey ends or if the journey involves leaving and re-entering the taxi service area.

76 Booked hire service may only be provided using particular motor vehicle

(1) A person must not provide a booked hire service using a motor vehicle that is not a booked hire vehicle, taxi or limousine.

Maximum penalty—

(a) if the person is the driver of the motor vehicle—

(i) for a first offence—160 penalty units; or

(ii) for a second or later offence—320 penalty units; or

(b) otherwise—

(i) for a first offence—160 penalty units; or

(ii) for a second offence—320 penalty units; or

(iii) for a third or later offence—2,400 penalty units.

Note—

See sections 150B and 150C in relation to the application of the penalty for this subsection.

(2) This section does not apply to a booked hire service prescribed by regulation as a booked hire service to which this section does not apply.

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77 Restriction on providing booked hire service requested using fixed booking device

(1) A person must not provide a booked hire service requested through a fixed booking device using a motor vehicle that is not a taxi.

Maximum penalty—

(a) if the person is the driver of the motor vehicle—

(i) for a first offence—200 penalty units; or

(ii) for a second or later offence—400 penalty units; or

(b) otherwise—

(i) for a first offence—200 penalty units; or

(ii) for a second offence—400 penalty units; or

(iii) for a third or later offence—3,000 penalty units.

Note—

See sections 150B and 150C in relation to the application of the penalty for this subsection.

(2) In this section—

fixed booking device means a device that is fixed at a place and has the primary function or purpose of allowing a person to request a booked hire service to be provided for a journey that starts at the place.

78 Booking service must be provided by authorised booking entity

(1) A person must not provide a booking service for another person to drive a motor vehicle to provide a booked hire service unless the person is an authorised booking entity for the booked hire service.

Maximum penalty—

(a) for a first offence—160 penalty units; or

(b) for a second offence—320 penalty units; or

(c) for a third or later offence—2,400 penalty units.

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(2) A person must not drive a motor vehicle to provide a booked hire service unless—

(a) if the booking to provide the service was arranged by another person—the other person is an authorised booking entity for the service; or

(b) if the booking to provide the service was arranged by the person—the person is an authorised booking entity for the service or is otherwise authorised to arrange the booking under a regulation.

Maximum penalty—

(a) for a first offence—160 penalty units; or

(b) for a second or later offence—320 penalty units.

Note—

See sections 150B and 150C in relation to the application of the penalty for subsections (1) and (2).

Division 2 Booking records for booked hire services

79 Application of division

This division does not apply to a booked hire service provided using a taxi.

80 What is a *booking record*

(1) A ***booking record*** is a written record—

(a) of a booking for a booked hire service; and

(b) that contains the details of the booking prescribed by regulation.

(2) For this division—

(a) a booking record may be made, kept, given, carried or produced for inspection electronically; and

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(b) a booking record may be kept, carried or produced for inspection by keeping, carrying or producing for inspection a copy of the record.

81 Booking entity's obligations

A person who provides a booking service for a booked hire service must—

(a) make a booking record for the booked hire service that is legible; and

(b) if the person is not the driver of the motor vehicle to be used to provide the service—before the journey starts, give a copy of the booking record to the driver; and

(c) keep the booking record for at least 2 years after the record is made; and

(d) if asked by an authorised person—produce the booking record for inspection by the authorised person.

Maximum penalty—80 penalty units.

82 Driver's obligations

(1) The driver of a motor vehicle used to provide a booked hire service for a journey must, while providing the service, carry a booking record for the service.

Maximum penalty—80 penalty units.

(2) For subsection (1), a motor vehicle is used to provide a booked hire service for a journey if the vehicle—

(a) is about to be used for the journey; or

(b) is being used for the journey; or

(c) has just been used for the journey.

(3) If asked by an authorised person, the driver must immediately—

(a) produce the booking record for inspection by the authorised person; or

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(b) allow the authorised person to enter the vehicle to read the booking record displayed on an electronic device if—

(i) it is not reasonably practicable for the authorised person to read the display from outside the vehicle; and

(ii) the authorised person tells the driver the authorised person needs to enter the vehicle to read the display.

Maximum penalty—80 penalty units.

(4) If an authorised person enters a motor vehicle under subsection (3)(b), the authorised person—

(a) may remain in the vehicle for only the period of time that is reasonably necessary to read the display; and

(b) may inspect the vehicle, and anything in the vehicle, only to the extent that is reasonably necessary to read the display.

Part 3 Safety duties

Division 1 Preliminary

83 Definitions for part

In this part—

business practices means the person's practices in running a business associated with providing a taxi service or booked hire service, including—

(a) the operating policies and procedures of the business; and

(b) the arrangements for preventing or minimising safety risks associated with the person's practices.

fatigue includes any of the following—

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(a) feeling sleepy;

(b) feeling physically or mentally tired, weary or drowsy;

(c) feeling exhausted or lacking energy;

(d) behaving in a way consistent with paragraph (a), (b) or (c).

reasonably practicable, in relation to a duty to ensure safety, means that which is, or was at a particular time, reasonably able to be done in relation to the duty, weighing up all relevant matters, including—

(a) the likelihood of a safety risk, or damage to property, happening; and

(b) the harm that could result from the risk or damage; and

(c) what the person knows, or ought reasonably to know, about the risk or damage; and

(d) what the person knows, or ought reasonably to know, about the ways of—

(i) removing or minimising the risk; or

(ii) preventing or minimising the damage; and

(e) the availability and suitability of those ways; and

(f) the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.

safety law means—

(a) the *Work Health and Safety Act 2011*; or

(b) the Heavy Vehicle National Law (Queensland).

safety risk means a risk to the safety of persons or property, including the safety of—

(a) the drivers of, and passengers in, vehicles; and

(b) persons or property in or in the vicinity of, or likely to be in or in the vicinity of, roads and public places, including other road users; and

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(c) vehicles and anything in them.

84 Persons in chain of responsibility

(1) Each of the following persons is a ***person in the chain of responsibility*** for a taxi service or booked hire service—

(a) an operator of the service;

(b) the holder of a taxi service licence, limousine licence or booked hire service licence for a motor vehicle used to provide the service;

(c) the driver of a motor vehicle used to provide the service;

(d) a registered operator of a motor vehicle used to provide the service;

(e) a holder of a booking entity authorisation under which a person provides booking services for the service;

(f) another person who provides booking services for the service;

(g) if an authorised booking entity who provides booking services for the service is a foreign person—the entity's local nominee.

(2) In this section—

registered operator see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

85 Relationship with other safety laws

(1) If a provision of this part and a provision of another safety law deal with the same thing and it is possible to comply with both provisions, a person must comply with both provisions.

(2) However, to the extent it is not possible for the person to comply with a provision of this part and a provision of another safety law dealing with the same thing, the person must comply with—

(a) the provision of the other safety law; or

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(b) if, under the other safety law, the person is required to comply with a provision of another safety law—the provision of the other safety law.

(3) Evidence of a contravention of this part is admissible in any proceeding for an offence against a provision of another safety law.

(4) If an act, omission or circumstances constitute an offence under this part and another safety law, the offender is not liable to be punished more than once for the act, omission or circumstances.

Division 2 Principles

86 Principle of shared responsibility

(1) The safety of activities associated with providing a taxi service or booked hire service is the shared responsibility of each person in the chain of responsibility for the service.

(2) The level and nature of a person's responsibility for an activity depends on—

(a) the functions the person performs or is required to perform, whether exclusively or occasionally; and

(b) the nature of the safety risks created by the carrying out of the activity; and

(c) the person's capacity to control, eliminate or minimise the risks.

87 Principles applying to duties

(1) A person may have more than 1 duty because of the functions the person performs or is required to perform.

(2) More than 1 person can concurrently have the same duty.

(3) Each person must comply with the duty to the standard required under this part even if another person has the same duty.

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(4) If more than 1 person has a duty for the same matter, each person—

(a) is responsible for the person's duty in relation to the matter; and

(b) must discharge the person's duty to the extent to which the person—

(i) has the capacity to influence and control the matter; or

(ii) would have the capacity but for an agreement or arrangement purporting to limit or remove that capacity.

(5) A person's duty can not be transferred to another person.

(6) Compliance with relevant transport legislation or a safety law is not, of itself, evidence that a person has discharged a duty under this part.

Division 3 Nature of primary duties

88 Primary duty of care

(1) Each person in the chain of responsibility for a taxi service or booked hire service must ensure, so far as is reasonably practicable, the safety of the person's activities, including business practices and making decisions, relating to providing the service.

(2) Without limiting subsection (1), each person in the chain of responsibility must—

(a) eliminate safety risks or, to the extent it is not reasonably practicable to eliminate safety risks, minimise the safety risks; and

(b) ensure the person's conduct does not directly or indirectly encourage another person, including another person in the chain of responsibility, to contravene a provision of relevant transport legislation relating to—

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(i) providing a taxi service or booked hire service; or

(ii) a motor vehicle used to provide a taxi service or booked hire service.

89 Duty of executive officer of corporation

(1) If a corporation has a duty under section 88, an executive officer of the corporation must exercise due diligence to ensure the corporation complies with the duty.

Maximum penalty—the penalty under section 90, 91 or 91A for an offence relating to the duty under section 88 committed by an individual.

(2) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) even if the corporation has not been proceeded against for, or convicted of, an offence relating to the duty.

(3) In this section—

due diligence includes taking reasonable steps to—

(a) acquire, and keep up to date, knowledge about the safe conduct of activities relating to providing taxi services or booked hire services; and

(b) gain an understanding of—

(i) the nature of the corporation's activities relating to providing taxi services or booked hire services; and

(ii) the safety hazards and risks associated with those activities; and

(c) ensure the corporation has, and uses, appropriate resources to eliminate or minimise those hazards and risks; and

(d) ensure the corporation has, and implements, processes—

(i) to eliminate or minimise those hazards and risks; and

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(ii) for receiving, considering, and responding in a timely way to, information about those hazards and risks and any incidents; and

(iii) for complying with the corporation's duty under section 88; and

(e) verify the resources and processes mentioned in paragraphs (c) and (d) are being provided, implemented and used.

Division 4 Failing to comply with primary duties

90 Reckless conduct—category 1

(1) A person commits an offence if—

(a) the person has a duty under section 88; and

(b) the person, without a reasonable excuse, engages in conduct related to the duty that exposes an individual, or class of individuals, to a risk of death or serious injury or illness; and

(c) the person is reckless to the risk.

Maximum penalty—

(a) for an individual—3,000 penalty units or 5 years imprisonment; or

(b) for a corporation—30,000 penalty units.

(2) The prosecution bears the burden of proving that the conduct was engaged in without reasonable excuse.

91 Failure to comply with duty—category 2

A person commits an offence if—

(a) the person has a duty under section 88; and

(b) the person contravenes the duty; and

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(c) the person's contravention exposes an individual, or class of individuals, to a risk of death or serious injury or illness.

Maximum penalty—

(a) for an individual—1,500 penalty units; or

(b) for a corporation—15,000 penalty units.

91A Failure to comply with duty—category 3

A person commits an offence if—

(a) the person has a duty under section 88; and

(b) the person contravenes the duty.

Maximum penalty—

(a) for an individual—500 penalty units; or

(b) for a corporation—5,000 penalty units.

Division 5 Duties relating to fatigue management

91B Duties relating to fatigue

(1) A person must not drive a motor vehicle being used to provide a taxi service or booked hire service while the person's ability to drive the motor vehicle safely is impaired by fatigue.

Maximum penalty—160 penalty units.

(2) A person in the chain of responsibility for a taxi service or booked hire service must take all reasonable steps to ensure another person does not drive a motor vehicle to provide the service while the other person's ability to drive the motor vehicle safely is impaired by fatigue.

Maximum penalty—160 penalty units.

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91C Regulation may impose other fatigue management duties or requirements

(1) A regulation may impose other duties or requirements on a person in the chain of responsibility for a taxi service or booked hire service about managing driver fatigue.

(2) A regulation under subsection (1) may, for example, impose—

(a) standards about time spent driving a motor vehicle; and

(b) requirements about monitoring, recording and reporting about time spent driving a motor vehicle; and

(c) requirements about using particular equipment or technology for managing fatigue; and

(d) requirements for training drivers and other persons in the chain of responsibility about managing driver fatigue.

Part 4 Licences and authorisation for personalised transport services

Division 1 Taxi service licences

91D What is a *taxi service licence*

A ***taxi service licence*** is a licence for a taxi service area issued by the chief executive under which the holder may provide taxi services and booked hire services using the motor vehicle stated in the licence.

91E Original taxi service licence

(1) A taxi service licence that was in force immediately before the commencement (an ***original taxi service licence***) continues in

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force as a taxi service licence under section 91D for the taxi service area stated in the licence.

(2) An original taxi service licence is for the term, of not more than 5 years, stated in the licence.

(3) An original taxi service licence must, at the request of the licence holder, be renewed for successive terms of 5 years if its conditions are complied with.

(4) However, an original taxi service licence may be renewed for a shorter term if the applicant for renewal asks for a shorter term.

91F Issue of a taxi service licence

(1) The chief executive may issue a taxi service licence for a taxi service area.

(2) However, before the chief executive issues a taxi service licence, the chief executive must, by public notice, invite offers to purchase the taxi service licence—

(a) stating the intention to issue the licence; and

(b) calling for offers for the taxi service licence.

(3) The chief executive is not obliged to accept any offer for a taxi service licence.

(4) A taxi service licence may be issued—

(a) for the term, of not more than 5 years, stated in the licence; and

(b) on a renewable or non-renewable basis.

(5) For a taxi service licence issued on a renewable basis—

(a) the first term of the licence must be less than 5 years; and

(b) the licence may be renewed for 1 or more successive terms; and

(c) the sum of the terms of the licence must be not more than 5 years.

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(6) A taxi service licence issued on a non-renewable basis must not be renewed.

(7) A taxi service licence issued under this section is not transferable to another person.

91G Transfer of taxi service licence between taxi service areas

(1) The chief executive may amend a taxi service licence to change the taxi service area for the licence to another taxi service area if—

(a) the holder of the licence successfully offers for a transfer to the other taxi service area following the calling of offers by public notice; or

(b) the taxi service areas are amalgamated.

(2) Subsection (3) applies if, in the chief executive's opinion, the value of a taxi service licence increases because the licence is transferred to another taxi service area under subsection (1)(a).

(3) The chief executive may require, as a condition of a transfer mentioned in subsection (1)(a), the holder of the taxi service licence to pay to the chief executive an amount representing the increase in value.

(4) This section does not limit the power to make regulations about amending taxi service licences.

Division 2 Limousine licences

91H What is a *limousine licence*

(1) A ***limousine licence*** is a licence issued by the chief executive under which the holder may provide booked hire services using the motor vehicle stated in the licence.

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(2) A limousine service licence that was in force immediately before the commencement continues in force as a limousine licence under subsection (1).

(3) The chief executive must not issue any new limousine licences.

(4) A limousine service area stated in a limousine licence has no effect.

91I Term of limousine licence

(1) A limousine licence is for the term, of not more than 5 years, stated in the licence.

(2) Subject to subsection (4), a limousine licence may be renewed for successive terms of—

(a) for a special purpose limousine licence—1 year; or

(b) otherwise—5 years.

(3) However, a limousine licence may be renewed for a shorter term if the applicant for the renewal asks for a shorter term.

(4) A regulation may prescribe a day after which a special purpose limousine licence must not be renewed.

(5) In this section—

special purpose limousine licence means a limousine licence that, immediately before the commencement, was a special purpose limousine service licence under this Act.

Division 3 Booked hire service licences

91J What is a *booked hire service licence*

A ***booked hire service licence*** is a licence issued by the chief executive under which the holder may provide booked hire services using the motor vehicle stated in the licence.

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91K Issuing or refusing booked hire service licence

(1) A regulation may provide for issuing, or refusing to issue, booked hire service licences.

(2) Without limiting subsection (1), a regulation may—

(a) state the circumstances in which the chief executive may refuse to issue a person a booked hire service licence; and

(b) provide for the form and contents of a booked hire service licence.

91L Term of booked hire service licence

(1) A booked hire service licence is for a term of—

(a) the period prescribed by regulation; or

(b) if no period is prescribed—the period of not more than 1 year stated in the licence.

(2) A booked hire service licence is issued on a non-renewable basis and must not be renewed.

(3) However, before a booked hire service licence expires, the holder of the licence may apply for another booked hire service licence to replace the expiring licence.

91M Booked hire service licence not transferable

A booked hire service licence is not transferable to another person.

Division 4 General provisions for licences

91N Application of division

This division applies for the following licences—

(a) a taxi service licence;

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(b) a limousine licence;

(c) a booked hire service licence.

91O Conditions of licence

(1) A licence is subject to the conditions stated in it by the chief executive.

(2) The holder of a licence and the operator of a taxi service or booked hire service provided using a motor vehicle stated in the licence must not contravene a condition of the licence.

Maximum penalty for subsection (2)—40 penalty units.

91P Amendment of licence

(1) A regulation may authorise the chief executive to amend the conditions of a licence if the chief executive is satisfied the amendment is necessary for improving public passenger services in the public interest.

(2) A regulation may also authorise the amendment of a licence in other circumstances and make other provision about amending a licence.

91Q Notice to driver about licence

(1) The operator of a taxi service or booked hire service provided using a motor vehicle must give each driver of the vehicle a written notice stating the following information for the licence for the vehicle—

(a) the details of the vehicle stated in the licence;

(b) any conditions of the licence;

(c) for a taxi service licence—the taxi service area for the licence.

Maximum penalty—40 penalty units.

(2) The driver of a motor vehicle being used to provide a taxi service or booked hire service must, if asked by an authorised

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person, produce the notice for inspection by the authorised person unless the driver has a reasonable excuse.

Maximum penalty—20 penalty units.

(3) A notice may be given, or produced for inspection, under this section electronically.

91R Vehicle stated in licence

(1) The motor vehicle stated in a licence must comply with the requirements for the vehicle (the ***vehicle requirements***) prescribed by regulation.

(2) To the extent a vehicle requirement is about the type of motor vehicle, subsection (1) does not apply to a motor vehicle stated in a limousine licence if the motor vehicle was stated in the licence immediately before the commencement.

(3) A regulation may allow—

(a) the holder of a licence to apply to the chief executive to change the motor vehicle stated in the licence to another vehicle that complies with the vehicle requirements; and

(b) a vehicle that complies with the vehicle requirements, other than the vehicle stated in a licence, to be used under the licence in stated circumstances and on stated conditions.

91S Transfer, lease or surrender of licence

(1) A regulation may provide for—

(a) an original taxi service licence or limousine licence (other than a special purpose limousine licence) to be transferred to another person; or

(b) a licence to be leased or surrendered.

(2) A special purpose limousine licence is not transferable to another person.

(3) In this section—

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special purpose limousine licence see section 91I(5).

91T Suspending and cancelling licence

(1) A regulation may provide for suspending and cancelling a licence.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to—

(a) suspend or cancel a person's licence if the person contravenes—

(i) a condition of the licence; or

(ii) a provision of relevant transport legislation relating to providing a taxi service or booked hire service or a motor vehicle used to provide a taxi service or booked hire service; or

(b) immediately suspend a person's licence if—

(i) the vehicle is required to comply with the vehicle requirements prescribed under section 91R(1) and the vehicle does not comply with the requirements; or

(ii) the chief executive considers it necessary in the public interest.

91U Register of licences

(1) The chief executive must keep a register of licences.

(2) The register must contain at least the following particulars for each licence—

(a) the holder's name and contact details;

(b) the number of the licence;

(c) the day the licence takes effect and expires;

(d) details of the vehicle stated in the licence;

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(e) for a taxi service licence—the taxi service area for the licence;

(f) any conditions of the licence.

(3) The register may be kept in a form, including electronic form, the chief executive considers appropriate.

(4) The chief executive may publish information from the register on the department's website including, for example—

(a) the number of a licence; and

(b) details of the vehicle stated in a licence.

(5) However, the chief executive must not publish information from the register about an individual.

Division 5 Booking entity authorisations

Subdivision 1 Booking entity authorisations generally

91V What is a *booking entity authorisation* and an *authorised booking entity*

(1) A ***booking entity authorisation*** is an authority under which a person may provide booking services for a booked hire service.

(2) A person is an ***authorised booking entity*** for a booked hire service if the person holds a booking entity authorisation for the booked hire service.

91W Granting, renewing or refusing booking entity authorisation

(1) A regulation may provide for granting, renewing, or refusing to grant or renew, a booking entity authorisation.

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(2) If an applicant for a booking entity authorisation is a foreign person, the application for the booking entity authorisation must include—

(a) the applicant's nomination of its representative under section 91ZD; and

(b) any other information required by the chief executive.

(3) Without limiting subsection (1), a regulation may—

(a) state the circumstances in which the chief executive may refuse to grant a person a booking entity authorisation or renew a person's authorisation, including, for example, that the person or another relevant person has been charged with, or convicted of, a disqualifying offence; and

(b) provide for an authorising document; and

(c) provide for the form and contents of an authorising document.

91X Term of booking entity authorisation

A booking entity authorisation is for the term, of not more than 5 years, stated in the authorising document.

91Y Conditions of booking entity authorisation

(1) A booking entity authorisation is subject to the conditions stated in the authorising document by the chief executive.

(2) An authorised booking entity must not contravene a condition of the entity's booking entity authorisation.

Maximum penalty—40 penalty units.

91Z Amendment of booking entity authorisation

(1) A regulation may authorise the chief executive to amend the conditions of a booking entity authorisation if the chief executive is satisfied the amendment is necessary for

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improving booking services for booked hire services in the public interest.

(2) A regulation may also authorise the amendment of a booking entity authorisation in other circumstances and make other provision about amending a booking entity authorisation.

91ZA Suspension and cancellation of booking entity authorisation

(1) A regulation may provide for suspending and cancelling a booking entity authorisation.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to—

(a) suspend or cancel a person's booking entity authorisation if—

(i) the person or, for a person who is a foreign person, the person's local nominee contravenes a condition of the authorisation; or

(ii) the person or, for a person who is a foreign person, the person's local nominee contravenes a provision of relevant transport legislation relating to providing a booked hire service or a motor vehicle used to provide a booked hire service; or

(iii) the person or another relevant person has been charged with, or convicted of, a disqualifying offence; and

(b) immediately suspend a person's booking entity authorisation if—

(i) for a person who is a foreign person—the person does not have a local nominee; or

(ii) the person or, for a person who is a foreign person, the person's local nominee takes steps to avoid detection of, or prosecution for, an offence committed by the person or another person in

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relation to providing a booked hire service or booking service for a booked hire service; or

(iii) the chief executive considers it necessary in the public interest.

91ZB Transfer, lease or surrender

(1) A booking entity authorisation is not transferable to another person and can not be leased.

(2) A regulation may provide for a booking entity authorisation to be surrendered.

Subdivision 2 Local nominee

91ZC Application of subdivision

This subdivision applies if an authorised booking entity is a foreign person.

91ZD Requirement for local nominee

(1) The authorised booking entity must nominate 1 person to be its representative for the purposes of this Act (the entity's ***local nominee***).

(2) The nominated person must be—

(a) an individual who usually lives in Australia; or

(b) a corporation incorporated in Australia.

(3) The nomination must—

(a) be given to the chief executive in the approved form; and

(b) include the nominated person's signed written consent to the nomination.

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91ZE Local nominee is liable for offence against the Act

(1) If the authorised booking entity commits an offence against this Act, the entity's local nominee is taken to have also committed the offence.

(2) If the authorised booking entity is a corporation, the entity's local nominee, on conviction of an offence under subsection (1), is liable to the penalty that applies for a corporation convicted of the offence, whether or not the local nominee is an individual or a corporation.

Note—

See the *Penalties and Sentences Act 1992*, section 181B in relation to fines for a corporation for offences for which a fine for a corporation is not expressly stated.

(3) The local nominee may be proceeded against for, and convicted of, the offence whether or not the authorised booking entity has been proceeded against for, or convicted of, the offence.

(4) This section does not affect—

(a) the liability of the authorised booking entity for the offence; or

(b) the liability, under the Criminal Code, chapter 2, of any person for the offence.

91ZF Giving document or information

(1) A notice, direction, report or other document is given to the authorised booking entity under this Act by giving the notice, direction, report or other document to the entity's local nominee.

(2) A notice or other document, other than a nomination under section 91ZD(3), or information given to the chief executive under this Act by an authorised booking entity's local nominee is taken to have been given to the chief executive by the authorised booking entity.

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Subdivision 3 General provisions

91ZG Obligation to keep and provide information

(1) An authorised booking entity must keep the information prescribed by regulation about the following matters, in the way and for the period prescribed by regulation—

(a) the booking services provided by the entity;

(b) booked hire services for which the entity provides booking services.

Maximum penalty—150 penalty units.

(2) An authorised booking entity must provide the information the entity must keep under subsection (1) to the chief executive, in the way and at the times prescribed by regulation.

Maximum penalty—150 penalty units.

(3) Information given to the chief executive under this section is not admissible in a civil, criminal or administrative proceeding other than a proceeding about complying with subsection (1) or (2).

91ZH Register of booking entity authorisations

(1) The chief executive must keep a register of booking entity authorisations.

(2) The register must contain at least the following particulars for each booking entity authorisation—

(a) the authorised booking entity's name, business name (if any) and contact details;

(b) the number of the authorisation;

(c) the day the authorisation takes effect and expires;

(d) if the entity is a foreign person—the name, business name (if any) and contact details of the entity's local nominee;

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(e) any conditions of the authorisation.

(3) The register may be kept in a form, including electronic form, the chief executive considers appropriate.

(4) The chief executive may publish information from the register on the department's website, including, for example, the following—

(a) an authorised booking entity's name and business name (if any);

(b) if an authorised booking entity is a foreign person—the name and business name (if any) of the entity's local nominee;

(c) the identifying number of a booking entity authorisation.

(5) However, the chief executive must not publish information from the register about an individual other than the information mentioned in subsection (4)(a) and (b).

Part 5 Enforcement

Division 1 Driving sanctions for driver offences

91ZHA Application of division

(1) This division applies if a person has—

(a) committed 3 or more relevant driver offences within a 3-year period; or

(b) if a driving sanction has previously been imposed on the person under section 91ZJ—committed a further 3 or more relevant driver offences within a later 3-year period.

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Note—

See section 150C for when a person commits an offence for this section.

(2) For subsection (1), if a person committed 2 or more relevant driver offences because of conduct the person engaged in at a particular time, the person is taken to have committed only 1 relevant driver offence at the time.

(3) It does not matter whether a 3-year period mentioned in subsection (1)(b) started before, during or after the period the driving sanction mentioned in that subsection was in effect.

(4) In this section—

conduct means an act or an omission to perform an act.

91ZI What is a *relevant driver offence*

(1) An offence committed by the driver of a motor vehicle against any of the following provisions is a ***relevant driver offence***—

(a) section 27(1);

(b) section 74(1) or (2);

(c) section 75(2);

(d) section 76(1);

(e) section 77(1);

(f) section 78(2);

(g) section 82(1) or (3).

(2) Also, an offence committed by the driver of a motor vehicle is a ***relevant driver offence*** if the offence is committed—

(a) against a provision prescribed by regulation to be a provision to which this section applies; and

(b) either—

(i) while the driver is driving a taxi, booked hire vehicle or limousine; or

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(ii) while the driver is providing a taxi service or booked hire service.

91ZJ Chief executive may impose driving sanction

(1) The chief executive may take the following action in relation to the person (each a ***driving sanction***)—

(a) if the person holds a Queensland driver licence—suspend the person's Queensland driver licence;

(b) if the person's authority to drive on a Queensland road is under a driver licence other than a Queensland driver licence—suspend the person's authority under the licence to drive on a Queensland road;

(c) if the person does not hold a driver licence—disqualify the person from holding or obtaining a driver licence.

(2) A driving sanction imposed on a person under subsection (1) has effect for the following period—

(a) for a first driving sanction—1 month;

(b) for a second or later driving sanction—3 months.

(3) The chief executive imposes a driving sanction under subsection (1) by giving a person a written notice stating the following—

(a) the nature of the driving sanction being imposed;

(b) the day the sanction starts, which must be at least 7 days after the day the notice is given;

(c) the day the sanction ends;

(d) the reasons for the sanction;

(e) that the person may not apply to the chief executive for reconsideration of the decision or to QCAT for a review of the decision.

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91ZK General effect of suspension of driver licence

(1) This section applies if the chief executive suspends a person's Queensland driver licence under section 91ZJ.

(2) While the person's driver licence is suspended, the person is not eligible to apply for a special hardship order under the *Transport Operations (Road Use Management) Act 1995*.

Note—

A special hardship order under the *Transport Operations (Road Use Management) Act 1995* authorises a person whose driver licence has been suspended to continue to drive motor vehicles in stated circumstances. See section 150(1A) of that Act.

(3) Subsection (2) applies despite the *Transport Operations (Road Use Management) Act 1995*.

(4) The suspension of the person's driver licence—

(a) is not affected by the renewal or replacement of the suspended licence; and

(b) does not affect the suspension or cancellation of the licence under another Act, whether by operation of law or the exercise of a power by a court or another person.

91ZL Effect of suspension of driver licence on vehicle insurance

(1) The suspension of a person's driver licence under this Act does not terminate a vehicle insurance policy.

(2) Also, a claim under a vehicle insurance policy can not be refused only because a person's driver licence is suspended under this Act.

(3) This section applies despite anything to the contrary in a vehicle insurance policy or any other agreement.

(4) In this section—

***vehicle insurance policy*—**

(a) means a policy of insurance for damage or loss caused by, or arising from, the use or operation of a vehicle; but

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(b) does not include a CTP insurance policy under the *Motor Accident Insurance Act 1994*.

Division 2 Audits

91ZM Purpose of division

The purpose of this division is to allow the chief executive or an authorised person to carry out an audit of a person in the chain of responsibility for a taxi service or booked hire service for either or both of the following purposes—

(a) to assess the person's compliance with relevant transport legislation in relation to—

(i) providing the service; or

(ii) a motor vehicle used to provide the service;

(b) to verify information given to the chief executive about the person's business activities relating to providing the service.

91ZN Audit notice

(1) The chief executive or an authorised person may give a person in the chain of responsibility for a taxi service or booked hire service a written notice (an ***audit notice***) requiring the person—

(a) to allow the chief executive or authorised person to carry out an audit, within the period stated in the notice, of the person's business activities for a purpose mentioned in section 91ZM; and

(b) to enable the chief executive or authorised person to carry out the audit, to cooperate with every reasonable requirement of the chief executive or authorised person.

(2) An audit notice must state the following—

(a) the purpose of the audit;

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(b) the period during which the audit is to be carried out;

(c) that a report of the audit will be given to the person;

(d) other matters prescribed by regulation.

(3) The chief executive may give a person an audit notice as frequently as the chief executive reasonably requires for a purpose mentioned in section 91ZM.

91ZO Failure to comply with audit notice

A person who is given an audit notice must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

91ZP Audit report

(1) As soon as practicable after an audit is carried out, the chief executive must give the person whose business activities were audited a report about the audit.

(2) An audit report must include the matters prescribed by regulation.

91ZQ Direction to comply

(1) This section applies if an audit report identifies that the person whose business activities were audited has not complied with a provision of relevant transport legislation in relation to—

(a) providing a taxi service or booked hire service; or

(b) a motor vehicle used to provide a taxi service or booked hire service.

(2) The chief executive or an authorised person may give the person a written direction to—

(a) if the person's noncompliance mentioned in subsection (1) exposes an individual to a risk of death or serious injury or illness—

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(i) immediately comply with the provision of relevant transport legislation; and

(ii) take the action stated in the direction to remedy the noncompliance; or

(b) otherwise—comply with the provision of relevant transport legislation, within the period, of not less than 5 business days, stated in the direction.

(3) A direction must—

(a) identify the noncompliance; and

(b) state that failure to comply with the direction, without a reasonable excuse, is an offence; and

(c) state the direction does not relieve the person from the obligation to comply with another provision of relevant transport legislation.

(4) The chief executive may, by written notice, extend the period for complying with a provision of relevant transport legislation for a direction given under subsection (2)(b).

(5) The person to whom a direction is given under subsection (2) must not contravene the direction unless the person has a reasonable excuse.

Maximum penalty—

(a) for contravention of a direction mentioned in subsection (2)(a)—320 penalty units; or

(b) otherwise—160 penalty units.

Division 3 Other offences

91ZQA Avoiding detection or prosecution

(1) A person must not take steps to avoid detection of, or prosecution for, conduct that involves the commission of a chapter 7 offence by the person or another person.

Maximum penalty—3,000 penalty units.

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(2) A person may be convicted of an offence against subsection (1) in relation to a person's conduct even if no one has been proceeded against for, or convicted of, the offence involving the conduct.

(3) In this section—

chapter 7 offence means an offence against a provision of this chapter.

conduct means an act or an omission to perform an act.

take steps, to do something, includes organise, plan, facilitate, support, engage in, or otherwise conspire to take steps in, doing the thing.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 91ZQB, to have also committed the offence.

91ZQB Executive officer may be taken to have committed offence

(1) If a corporation commits an offence against section 91ZQA, an executive officer of the corporation is taken to have also committed the offence if—

(a) the officer authorised or permitted the corporation's conduct constituting the offence; or

(b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct constituting the offence.

(2) The executive officer may be proceeded against for, and convicted of, an offence against section 91ZQA whether or not the corporation has been proceeded against for, or convicted of, the offence.

(3) This section does not affect—

(a) the liability of the corporation for the offence against section 91ZQA; or

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(b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against section 91ZQA.

91ZR Charging more than maximum fare

(1) The chief executive may, by gazette notice, decide maximum fares for taxi services.

(2) Also, the chief executive may, by gazette notice, decide maximum fares for booked hire services—

(a) for members of a personalised transport subsidy scheme under section 91ZY; or

(b) provided using a type of vehicle, or for a class of persons, prescribed by regulation; or

(c) mentioned in section 75.

(3) A person must not charge more than the maximum fare for a taxi service or booked hire service to which a maximum fare under subsection (1) or (2) applies.

Maximum penalty—40 penalty units.

(4) For subsection (3), a person charges a fare for a taxi service or booked hire service if the person decides or otherwise controls the amount of the fare, including, for example—

(a) by administering an electronic system that determines the amount automatically using a computer program or in another way; or

(b) by using a device to process payment of an amount that includes the amount of the fare.

91ZS Charging more than maximum payment surcharge for fare

(1) A ***payment surcharge*** for a fare for a taxi service or booked hire service is an amount (however described) charged, in addition to the amount of the fare—

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(a) for processing payment for the fare; or

(b) for paying the fare using one payment method rather than another.

(2) A regulation may prescribe a maximum payment surcharge for a fare for a taxi service or booked hire service.

(3) A person must not charge more than the maximum payment surcharge for a fare for a taxi service or booked hire service to which a maximum payment surcharge under subsection (2) applies.

Maximum penalty—40 penalty units.

(4) For subsection (3), a person charges a payment surcharge for a fare for a taxi service or booked hire service if the person decides or otherwise controls the amount of the payment surcharge, including, for example—

(a) by administering an electronic system that determines the amount automatically using a computer program or in another way; or

(b) by using a device to process payment of an amount that includes the amount of the payment surcharge.

Part 6 General provisions

Division 1 Taxi service areas

91ZT Taxi service areas

(1) This section applies to a taxi service to which a regulation under section 36 applies.

Note—

Section 36 allows a regulation to declare that a public passenger service is to be provided with market entry restrictions.

(2) The chief executive may, by gazette notice, declare a taxi service area.

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(3) The chief executive may, by gazette notice, fix the number of taxi service licences for a taxi service area.

(4) In fixing the number of taxi service licences for a taxi service area, the chief executive—

(a) must consider whether there are enough taxi service licences for the area to meet public demand; and

(b) may take into account—

(i) the views of users of taxi services in the area; and

(ii) recent changes in travel patterns in the area; and

(iii) the types of taxi services or booked hire services available in the area; and

(iv) the performance of the existing taxi fleet in the area; and

(v) the productivity of the fleet.

91ZU Public passenger service starting in taxi service area for a taxi

(1) A person must not use a taxi to provide a public passenger service for a journey that starts in a taxi service area unless—

(a) the taxi service area in which the journey starts is the taxi service area for the taxi; or

(b) a condition of the taxi service licence otherwise authorises the taxi to be used to provide a public passenger service for the journey.

Maximum penalty—40 penalty units.

(2) For subsection (1), it does not matter where the journey ends or if the journey involves leaving and re-entering the taxi service area.

(3) This section does not apply to the use of a taxi to provide a public passenger service under a contract with a government entity.

(4) In this section—

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government entity means—

(a) any State or the Commonwealth; or

(b) a department, service, agency, authority, commission, corporation, instrumentality, board, office or other entity established for a government purpose of any State or the Commonwealth; or

(c) a part of an entity mentioned in paragraph (b).

91ZV No compensation for changes to taxi service areas

(1) Compensation is not payable if the chief executive—

(a) does any of the following things under section 91ZT—

(i) declares a taxi service area;

(ii) amends or repeals the declaration of a taxi service area;

(iii) fixes the number of taxi service licences for a taxi service area;

(iv) amends the number of taxi service licences fixed for a taxi service area; or

(b) imposes or amends a condition of a taxi service licence to authorise the taxi to be used to provide a public passenger service for a journey under section 91ZU(1)(b).

(2) Also, compensation is not payable if, because of a matter mentioned in subsection (1)—

(a) anything previously permitted is prohibited or regulated; or

(b) anything previously prohibited is permitted or regulated; or

(c) anything previously regulated is no longer regulated or regulated in a different way; or

(d) the value of a taxi service licence changes.

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(3) This section does not prevent a regulation providing for payment of compensation.

Division 2 Taxi industry security levy and fund

91ZW Annual taxi industry security levy payable

(1) The chief executive may impose a taxi industry security levy (the ***security levy***) for a financial year on holders of taxi service licences for a prescribed taxi service area.

(2) The purpose of the security levy is to contribute to the costs of improving the security of taxi services in the prescribed taxi service area.

(3) The chief executive imposes the security levy by giving the holders written notice—

(a) requiring the payment of the security levy; and

(b) stating the amount of the security levy and the date for payment.

(4) The security levy is the amount prescribed by a regulation for the financial year.

(5) A regulation must not increase the security levy for a financial year by more than the CPI percentage increase for the financial year.

(6) The holders must pay the security levy on or before the date stated in the notice as the date for payment.

(7) A levy amount not paid to the chief executive on or before the date for payment may be recovered by the chief executive as a debt.

(8) In this section—

CPI means the all groups consumer price index for Brisbane published by the Australian statistician.

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CPI percentage increase, for a financial year (the ***current financial year***), means the percentage increase in the CPI between the following quarters—

(a) the March quarter for the financial year ending 2 years before the end of the current financial year;

(b) the March quarter for the financial year ending 1 year before the end of the current financial year.

prescribed taxi service area means a taxi service area prescribed by regulation for this section.

91ZX Taxi Industry Security Fund

(1) The Taxi Industry Security Fund (the ***fund***) established under previous section 80B is continued in existence.

(2) The *Financial Accountability Act 2009* applies to the fund.

(3) Accounts for the fund must be kept as part of the departmental accounts of the department.

(4) Amounts received for the fund must be deposited in a departmental financial institution account of the department but may be deposited in an account used for depositing other amounts of the department.

(5) Amounts received for the fund include taxi industry security levies under section 91ZW.

(6) Amounts may be paid out of the fund for the costs of improving the security of taxi services, including, for example, the costs of engaging rank marshals and security guards at taxi ranks.

(7) If there is a surplus in the fund at the end of a financial year, the surplus must remain in the fund.

(8) In this section—

departmental accounts, of a department, means the accounts of the department under the *Financial Accountability Act 2009*, section 69.

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departmental financial institution account, of a department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

other amounts, of a department, means amounts received by the department other than amounts received for the fund.

previous section 80B means section 80B as in force before the commencement.

Division 3 Other provisions

91ZY Personalised transport subsidy scheme

A regulation may provide a scheme under which the State, for public passenger services provided to particular groups using taxis, limousines or booked hire vehicles, pays—

(a) the whole or a part of fares for the services; or

(b) another amount for the provision of the services.

91ZZ Security cameras

A regulation may provide for—

(a) the use of security cameras in vehicles used to provide taxi services or booked hire services; and

(b) access to, and the disclosure and use of, information (including sound and images) captured by the cameras for purposes related to—

(i) the safety and security of the services; and

(ii) generally, a police officer performing the officer's duties.

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Chapter 9 Standards

92 Making of standards

(1) The chief executive may make standards under this Act.

(2) A standard or an amendment of a standard is subordinate legislation.

(4) A standard is not effective until it is approved by the Governor in Council.

93 Notice of proposal to prepare draft standard

(1) Before making a standard about a matter, the chief executive must give public notice of a proposal to prepare a draft standard about the matter.

(2) The notice must—

(a) invite submissions on the proposal from public authorities, industry, interested groups and persons, and the public; and

(b) state where copies of the proposal may be inspected or obtained; and

(c) specify a day, not earlier than 14 days from public notice or first public notice of the proposal, by which submissions may be made to the chief executive about the proposal.

94 Preparation of draft standard

In preparing the draft standard, the chief executive must ensure the draft standard—

(a) sets out its purposes; and

(b) takes into account best practice and national benchmarks.

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95 Notice of draft standard

(1) When the draft standard has been prepared, the chief executive must give public notice of the draft standard.

(2) The notice must—

(a) invite submissions on the draft standard from public authorities, interested groups and persons, and the public; and

(b) state where copies of the draft standard may be inspected or obtained; and

(c) specify the day, not earlier than 14 days from public notice or first public notice of the draft standard, by which submissions may be made to the chief executive about the draft standard.

96 Preparation of standard

In preparing the standard, the chief executive must have regard to the advice and submissions properly received about the draft standard.

97 Interim standards

(1) If the chief executive is satisfied that, for reasons of urgency, it is necessary or desirable to make a standard on an interim basis, the chief executive may make the standard even though section 93, 94, 95 or 96 has not been complied with.

(2) The interim standard must include a sunset provision stating the interim standard expires 6 months after its commencement.

98 Regulations prevail over standards

(1) If there is an inconsistency between a regulation and a standard, the regulation prevails to the extent of the inconsistency.

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(2) Subsection (1) applies whether the standard was made before or after the regulation.

99 Amendment of standards

(1) This chapter applies to the amendment of a standard in the same way as it applies to the making of a standard with any necessary changes.

(2) Sections 93 to 96 do not apply to the amendment of a standard if the chief executive considers the proposed amendment—

(a) is not likely to impose appreciable costs on the community or a part of the community; or

(b) only provides for, or to the extent it only provides for, any of the following—

(i) a matter that is not of a legislative character, including, for example, a matter of a machinery, administrative, drafting or formal nature;

(ii) a matter that does not operate to the disadvantage of any person (other than a government entity) by decreasing the person's rights;

(iii) a matter that does not operate to the disadvantage of any person (other than a government entity) by imposing liabilities on the person;

(iv) an amendment to take account of current Queensland legislative drafting practice;

(v) an amendment that does not fundamentally affect the standard's application or operation;

(vi) a matter of a savings or transitional character;

(vii) a matter that is substantially uniform or complementary with legislation of the Commonwealth or another State;

(viii) a matter involving the adoption of an Australian or international protocol, standard, code, or intergovernmental agreement or instrument, if an

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assessment of the benefits and costs has already been made and the assessment was made for, or is relevant to, Queensland;

(ix) a matter advance notice of which would enable someone to gain unfair advantage.

99A Application of Acts Interpretation Act 1954

The *Acts Interpretation Act 1954*, section 24AA does not apply to the amendment or repeal of a standard under this chapter.

100 Direction to comply with standards

(1) If the chief executive considers a person has not complied, or is not complying, with a provision of a standard, the chief executive may give the person a written direction to comply with the standard.

(2) If the failure to comply relates to a matter mentioned in subsection (3), the direction may be—

(a) to comply with the provision in relation to all public passenger vehicles at all times within the next 3 years after the notice is given; or

(b) to immediately stop failing to comply with the provision, and to comply with the provision in relation to all public passenger vehicles at all times within the next 3 years after the notice is given.

(3) The matters are—

(a) fatigue, or another matter about a driver's fitness to drive a vehicle; or

(b) the condition of a vehicle; or

(c) the safe operation of a vehicle, including overloading and the seating or standing of passengers.

(4) If the failure to comply relates to a matter mentioned in subsection (3) or to another matter, the direction may be to

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comply with the provision at all times within the 3 year period starting on a stated day in relation to—

(a) all public passenger vehicles; or

(b) all public passenger services.

(5) The stated day must be at least 5 working days after the day the direction is given.

(6) A direction must state—

(a) each failure to comply with the direction, without a reasonable excuse, is a separate offence; and

(b) the maximum penalty for each offence; and

(c) the direction does not relieve the person from the obligation to comply with another provision of this or another Act.

(7) The person must not contravene the direction unless the person has a reasonable excuse for not complying with it.

Maximum penalty—160 penalty units.

(8) This section does not limit, and is not limited by, another provision of this or another Act.

Example—

Noncompliance with a standard may, under a regulation, be made an offence or a ground for cancellation of driver authorisation or operator accreditation.

101 Application of standards to railway managers or railway operators

Standards do not apply to a railway manager or railway operator in relation to a public passenger service provided using a fixed track vehicle.

101A Application of standards to light rail operators

Standards do not apply to a light rail operator for a light rail in relation to a public passenger service provided using a fixed track vehicle.

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Chapter 10 Review of decisions

102 Internal review of decisions

(1) A person whose interests are affected by a decision described in schedule 2 (the ***original decision***) may ask the chief executive to review the decision.

(2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.

(3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—

(a) applies to the review; and

(b) provides—

(i) for the procedure for applying for the review and the way it is to be disposed of; and

(ii) that the person may apply to QCAT to have the original decision stayed.

103 External review of decisions

(1) If a reviewed decision is not the decision sought by the applicant for the review, the chief executive must give the applicant a QCAT information notice for the reviewed decision.

(2) The applicant may apply, as provided under the QCAT Act, to QCAT for a review of the reviewed decision.

Note—

The QCAT Act, section 22(3) provides that QCAT may stay the operation of the reviewed decision, either on application by a person or on its own initiative.

(3) In this section—

QCAT information notice means a notice complying with the QCAT Act, section 157(2).

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reviewed decision means the chief executive's decision on a review under section 102.

104 Chief executive (employment screening)

(1) This section applies if—

(a) a proceeding before QCAT concerns a decision of the chief executive on a review of a driver authorisation decision; and

(b) a driver disqualifying offence involving a child was relevant to the driver authorisation decision.

(2) The chief executive (employment screening) is a party to the proceeding.

(3) In this section—

driver authorisation decision means a decision about driver authorisation under this Act.

Chapter 11 Enforcement

Part 1 Interpretation

110 Definition for ch 11

In this chapter—

relevant transport legislation means—

(a) this Act; or

(b) the *Transport Infrastructure Act 1994*, chapter 14; or

(c) a regulation in relation to a railway made under the *Transport Infrastructure Act 1994*.

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Part 2 Authorised persons

Division 1 Appointment

Subdivision 1 Appointment of authorised persons generally

111 Appointment of authorised persons generally

(1) Every police officer is an authorised person for relevant transport legislation.

(2) Subject to section 111A(1), the chief executive may appoint any of the following persons to be an authorised person, other than an authorised person (transit officer), for relevant transport legislation—

(a) a public service employee;

(b) an employee of, or a contractor for, a railway manager or railway operator;

(c) an employee of a contractor mentioned in paragraph (b);

(d) an employee of, or a contractor for, the Authority;

(e) an employee of a contractor mentioned in paragraph (d);

(ea) an employee of the National Heavy Vehicle Regulator;

(f) another person prescribed under a regulation.

(3) Subject to section 111A(2), the chief executive may appoint any of the following persons to be an authorised person (transit officer) (a ***transit officer***) for relevant transport legislation—

(a) a public service employee;

(b) an employee of a railway manager or railway operator that is a rail government entity;

(c) an employee of the Authority.

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(4) The chief executive may restrict the powers of an authorised person (other than a police officer) by written notice given to the person.

(5) An authorised person who is a person mentioned in subsection (2)(b) or (c) or (3)(b) may exercise a power under this Act only in relation to a railway managed or operated by the railway manager or railway operator of whom the person is an employee, a contractor or an employee of a contractor.

(6) Subsection (5) does not apply to an authorised person who is—

(a) an employee of, or a contractor for, a rail government entity; or

(b) an employee of a contractor for the rail government entity.

(7) In this section—

National Heavy Vehicle Regulator means the National Heavy Vehicle Regulator established under the Heavy Vehicle National Law (Queensland), section 656.

111A Restrictions on appointing authorised persons

(1) The chief executive may appoint a person as an authorised person, other than a transit officer, only if—

(a) in the chief executive's opinion, the person has the necessary expertise or experience to be an authorised person; or

(b) the person has satisfactorily finished training approved by the chief executive.

(2) The chief executive may appoint a person as a transit officer only if—

(a) in the chief executive's opinion—

(i) the person can be appointed as an authorised person under subsection (1); and

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(ii) the person is suitable to be a transit officer, having regard to the matters mentioned in section 111B; and

(b) the person has satisfactorily finished transit officer training.

111B When person is suitable to be transit officer

(1) This section provides for when a person may be considered to be suitable to be a transit officer.

(2) A person is suitable to be a transit officer only if—

(a) the person has not been convicted of—

(i) a category A driver disqualification offence; or

(ii) a category B driver disqualification offence other than an offence against the Criminal Code, section 328A; or

(iii) an indictable offence in Queensland not covered by subparagraph (i) or (ii); or

(iv) an offence outside Queensland that, if it had been committed in Queensland, would constitute an indictable offence not covered by subparagraph (i) or (ii); and

(b) the person is of good character; and

(c) the person's state of physical and mental fitness will enable the person to perform the functions and exercise the powers of a transit officer.

(3) In deciding whether a person is of good character, the chief executive may consider the following matters as indicating that the person may not be of good character—

(a) in dealings in which the person has been involved, the person has—

(i) shown dishonesty or lack of integrity; or

(ii) used harassing tactics;

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(b) the person associates with, or has associated with, a criminal in a way that indicates involvement in unlawful activity.

(4) Subsection (3) does not limit the matters the chief executive may consider in deciding whether or not a person is of good character.

(5) In this section—

conviction, for an offence mentioned in subsection (2)(a)(iii) or (iv), does not include a spent conviction.

Subdivision 2 Assessing person's suitability to be a transit officer

111C Application of sdiv 2

(1) This subdivision applies in relation to the following decisions of the chief executive—

(a) whether or not to appoint a person as a transit officer under section 111(3);

(b) whether or not to revoke the appointment of a transit officer under section 113G.

(2) This subdivision applies to a person despite anything in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

111D Definition for sdiv 2

In this subdivision—

relevant information, about a person, means information about the person of a kind mentioned in the *Police Service Administration Act 1990*, schedule 1, for police officers, recruits and applicants to become police officers or recruits.

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111E Person to be advised of duties of disclosure

Before a person is appointed as a transit officer, the chief executive must—

(a) tell the person—

(i) of the person's duty under section 111F to disclose relevant information about the person; and

(ii) that the chief executive may under section 111G obtain relevant information about the person; and

(b) give the person a copy of the guidelines for dealing with relevant information obtained by the chief executive under this subdivision.

111F Transit officers must disclose relevant information and changes to relevant information

(1) A person who is a transit officer or seeking to be appointed as a transit officer must, if asked by the chief executive, disclose to the chief executive any relevant information known to the person that may affect the person's suitability to be a transit officer.

(2) A person seeking to be appointed as a transit officer required to disclose relevant information under subsection (1) must disclose the information before being appointed as a transit officer.

(3) If a person who is a transit officer is aware that there is a change in relevant information about the person, the person must immediately disclose to the chief executive the details of the change.

(4) A person required to disclose relevant information under subsection (1) or (3) must give the chief executive the disclosure in the approved form.

(5) Without limiting subsection (4), the approved form must make provision for the disclosure of all of the following information—

(a) the existence of a conviction or charge;

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(b) when an offence was committed or alleged to have been committed;

(c) details of an offence or alleged offence;

(d) for a conviction—whether or not a conviction was recorded and other details of the sentence.

Notes—

1 Under section 111H, when making the assessment of a person's suitability to be, or continue to be, a transit officer, the chief executive may have regard to whether or not the person has complied with this section.

2 Also, if a person who is a transit officer fails to comply with subsection (3), the person's appointment may be revoked under section 113G.

111G Chief executive may request information from commissioner of the police service

(1) This section applies to a person who—

(a) is a transit officer; or

(b) seeks to be appointed as a transit officer and has given the chief executive a disclosure for the purposes of section 111F.

(2) This section applies even if the disclosure does not state any relevant information about the person.

(3) The chief executive may ask the commissioner of the police service to give the chief executive a report that includes relevant information about the person.

(4) Subsection (5) applies if—

(a) the commissioner of the police service reasonably suspects a person is a transit officer; and

(b) information about the person included in a report mentioned in subsection (3) changes, including new information that would have been included in the report had the information existed when the report was made.

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(5) The commissioner may notify the chief executive of the change.

Note—

Section 148B provides for the chief executive and the commissioner of the police service entering into arrangements for the giving and receiving of information under this Act.

111H Assessment of suitability

(1) This section applies to the chief executive in considering relevant information about a person under this subdivision.

(2) When assessing the person's suitability to be, or continue to be, a transit officer, the chief executive may have regard to all relevant information available to the chief executive, including, for example—

(a) information that is disclosed to the chief executive under section 111F; and

(b) information made available by the commissioner of the police service because of a request under section 111G; and

(c) information that is stored on—

(i) a database kept by the chief executive; or

(ii) a database kept by the commissioner of the police service; and

(d) information that is otherwise available to the chief executive.

Example for subsection (2)(d)—

information obtained from previous employment checks

(3) Also, when making the assessment, the chief executive may have regard to whether or not the person has complied with section 111F.

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111I Particular persons to be advised if person unsuitable

(1) If, because of information relied on by the chief executive under this subdivision, the chief executive considers a person may not be suitable to be, or continue to be, a transit officer, the chief executive must, before deciding the person is not suitable—

(a) disclose the information to the person; and

(b) allow the person a reasonable opportunity to make representations to the chief executive about the information.

(2) The chief executive must give reasons why the chief executive considers the person may not be suitable to be, or continue to be, a transit officer unless the chief executive considers the giving of the reasons may—

(a) prejudice the investigation of a contravention or possible contravention of the law; or

(b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or

(c) endanger a person's life or physical safety; or

(d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; or

(e) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or

(f) prejudice national security; or

(g) be prohibited under a law of this or any other State or the Commonwealth.

(3) In deciding, under subsection (2), whether or not to give reasons why the chief executive considers the person may not be suitable to be, or continue to be, a transit officer, the chief executive must have regard to any advice given to the chief

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executive by the commissioner of the police service in relation to the disclosure of information given by the commissioner.

(4) If, after considering any representations made under subsection (1)(b), the chief executive decides the person is not suitable to be, or continue to be, a transit officer, the chief executive must give the person a written notice stating that the person is not suitable to be, or continue to be, a transit officer.

(5) Information relied on under this section to decide that a person is not suitable to be a transit officer can not be used for any other purpose, unless its disclosure is authorised under section 111J(3).

111J Secrecy

(1) This section applies to a person who—

(a) is, or has been—

(i) the chief executive; or

(ii) a transit officer; or

(iii) involved in the appointment of a transit officer; and

(b) in that capacity acquired relevant information about someone else.

(2) The person must not disclose the relevant information to anyone else.

Maximum penalty—200 penalty units.

(3) Subsection (2) does not apply to the disclosure of information about a person, if the disclosure—

(a) is to the chief executive or a person involved in the appointment of a transit officer for the purpose of assessing the person's suitability to be, or continue to be, a transit officer; or

(b) is with the person's consent; or

(c) is required by another law.

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(4) For this section, a person is involved in the appointment of a transit officer if—

(a) the person is involved in any part of the process the chief executive follows in deciding whether or not to appoint a person as a transit officer; or

Example—

a person who gathers information for assessing a person's suitability to be a transit officer and makes a recommendation to the chief executive about whether the chief executive should appoint or not appoint the person as a transit officer

(b) a person is involved in any part of the process the chief executive follows in deciding whether or not to revoke the appointment of a transit officer.

Example—

a person who gathers information for assessing a person's suitability to continue to be a transit officer, including whether or not the person has complied with provisions of this part, and makes a recommendation to the chief executive about whether the chief executive should revoke the person's appointment as a transit officer

(5) A person involved in any way in anything done under this subdivision can not be compelled to produce to a court any document kept, or to disclose to a court any information obtained, because of the doing of the thing.

(6) Subsection (5) does not affect the operation of the *Judicial Review Act 1991*.

(7) This section does not limit section 148C.

(8) In this section—

disclose, in relation to information about a person, includes give access to information about a person.

111K Guidelines for dealing with relevant information

(1) The chief executive must make guidelines, consistent with this subdivision, for dealing with relevant information obtained by the chief executive under this subdivision.

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(2) The purpose of the guidelines is to ensure—

(a) natural justice is afforded to the persons about whom the information is obtained; and

(b) only relevant information is used in assessing the persons' suitability to be, or continue to be, a transit officer; and

(c) decisions about the suitability of persons, based on the information, are made in a consistent way.

(3) The chief executive must give a copy of the guidelines, on request, to a person seeking to be appointed, or appointed, as a transit officer.

Subdivision 3 Requirements about training of transit officers

111L Requirements for course of training

(1) This section states the requirements for the course of training for qualification for appointment as a transit officer.

(2) The course of training must—

(a) be developed by the chief executive and approved by the commissioner of the police service; and

(b) provide for training in all the functions and powers of an transit officer under part 4A, and include guidelines about the following—

(i) the use of force generally;

(ii) deciding what force is reasonably necessary for particular circumstances and particular persons;

(iii) how to de-escalate a situation;

(iv) deciding whether using handcuffs is the only practicable way to detain a person and, if so, appropriate ways of using handcuffs;

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(v) dealing with children, persons with impaired capacity, and other vulnerable persons;

(vi) appropriate ways of transporting detained persons to police officers;

(vii) appropriate ways of frisk searching a person; and

(c) be comparable to training undertaken by persons seeking to be engaged, or engaged, by the police service.

(3) Subsection (2)(b) does not limit the matters that may be provided for in the course of training.

Division 2 Identity requirements

112 Identity cards

(1) The chief executive must issue an identity card to each authorised person.

(2) This section does not apply to an authorised person who is a police officer.

(3) The identity card must—

(a) contain a recent photograph of the authorised person; and

(b) be signed by the authorised person; and

(c) identify the person as—

(i) if the person is a transit officer—an authorised person (transit officer); or

(ii) otherwise—an authorised person; and

(d) contain a unique identification number for the authorised person; and

(e) include an expiry date.

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(4) A person who ceases to be an authorised person must, as soon as practicable, return the identity card to the chief executive, unless the person has a reasonable excuse for not returning it.

Maximum penalty—30 penalty units.

(5) Nothing in this section prevents the issue of a single identity card to a person for this Act and other Acts.

113 Production or display of authorised person's identity card

(1) This section does not apply to a police officer.

(2) An authorised person may exercise a power in relation to someone else only if—

(a) the person first produces the person's identity card for the other person's inspection; or

(b) the authorised person has the person's identity card displayed so that it is clearly visible to the other person.

(3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the authorised person must produce the identity card for the other person's inspection as soon as it is practicable.

113A Uniforms for transit officers

(1) The chief executive must issue a uniform to each transit officer.

(2) A person who ceases to be a transit officer must, as soon as practicable, return the uniform to the chief executive unless the person has a reasonable excuse for not returning it.

Maximum penalty for subsection (2)—10 penalty units.

113B Transit officer must be in uniform

A transit officer may exercise a power under part 4A in relation to a person only if the officer is in uniform.

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Division 3 Requirements relating to transit officers

113C Transit officers must continue to have relevant skills and abilities

(1) The chief executive must ensure a person who is appointed as a transit officer continues to have the skills and abilities required for performing functions or exercising powers of transit officers under this part.

(2) For subsection (1), the chief executive may require a transit officer to undertake transit officer training at any time.

Note—

If a person appointed as a transit officer is asked to undertake transit officer training under this subsection and fails to do so, the person's appointment may be revoked under section 113G.

(3) In deciding whether a transit officer should be required to undertake transit officer training, the chief executive must have regard to the following—

(a) when the transit officer last undertook the training;

(b) whether there have been any developments in the training since the transit officer last undertook the training;

(c) evidence of the transit officer's past performance in performing functions or exercising powers under this part.

113D Transit officer must not be under the influence of alcohol or drugs

(1) A transit officer who is on duty for performing a function or exercising a power under this Act must not—

(a) be over the low alcohol limit; or

(b) have present in the officer's saliva or urine—

(i) evidence of a dangerous drug; or

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(ii) evidence of a prescribed substance that the officer may not lawfully take; or

(iii) evidence of having taken a prescribed substance in a way contrary to a direction of a doctor or a recommendation of the manufacturer of the substance.

Note—

If a person appointed as a transit officer contravenes subsection (1), the person's appointment may be revoked under section 113G.

(2) For subsection (1), a person is over the ***low alcohol limit*** if the concentration of alcohol in the person's breath is, or is more than, 0.02g of alcohol in 210L of breath.

(3) For this Act, the concentration of alcohol in a person's breath may be expressed as—

(a) a specified number of grams of alcohol in 210L of breath; or

(b) a specified number of grams in 210L.

Example—

The concentration of alcohol in a person's breath may be expressed as 0.063g of alcohol in 210L of breath or as 0.063g/210L.

(4) For subsection (1), a transit officer is ***on duty*** for performing a function or exercising a power under this Act if the officer—

(a) is about to perform the function or exercise the power; or

(b) is performing the function or exercising the power; or

(c) has just performed the function or exercised the power.

(5) In this section—

dangerous drug means a dangerous drug under the *Drugs Misuse Act 1986*.

prescribed substance means—

(a) a substance, other than a dangerous drug, that is a regulated substance under the *Medicines and Poisons*

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Act 2019 that may impair a person's physical or mental capacity; or

(b) another substance, other than a dangerous drug, that may impair a person's physical or mental capacity.

Division 4 Cessation of appointment

113E When authorised person ceases to hold office

(1) An authorised person ceases to hold office if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the person ceases to hold office;

(c) the person's resignation under section 113F takes effect.

(2) Subsection (1) does not limit the ways an authorised person may cease to hold office.

(3) This section does not apply to a transit officer who is a police officer.

(4) In this section—

condition of office means a condition on which the authorised person holds office.

113F Resignation

An authorised person may resign by signed notice given to the chief executive.

113G Revocation of appointment of transit officer

(1) The chief executive may revoke the appointment of a person as a transit officer if—

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(a) the chief executive is of the opinion the person is no longer suitable to be a transit officer, having regard to the matters mentioned in section 111B; or

Note—

Division 1, subdivision 2 outlines the process for assessing a person's suitability to be, or continue to be, a transit officer.

(b) the person—

(i) has failed to comply with section 111F(3); or

(ii) has failed to undertake transit officer training as required by the chief executive under section 113C(2); or

(iii) has failed to comply with section 113D(1); or

(iv) has failed to provide a specimen of breath for an alcohol test, or a specimen of saliva or urine for a drug test, to be conducted under section 116; or

(v) has knowingly failed to comply with part 4A without a reasonable excuse.

(2) Subsection (1)(b)(iv) does not apply if the transit officer has a reasonable excuse, because of a medical condition, for being unable to provide the specimen of breath, saliva or urine.

(3) If the person is an employee of a railway manager, railway operator or the Authority, the chief executive may advise the railway manager or railway operator of the revocation.

Division 5 Application of other Acts to particular transit officers

113H Application of Crime and Corruption Act 2001

(1) This section applies if an employee of a railway manager or railway operator that is a rail government entity becomes a transit officer under section 111(3)(b).

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(2) Subject to subsection (3), the *Crime and Corruption Act 2001* applies to the railway manager or railway operator in relation to the employee as if—

(a) the railway manager or railway operator were a unit of public administration; and

(b) the chief executive officer of the railway manager or railway operator were the chief executive officer of a unit of public administration; and

(c) a prescribed person for the railway manager or railway operator were a person holding an appointment in a unit of public administration.

(3) The *Crime and Corruption Act 2001* applies to a railway operator or railway manager, and prescribed persons for the railway manager or railway operator, only in relation to conduct, or a conspiracy or attempt to engage in conduct, of or by a prescribed person relating to the performance of a function or exercise of a power by the employee as a transit officer under this Act.

113I Application of Public Sector Ethics Act 1994

(1) This section applies if an employee of a railway manager or railway operator that is a rail government entity becomes a transit officer under section 111(3)(b).

(2) Subject to subsections (3) and (4), the *Public Sector Ethics Act 1994* applies to the railway manager or railway operator in relation to the employee as if—

(a) the railway manager or railway operator were a public sector entity; and

(b) the chief executive officer of the railway manager or railway operator were—

(i) the chief executive officer of the public sector entity; and

(ii) the responsible authority for the public sector entity; and

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(c) a prescribed person for the railway manager or railway operator were a public official.

(3) The *Public Sector Ethics Act 1994* applies to a railway operator or railway manager, and prescribed persons for the railway manager or railway operator, only in relation to a prescribed person's duties relating to the performance of a function or exercise of a power by the employee as a transit officer under this Act.

(4) Without limiting subsection (3)—

(a) the ethics values under the *Public Sector Ethics Act 1994*, part 3 apply to a prescribed person only in relation to the person's duties relating to a transit officer performing a function or exercising a power under this Act; and

(b) the requirement to prepare a code of conduct under the *Public Sector Ethics Act 1994*, part 4 is a requirement to prepare a code of conduct only for a prescribed person's duties relating to a transit officer performing a function or exercising a power under this Act.

Division 6 Miscellaneous

114 Powers of authorised persons

(1) An authorised person has the powers given under relevant transport legislation.

(2) A regulation may limit the powers of authorised persons.

115 Protection from liability

(1) This section applies to—

(a) an authorised person; and

(b) a person acting under the direction of an authorised person.

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(2) A person does not incur civil liability for an act done, or omission made, honestly and without negligence under relevant transport legislation.

(3) If subsection (2) prevents a civil liability attaching to a person, the liability attaches instead to—

(a) if the authorised person is not a transit officer, is employed by a railway manager, railway operator or the Authority, and is exercising a power in relation to a railway—the manager or operator of the railway or the Authority; or

(b) in any other case—the State.

(4) For subsection (3)(a), a person is employed by a railway manager, railway operator or the Authority if the person is—

(a) an employee of, or a contractor for, the railway manager, railway operator or the Authority; or

(b) an employee of a contractor mentioned in paragraph (a).

Part 2A Drug and alcohol testing of transit officers

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

(1) The chief executive may, by written notice, require a transit officer to submit to an alcohol test or drug test if—

(a) the officer has been involved in an incident in which a person being detained under part 4A by the officer suffers a physical injury; or

(b) the chief executive reasonably suspects the officer is contravening, or has contravened, section 113D(1).

Note—

If a person appointed as a transit officer is asked to provide a specimen of breath for an alcohol test, or specimen of saliva or urine for a drug

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test, under this section and the person fails to provide the specimen, the person's appointment may be revoked under section 113G.

(2) An alcohol test, or drug test, of a transit officer conducted under this section must be conducted by a relevant entity.

(3) A regulation may provide for requirements about notifying a transit officer of the results of an alcohol test or drug test conducted on the officer under this section.

(4) In this section—

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

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

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

118 Alcohol or drug test results generally inadmissible

(1) Evidence of the following is inadmissible in a civil or criminal proceeding before a court—

(a) a requirement of the chief executive made under section 116(1) having been made;

(b) the result of any test conducted under section 116.

(2) Also, the chief executive and anyone else involved in any way in anything under section 116 can not be compelled to produce to a court any document kept or to disclose to a court any information obtained because of the doing of the thing.

(3) This section does not apply to—

(a) a proceeding for a charge of an offence arising from an incident in which a person being detained under part 4A by the officer suffers a physical injury; or

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(b) an inquest in a Coroners Court into the death of a person; or

(c) a proceeding on an application under the *Industrial Relations Act 2016*, section 317 for reinstatement because of unfair dismissal; or

(d) an investigation or other proceeding under the *Crime and Corruption Act 2001*; or

(e) disciplinary action as provided for under the *Public Sector Ethics Act 1994*.

Part 3 Powers of authorised persons in relation to places and vehicles

120 Entry of place

An authorised person may enter a place if—

(a) its occupier consents to the entry or the purpose of the entry is to get the occupier's consent; or

(b) it is a public place and the entry is made when it is open to the public; or

(c) it is mentioned in an accreditation, authorisation, contract or licence under this Act as a place of business, or another place, required to be open to inspection and the entry is made when the place is—

(i) open for the conduct of business or otherwise open for entry; or

(ii) required under the accreditation, authorisation, contract or licence to be open for inspection; or

(d) it is a place of business of a person in the chain of responsibility for a taxi service or booked hire service to whom an audit notice has been given under section 91ZN and the authorised person reasonably

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believes it is necessary to enter the place to carry out the audit; or

(e) the authorised person reasonably believes a dangerous situation exists in the place and it is necessary for the authorised person to enter to take action under section 126O to deal with the dangerous situation; or

(f) the entry is authorised by a warrant.

121 Warrants

(1) An authorised person may apply to a magistrate for a warrant for a place.

(2) An application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

(4) The magistrate may issue a warrant if the magistrate is satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the ***evidence***) that may provide evidence of the commission of an offence against this Act; and

(b) the evidence is, or may be within the next 7 days, at the place.

(4A) The magistrate may also issue a warrant if the magistrate is satisfied that—

(a) either of the following apply in relation to a particular place—

(i) a vehicle that has been or may have been involved in a dangerous situation is or has been located at the place;

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(ii) the place is or may be otherwise connected, directly or indirectly, with a vehicle that has been or may have been involved in a dangerous situation; and

(b) there is evidence at the place (including for paragraph (a)(i), the vehicle itself) that is relevant to the exercise of powers under this Act relating to dangerous situations.

(5) The warrant must state—

(a) that the authorised person may, with necessary and reasonable help and force, enter the place and exercise the authorised person's powers under this Act; and

(b) the evidence for which the warrant is issued; and

(c) the hours of the day when entry may be made; and

(d) the day (within 14 days after the warrant's issue) when the warrant ends.

(6) The magistrate must record the reasons for issuing the warrant.

122 Warrants—applications made otherwise than in person

(1) An authorised person may apply for a warrant by phone, fax, radio or another form of communication if the authorised person considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised person's remote location.

(2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised person may apply for the warrant before the application is sworn.

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(4) After issuing the warrant, the magistrate must immediately fax a copy to the authorised person if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy of the warrant to the authorised person—

(a) the magistrate must—

(i) tell the authorised person what the terms of the warrant are; and

(ii) tell the authorised person the date and time the warrant was signed; and

(iii) record on the warrant the reasons for issuing the warrant; and

(b) the authorised person must write on a form of warrant (***warrant form***)—

(i) the magistrate's name; and

(ii) the date and time the magistrate signed the warrant; and

(iii) the warrant's terms.

(6) The facsimile warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the other powers authorised by the warrant issued by the magistrate.

(7) The authorised person must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if a warrant form was completed by the authorised person—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) Unless the contrary is proved, a court must presume that a power exercised by an authorised person was not authorised by a warrant issued under this section if—

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(a) a question arises, in a proceeding before the court, whether the exercise of power was authorised by a warrant; and

(b) the warrant is not produced in evidence.

123 Entry or boarding of vehicles

(1) An authorised person may enter or board a vehicle if the authorised person has reasonable grounds for suspecting—

(a) the vehicle is being, or has been, used in the commission of an offence against this Act; or

(b) the vehicle, or a thing in or on the vehicle, may provide evidence of the commission of an offence against this Act.

(1A) Also, an authorised person may enter on board a vehicle if the authorised person reasonably believes a dangerous situation exists in or at the vehicle and it is necessary for the authorised person to enter to take action under section 126O to deal with the dangerous situation.

(2) If the vehicle is moving or about to move, the authorised person may signal the person in control of the vehicle to stop the vehicle or not to move it.

(3) To enable the vehicle to be entered or boarded, the authorised person may—

(a) act with necessary and reasonable help and force; and

(b) require the person in control of the vehicle to give reasonable help to the authorised person.

(4) A person must obey a signal under subsection (2), unless the person has a reasonable excuse for disobeying it.

Maximum penalty—75 penalty units.

(5) A person must comply with a requirement under subsection (3)(b), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—75 penalty units.

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(6) It is a reasonable excuse for a person to disobey a signal under subsection (2) if—

(a) the person reasonably believes that to obey the signal immediately would have endangered the person, someone else or the vehicle; and

(b) the person obeys the signal as soon as it is practicable to obey it.

124 General powers in relation to places and vehicles

(1) An authorised person who enters a place, or enters or boards a vehicle, under this chapter may—

(a) search any part of the place or vehicle; or

(b) inspect, photograph or film anything in or on the place or vehicle; or

(c) take samples of or from anything in or on the place or vehicle; or

(d) take extracts from, or make copies of, a document in or on the place or vehicle; or

(e) take into or onto the place or vehicle any persons, equipment and materials the authorised person reasonably requires for exercising a power under this Act; or

(f) require the occupier of the place, or a person in or on the place or vehicle, to give the authorised person reasonable help to exercise the powers mentioned in paragraphs (a) to (e); or

(g) if the authorised person enters or boards a vehicle—by written notice given to the person in control of the vehicle, require the person—

(i) to take the vehicle to a stated reasonable place by a stated reasonable time; and

(ii) if necessary, to remain in control of the vehicle at the place for a reasonable time;

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to enable an authorised person to exercise the powers mentioned in paragraphs (a) to (e).

(1A) It is unnecessary for an authorised person who may enter or board a vehicle under this chapter, to enter or board the vehicle to make a requirement under subsection (1)(g) of the person in control of the vehicle (the ***driver***) if the authorised person is physically able to make the requirement of the driver without entering or boarding the vehicle.

(2) A person who is required to give reasonable help under subsection (1)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—75 penalty units.

(3) If the requirement is to be complied with by the person by—

(a) giving information; or

(b) producing a document (other than a document required to be kept by the person under this Act);

it is a reasonable excuse for the person to fail to comply with the requirement if complying with the requirement might tend to incriminate the person.

(4) A person who is required by an authorised person under subsection (1)(g) to take action in relation to a vehicle must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—75 penalty units.

(5) If, for any reason, it is not practicable to make a requirement under subsection (1)(g) by written notice, the requirement may be made orally and confirmed by written notice as soon as practicable.

(6) Nothing in this section prevents an authorised person making a further requirement under subsection (1)(g) of the same person or another person in relation to the same vehicle if it is necessary and reasonable to make the further requirement.

(7) An authorised person may not enter a part of a vehicle used only as a living area, or exercise a power under

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subsection (1)(a) to (e) in relation to that part, unless the authorised person is accompanied by the person in control of the vehicle.

(8) Subsection (7) does not apply if the person in control of the vehicle is unavailable or unwilling to accompany the authorised person or the authorised person is unable for another reason to comply with the subsection.

(9) This section does not apply to an authorised person who enters a place to get the occupier's consent unless the consent is given or the entry is otherwise authorised.

125 Power to seize evidence

(1) An authorised person who enters a place under this part with a warrant may seize the evidence for which the warrant was issued.

(2) An authorised person who enters a place under this part with the occupier's consent may seize the particular thing for which the entry was made if the authorised person believes on reasonable grounds the thing is evidence of an offence against this Act.

(3) An authorised person who enters a place under this part with a warrant or with the occupier's consent may also seize another thing if the authorised person believes on reasonable grounds—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) concealed, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

(4) An authorised person who enters a place under this part other than with a warrant or with the occupier's consent, or who enters or boards a vehicle, may seize a thing if the authorised person believes on reasonable grounds—

(a) the thing is evidence of an offence against this Act; and

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(b) the seizure is necessary to prevent the thing being—

(i) concealed, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

126 Procedure after thing seized

(1) As soon as practicable after a thing is seized by an authorised person under this part, the authorised person must give a receipt for it to the person from whom it was seized.

(2) The receipt must describe generally each thing seized and its condition.

(3) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must—

(a) leave the receipt at the place of seizure; and

(b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.

126A Securing seized things

Having seized a thing, an authorised person may—

(a) move the thing from the place where it was seized (the ***place of seizure***); or

(b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

1 sealing a thing and marking it to show access to it is restricted

2 sealing the entrance to a room where the seized thing is situated and marking the entrance to show access to the room is restricted

126B Tampering with seized things

(1) If an authorised person restricts access to a seized thing, a person must not tamper with the thing, or something

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restricting access to the thing, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(2) In this section—

tamper includes attempt to tamper.

126C Powers supporting seizure

(1) To enable a thing to be seized, an authorised person may require the person in control of it—

(a) to take it to a stated reasonable place by a stated reasonable time; and

(b) if necessary, to remain in control of it at the stated place for a reasonable time.

(2) The requirement must be made by notice in the approved form.

(3) However, if for any reason it is not practicable to give the notice, the requirement may be made orally and confirmed by notice in the approved form as soon as practicable.

(4) A further requirement may be made under this section about seizing the thing if it is necessary and reasonable to make the further requirement.

Examples of a further requirement—

A requirement that the thing—

- be transported during stated off-peak hours
- be transported along a particular route
- be transported in a particular way
- have appropriate placards or markings attached to it while it is being transported

(5) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—60 penalty units.

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126D Forfeiture of seized things

(1) A seized thing is forfeited to the State if the authorised person who seized the thing—

(a) can not find its owner, after making reasonable inquiries; or

(b) can not return it to its owner, after making reasonable efforts; or

(c) reasonably believes it is necessary to keep the thing to prevent it being used to commit an offence against this Act or the *Transport Infrastructure Act 1994*, chapter 14.

(2) In applying subsection (1)—

(a) subsection (1)(a) does not require the authorised person to make inquiries if it would be unreasonable to make inquiries to find the owner; and

(b) subsection (1)(b) does not require the authorised person to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

(3) If the authorised person decides it is necessary to keep something under subsection (1)(c), the authorised person must immediately give the owner a statement of the reasons for the decision and an information notice.

(4) Subsection (3) does not apply if the authorised person can not find the owner, after making reasonable inquiries.

(5) Regard must be had to the thing's nature, condition and value in deciding—

(a) whether it would be unreasonable to make inquiries or efforts under this section; and

(b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.

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126DA Forfeiture on conviction

(1) This section applies to a person who has been convicted of an offence against—

(a) this Act; or

(b) the *Transport Infrastructure Act 1994*, chapter 14; or

(c) a regulation in relation to a railway made under the *Transport Infrastructure Act 1994*.

(2) On the conviction of the person, the court may order the forfeiture to the State of any thing that—

(a) is used to commit the offence; or

(b) is the subject of the offence.

(3) The court may make the order—

(a) whether or not the thing has been seized; and

(b) if the thing has been seized, whether or not the thing has been returned to its owner.

(4) The court may make any order to enforce the forfeiture it considers appropriate.

(5) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

126E Dealing with forfeited things etc.

(1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.

(2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.

(3) The chief executive must not deal with the thing until any review of, or appeal against, the decision to forfeit the thing is decided.

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126F Return of seized things

(1) If a seized thing has not been forfeited, the authorised person must return it to its owner—

(a) at the end of 6 months after the thing is seized; or

(b) if a proceeding for an offence involving the thing is started within 6 months after the thing is seized, at the end of the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), unless the thing has been forfeited, the authorised person must immediately return a thing seized as evidence to its owner if the authorised person stops being satisfied its continued retention as evidence is necessary.

126G Access to seized things

(1) Until a seized thing is forfeited or returned, an authorised person must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Part 3A Powers of authorised persons for dangerous goods on rail vehicles

126GA Purpose of pt 3A

(1) The purpose of this part is to provide for further powers of authorised persons in relation to matters relating to the transport of dangerous goods.

(2) This part does not limit other powers of an authorised person under this Act or the *Transport Infrastructure Act 1994*, chapter 14.

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126H Power to hold or stop and hold rail vehicle

(1) This section applies if an authorised person reasonably believes that—

(a) dangerous goods are on a rail vehicle and a provision of the *Transport Infrastructure Act 1994*, chapter 14 is being contravened in relation to their transportation; and

(b) the interests of safety require the authorised person to stop or hold the vehicle.

(2) The authorised person may require the railway operator for the vehicle to hold, or stop and hold, the vehicle at a stated safe place.

(3) Before making the requirement, the authorised person must tell the railway operator the grounds for the belief.

(4) For subsection (2), a place is a ***safe place*** if—

(a) the train controller tells the authorised person that it is safe, so far as other rail traffic is concerned, to stop or hold the vehicle at the place; and

(b) the presence of the vehicle at the place is unlikely to endanger human life or property.

(5) The railway operator must comply with a requirement under subsection (2), unless the railway operator has a reasonable excuse.

Maximum penalty—150 penalty units.

(6) The train controller must give any advice asked for by the authorised person about whether it is safe, so far as other rail traffic is concerned, to stop or hold the vehicle at a place.

Maximum penalty—40 penalty units.

(7) This section does not limit any other power under this part or part 3B.

(8) In this section—

train controller, in relation to a rail vehicle, means an individual who is in control of train control signalling and

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communication for the section of track on which the rail vehicle is travelling or standing.

126HA Further powers if vehicle entered is rail vehicle

(1) This section applies if an authorised person has—

(a) entered a place under section 120 for purposes relating to the transport of dangerous goods by rail; or

(b) entered or boarded a vehicle under section 123, the vehicle is a rail vehicle and the entry or boarding was for purposes relating to the transport of dangerous goods by rail.

(2) Without limiting section 124, the authorised person may do any of the following—

(a) weigh, test or measure a thing relating to a rail vehicle, any part of a rail vehicle or equipment or load of a rail vehicle;

(b) check the existence or details of a placard or other information required under a dangerous goods regulation to be displayed in a rail vehicle or any load on it;

(c) access or download information that is required to be kept under a dangerous goods regulation and that is—

(i) stored electronically in equipment located at the place or in a rail vehicle; or

(ii) accessible electronically from equipment located at the place or in a rail vehicle.

(3) If an authorised person exercises a power mentioned in subsection (2), the authorised person is taken to be exercising a power under section 124(1)(a) to (e) and the other provisions of section 124 apply to the exercise of that power.

Notes for subsection (3)—

1 Under section 124(1)(f), an authorised person may require a person to help exercise powers as mentioned in subsection (2) and if the

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person does not comply with the request the person may be prosecuted under section 124(2).

2 Under section 124(7), an authorised person may not enter a part of a rail vehicle used only as a living area.

126I Power to require rail vehicle inspection

(1) If an authorised person reasonably believes a rail vehicle that has been, or is being used, to transport dangerous goods may not comply with the *Transport Infrastructure Act 1994*, chapter 14, the authorised person may require its owner to have it inspected at a stated reasonable time and place.

(2) The requirement must be made by notice in the approved form.

(3) The owner must comply with the requirement, unless the owner has a reasonable excuse.

Maximum penalty for subsection (3)—60 penalty units.

126J Power to prohibit use of rail vehicle

(1) This section applies if an authorised person reasonably believes a rail vehicle that has been used, or is being used, to transport dangerous goods does not comply with the *Transport Infrastructure Act 1994*, chapter 14.

(2) The authorised person may, by notice in the approved form, require the owner of the vehicle not to use the vehicle, or permit it to be used, until—

(a) it, its equipment and any load on it are inspected at a stated reasonable place and are found to comply with the chapter; or

(b) stated reasonable action is taken in relation to the rail vehicle to ensure it complies with the chapter.

Examples of action that may be reasonable under paragraph (b)—

1 adjusting or moving a vehicle's load

2 rearranging the order of rail vehicles

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3 carrying out stated repairs to a vehicle and then having the vehicle inspected at a stated reasonable place and found to comply with the chapter

(3) The owner must comply with the notice, unless the owner has a reasonable excuse.

Maximum penalty for subsection (3)—120 penalty units.

126JA Further power for securing things seized relating to transport of dangerous goods

(1) If an authorised person has seized a thing that has been used in relation to the transport of dangerous goods by rail, without limiting section 126, the authorised person may make the thing inoperable.

Example of making equipment inoperable—

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

(2) A person must not tamper with the equipment that has been made inoperable without an authorised person's written approval.

Maximum penalty—150 penalty units.

(3) In this section—

tamper includes attempt to tamper.

126K Power to give remedial action notices

(1) This section applies if an authorised person reasonably believes a person—

(a) has contravened a provision of the *Transport Infrastructure Act 1994*, chapter 14 in circumstances that indicate that it is likely the contravention will be repeated; or

(b) is contravening a provision of the chapter.

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(2) The authorised person may give the person a written notice (a ***remedial action notice***) requiring the person to remedy the cause of the contravention.

(3) The notice must state the following—

(a) the provision the authorised person believes the person has contravened or is contravening;

(b) the reasons for the belief;

(c) that the person must remedy the cause of the contravention within a stated reasonable time;

(d) if the notice is attached to a rail vehicle—a warning that it is an offence for a person to remove the notice from the vehicle until the notice is complied with, but that the person to whom the notice is given may remove the notice to immediately read it and reattach it to the vehicle.

(4) The notice may also state the steps the authorised person reasonably believes are necessary to remedy the cause of the contravention.

(5) If the notice relates to a rail vehicle, the notice may be given by securely attaching it to the vehicle in a conspicuous place.

(6) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—the maximum penalty for the contravention of the provision about which the notice is given.

(7) The person does not commit an offence against subsection (6) if the person is not proved to have contravened the provision mentioned in the notice as the provision the authorised person believes the person has contravened or is contravening.

(8) A person must not remove a remedial action notice from a rail vehicle before the notice is complied with.

Maximum penalty—135 penalty units.

(9) However, the person to whom the notice is given does not contravene subsection (8) if the person removes the notice

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from the vehicle and immediately reads it and reattaches it to the vehicle.

126KA Use of equipment to examine or process things

(1) An authorised person exercising a power under this part or part 3B or 3C may bring onto a rail vehicle or onto premises equipment reasonably necessary for the examination or processing of things found in, on or at the rail vehicle or premises to decide whether they are things that may be seized.

(2) If—

(a) it is not practicable to examine or process the things in, on or at the rail vehicle or premises; or

(b) the railway operator for the rail vehicle or the occupier of the premises consents in writing;

the things may be moved to another place so that the examination or processing can be carried out to decide whether they are things that may be seized.

(3) The authorised person, or a person helping the authorised person, may operate equipment already in, on or at the rail vehicle or premises to carry out the examination or processing of a thing found in, on or at the vehicle or premises to decide whether it is a thing that may be seized, if the authorised person, or a person helping the authorised person, reasonably believes that—

(a) the equipment is suitable for the examination or the processing; and

(b) the examination or processing can be carried out without damage to the equipment or the thing.

126KB Use or seizure of electronic equipment

(1) The authorised person, or the person helping the authorised person, as mentioned in section 126KA(3) may operate the equipment mentioned in the subsection (the ***equipment***) to access the information if—

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(a) a thing found in, on or at the rail vehicle or premises is, or includes, a document or thing used for the storage of information; and

(b) the equipment may be used with the document or other thing to access information; and

(c) the authorised person concerned believes on reasonable grounds that the document or storage device is relevant to deciding whether an offence has been committed.

(2) If the authorised person, or the person helping the authorised person, finds that a disk, tape or other storage device in, on or at the vehicle or premises is relevant to deciding whether an offence has been committed, he or she may—

(a) put the information in documentary form and seize the documents so produced; or

(b) copy the information to another document or thing and remove that document or thing from the vehicle or premises; or

(c) if it is not practicable to put the information in documentary form or to copy the information—seize the document or other thing and the equipment that enables the information to be accessed.

(3) An authorised person, or a person helping the authorised person, must not operate or seize equipment for this section unless the authorised person or person helping the authorised person reasonably believes the operation or seizure of the equipment can be carried out without damage to the equipment.

126KC Restoring vehicle or premises to original condition after action taken

(1) This section applies if—

(a) an authorised person, or a person authorised by the authorised person, has taken action in the exercise or purported exercise of a power under section 126H, 126HA, 126I, 126J, 126JA or 126KB in relation to a

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vehicle or its equipment or load or in relation to any premises; and

(b) damage was caused by the unreasonable exercise of the power or by the use of force that was not authorised under the relevant section.

(2) The authorised person must take reasonable steps to return the vehicle, equipment, load or premises to the condition it was in immediately before the action was taken.

Part 3B Powers of authorised persons for dangerous situations involving rail vehicles

126L Application of part

(1) This part applies only if an authorised person reasonably believes a dangerous situation exists.

(2) A ***dangerous situation*** is a situation involving the transportation of dangerous goods by rail that is causing, or is likely to cause, imminent risk of—

(a) death of, or significant injury to, a person; or

(b) significant harm to the environment; or

(c) significant damage to property.

126M Additional power to require information or produce document

(1) This section applies if an authorised person reasonably believes a person may be able to give information or produce a document that will help deal with a dangerous situation.

(2) The authorised person may require the person to give the information or produce the document.

(3) The person must give the information or produce the document, unless the person has a reasonable excuse.

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Maximum penalty—

(a) if the contravention results in the death of, or grievous bodily harm to, a person—270 penalty units; or

(b) otherwise—135 penalty units.

(4) The fact that giving the information or providing the document might tend to incriminate the person is not a reasonable excuse for subsection (3).

(5) However, evidence of, or directly or indirectly derived from, the information or the production of the document that might tend to incriminate the person is not admissible in evidence against the person in a proceeding, other than a proceeding for—

(a) an offence against section 130 or 131; or

(b) another offence about the falsity of the information or document.

126N Power to give notice about dangerous situation

(1) This section applies if an authorised person reasonably believes a person is in a position to take steps to prevent a dangerous situation.

(2) The authorised person may give the person a written notice (a ***dangerous situation notice***) requiring the person to take the steps reasonably necessary to prevent the dangerous situation.

(3) Without limiting subsection (2), the authorised person may require the prime contractor or consignor of dangerous goods to provide equipment and other resources necessary—

(a) to control the dangerous situation; or

(b) to contain, control, recover or dispose of the goods that have leaked, spilled or escaped; or

(c) to recover a vehicle involved in the situation or its equipment.

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126NA Dangerous situation notice

(1) A dangerous situation notice has effect—

(a) when it is given to the person; or

(b) if the notice states a later date—on that date.

(2) A dangerous situation notice given to a person must state the following—

(a) the notice is given under section 126N;

(b) the authorised person believes a dangerous situation exists;

(c) the grounds for the belief;

(d) if the authorised person believes the dangerous situation involves a contravention of an Act—the relevant provision of the Act;

(e) that the person may—

(i) under section 102—ask for the decision to be reviewed by the chief executive; and

(ii) under the *Transport Planning and Coordination Act 1994*, part 5, division 2—apply to QCAT for the decision to be stayed; and

(iii) under section 103—ask for the chief executive's decision on the review (the ***reviewed decision***) to be reviewed by QCAT; and

(iv) under the QCAT Act—apply to QCAT for the reviewed decision to be stayed;

(f) that it is an offence to fail to comply with a dangerous situation notice;

(g) the maximum penalty for the offence of failing to comply with a dangerous situation notice.

(3) The dangerous situation notice may include a requirement about the steps to be taken to prevent the dangerous situation.

(4) A requirement may—

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(a) offer a choice of ways to prevent the dangerous situation; and

(b) prohibit the carrying out of an activity by stating—

(i) a place where the activity may not be carried out; or

(ii) a thing that may not be used in connection with the activity; or

(iii) a procedure that may not be followed in connection with the activity.

126NB Contravention of dangerous situation notice

A person given a dangerous situation notice must comply with the requirements set out in the notice unless the person has a reasonable excuse for not doing so.

Maximum penalty—

(a) if the contravention results in death or grievous bodily harm to a person—200 penalty units; or

(b) otherwise—100 penalty units.

126NC Oral direction may be given before dangerous situation notice is served

(1) This section applies if an authorised person reasonably believes—

(a) a person is in a position to take steps to prevent a dangerous situation; and

(b) it is not reasonable or immediately possible to give a dangerous situation notice.

(2) The authorised person may give an oral direction to the person instead of a written notice.

(3) The oral direction must include—

(a) the matters mentioned in section 126NA(2)(b), (c) and (d); and

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(b) a statement that is an offence to fail to comply with an oral direction.

(4) The person must comply with the oral direction.

Maximum penalty—

(a) if the contravention results in death or grievous bodily harm to a person—200 penalty units; or

(b) otherwise—100 penalty units.

(5) The oral direction must be confirmed in writing by any authorised person giving a dangerous situation notice under section 126N as soon as practicable.

(6) The oral direction stops having effect if the dangerous situation notice is not given to the person within 5 days after the oral direction is given.

(7) In this section—

oral direction includes a direction by sign or signal.

126ND Withdrawal of dangerous situation notice

A dangerous situation notice may be withdrawn by an authorised person serving notice of withdrawal on the person given the dangerous situation notice.

126NE Proceedings for an offence not affected by dangerous situation notice

The giving of, amendment or withdrawal of a dangerous situation notice does not affect proceedings for an offence against this part or the *Transport Infrastructure Act 1994*, chapter 14.

126O Power to take direct action to deal with dangerous situation

(1) This section applies if an authorised person reasonably believes—

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(a) a person given a remedial action notice or dangerous situation notice has not complied with the notice; or

(b) having regard to the nature of the dangerous situation, action under a remedial action notice or dangerous situation notice is inappropriate to deal with the dangerous situation.

(2) The authorised person may take the action the authorised person reasonably believes is necessary to deal with the dangerous situation.

(3) The action the authorised person may take includes asking someone the authorised person reasonably believes has appropriate knowledge and experience to help the authorised person deal with the dangerous situation.

(4) If the person agrees to help, the person is taken to have the powers of an authorised person to the extent reasonably necessary for the person to help deal with the dangerous situation.

(5) A rail vehicle can not be stopped or held under this section.

Part 3C Goods too dangerous to be transported

126OA Application of Act to goods too dangerous to be transported

(1) Unless otherwise provided, provisions of this Act relating to dangerous goods also apply in relation to goods too dangerous to be transported.

(2) For subsection (1)—

(a) a reference in a provision of this Act to dangerous goods includes a reference to goods too dangerous to be transported; and

(b) a reference in a provision of this Act to a dangerous goods offence includes a reference to an offence against

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this chapter or the *Transport Infrastructure Act 1994*, chapter 14 involving or relating to goods too dangerous to be transported by rail; and

(c) a reference in a provision of this Act to a dangerous goods regulation includes a reference to a regulation made under the *Transport Infrastructure Act 1994*, chapter 14, applying in relation to goods too dangerous to be transported by rail.

(3) Also, subsection (1) and (2) do not apply to subordinate legislation made under this Act unless a particular instrument of subordinate legislation expressly provides.

(4) A requirement of this Act imposed because of this part does not apply to the transport by rail of goods too dangerous to be transported to the extent the goods are transported by, or under the direction of, an authorised person or relevant emergency service officer to prevent a dangerous situation.

Part 4 Other enforcement powers of authorised persons

126P Definition for pt 4

In this part—

relevant offence means an offence against relevant transport legislation.

127 Power to require name, address and age

(1) An authorised person may require a person to state the person's name and address if the authorised person—

(a) finds the person committing a relevant offence; or

(b) finds the person in circumstances that lead, or has information that leads, the authorised person to reasonably suspect that the person has just committed a relevant offence.

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(2) The authorised person may also require the person to state the person's age if the authorised person reasonably suspects that the person's age is required for the enforcement of relevant transport legislation.

(3) When making the requirement, the authorised person must warn the person that it is an offence to fail to state the person's name and address and, if relevant, age unless the person has a reasonable excuse.

(4) The authorised person may require the person to give evidence of the correctness of the person's stated name, address or age if the authorised person reasonably suspects that the stated name, address or age is false.

(5) A person must comply with the authorised person's requirement under subsection (1), (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(6) A person does not commit an offence against this section if—

(a) the person was required to state the person's name, address or age by an authorised person who suspected the person had committed a relevant offence; and

(b) the person is not proved to have committed the offence.

128 Power to require information from certain persons

(1) This section applies if an authorised person reasonably suspects—

(a) a relevant offence has been committed; and

(b) the offence relates to—

(i) the construction, operation, maintenance or repair of a vehicle or a railway; or

(ii) the provision of a public passenger service; and

(c) a person may be able to give information about the offence.

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(2) The authorised person may require the person to give information about the offence.

(2A) Also, the authorised person may, by written notice, require the person to attend the office of the authorised person at a stated reasonable time to give the information.

(3) When making a requirement under subsection (2) or (2A), the authorised person must warn the person it is an offence to fail to give the information or attend at the time and place stated in the notice unless the person has a reasonable excuse.

(4) The person must comply with a requirement under subsection (2) or (2A), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

(5) It is a reasonable excuse for the person to fail to give information if giving it might tend to incriminate the person.

(6) The person does not commit an offence against this section if the information sought by the authorised person is not in fact relevant to the offence.

(7) In this section—

information includes a document.

Example—

a copy of a recording made by a vehicle's security camera

128A Copying and returning documents

(1) This section applies in relation to a document given by a person to an authorised person in response to a requirement made under section 128(2) or (2A).

(2) The authorised person may keep the document to copy it.

(3) If the authorised person copies it, the authorised person may ask the person to certify the copy as a true copy of the document.

(4) The authorised person must return the document to the person as soon as practicable after copying it.

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129 Power to require production of certain documents

(1) An authorised person may require a person who holds, or claims to hold, an accreditation, authorisation, licence or contract under this Act to produce either or both of the following—

(a) the accreditation, authorisation, licence or contract;

(b) photographic identification issued in official form in or outside Australia.

(2) An authorised person may require a person to produce for inspection a document issued, or required to be kept, under the *Transport Infrastructure Act 1994*, chapter 14 or a law of another State or the Commonwealth about transporting dangerous goods by rail.

(3) The person must comply with the requirement under subsection (1) or (2), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(4) The authorised person may keep the document to copy it.

(5) If the authorised person copies it, the authorised person may ask the person responsible for keeping the document to certify the copy as a true copy of the document.

(6) The authorised person must return the document to the person as soon as practicable after copying it.

129AA Power to require production of driver licence

(1) This section applies if an authorised person reasonably suspects a person in control of a motor vehicle, or a person who reasonably appears to be the person in control of a motor vehicle, has just committed, or is committing, an offence against this Act.

(2) The authorised person may require the person to produce his or her driver licence.

(3) If the person is unable to comply with the requirement immediately but holds an open licence, the person may

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comply with the requirement by producing the licence to the chief executive at a place nominated by the authorised person within 2 business days after the requirement is made.

(4) The person must comply with a requirement under subsection (2) or (3), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(5) The place nominated under subsection (3) must be an office of the department that is reasonable in the circumstances.

(6) In this section—

driver licence see the *Transport Operations (Road Use Management) Act 1995*.

open licence see the *Transport Operations (Road Use Management) Act 1995*.

Part 4A Functions and powers of transit officer for protecting safety of persons or property

Division 1 Powers to detain a person

129A Power to detain person who has committed a detainable offence

(1) This section applies if a transit officer reasonably believes a person on or in public transport infrastructure has committed a detainable offence on or in the public transport infrastructure.

(2) The transit officer may detain the person, using force that is reasonably necessary for the purpose, until the person can be delivered to a police officer.

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129B Power to detain person to prevent continuation of detainable offence

(1) This section applies if a transit officer—

(a) finds a person on or in public transport infrastructure committing a detainable offence; and

(b) reasonably believes that it is necessary to detain the person because of circumstances mentioned in subsection (2).

(2) For subsection (1)(b), the circumstances are—

(a) the person has been given a direction to leave the public transport infrastructure under this Act, and has failed to comply with the direction; or

(b) the person's conduct will, or is likely to, result in—

(i) bodily or other harm to the person or another person on or in the public transport infrastructure; or

(ii) damage to property on or in the public transport infrastructure; or

(c) it is likely that, if the person were given a direction to leave the public transport infrastructure under this Act, the person will repeat the offence or commit a similar offence on or in other public transport infrastructure immediately or soon after complying with the direction; or

(d) having regard to the nature of the person's conduct, the person is unlikely to comply with a direction to leave the public transport infrastructure under this Act.

Examples of when paragraph (d) may apply—

1 A person on or in public transport infrastructure is acting in a way that suggests the person is uncontrollable.

2 Two or more persons on or in public transport infrastructure are engaged in an intense struggle and are unlikely to hear or register a direction to leave.

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(3) The transit officer may detain the person, using force that is reasonably necessary for the purpose, until the person can be delivered to a police officer.

129C Power to detain person to prevent contravention of exclusion order

(1) This section applies if—

(a) a person is given a direction under section 143AHB in relation to public transport infrastructure for the purpose of stopping or preventing the person from contravening an exclusion order; and

(b) a transit officer finds the person on or in, or about to enter, the public transport infrastructure.

(2) The transit officer may detain the person, using force that is reasonably necessary for the purpose, until the person can be delivered to a police officer.

Division 2 Provisions about detaining persons generally

129D Handcuffs may be used for detaining person

(1) A transit officer may use handcuffs to detain a person under division 1 only if the transit officer reasonably believes the use of handcuffs is the only practicable way to properly effect the detention.

Note—

Under section 129V, the transit officer must follow the guidelines forming part of transit officer training that provide for how to decide whether using handcuffs is the only practicable way to detain a person and, if so, appropriate ways of using handcuffs.

(2) The *Weapons Act 1990*, section 67 does not apply to a transit officer who acquires or possesses handcuffs for exercising a power under this part.

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Note—

See also the *Weapons Regulation 1996*, section 80.

129E Period of detention

(1) A transit officer who detains a person under this part must immediately contact a police officer (***contacted police officer***) in relation to the detention of the person.

(2) If the contacted police officer tells the transit officer to release the person from the detention, the transit officer must release the person immediately.

(3) If subsection (2) does not apply, the transit officer may detain the person at the place where the detention started, or at another place set aside by the chief executive for the purpose, until a police officer arrives to deal with the person.

Examples for subsection (3)—

1 A person detained at a train station may continue to be detained at the train station until a police officer arrives to deal with the person.

2 A person detained on a train may be moved from the train to a train station and detained at the train station until a police officer arrives to deal with the person.

(4) In detaining a child under this part, the transit officer must ensure the child is detained for the shortest period that is justified in the circumstances.

129F Information to be given to detained person

(1) A transit officer who detains a person under this part must, as soon as reasonably practicable, tell the person that the person is being detained under this part and the nature of the person's conduct for which the person is detained.

(2) Before, or immediately after, the detained person is delivered to a police officer or released under section 129E, the transit officer must give the person a written report for the detention.

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129G Written report to be given to police officer

(1) This section applies if a police officer takes a person detained by a transit officer under this part into the police officer's custody.

(2) The transit officer must give a written report for the detention to the police officer when, or immediately after, the police officer takes the person into the police officer's custody.

129H Written report to be given to chief executive

A transit officer who detains a person under this part must give a written report for the detention to the chief executive as soon as reasonably practicable after the person is delivered to a police officer or released under section 129E.

129I Requirements for written report given under this division

(1) This section states the requirements for a written report for a detention under this part of a person (the ***detained person***) that is required to be given under this division.

(2) Subject to subsection (3), the written report must include all of the following information—

(a) the transit officer's name;

(b) the transit officer's unique identification number;

(c) the address of the place the transit officer receives instructions from, or reports to, on the day the detention happened;

(d) if known by the transit officer, the name, address, age and date of birth of the detained person;

(e) details of the conduct of the detained person that led to the detention, including—

(i) details of any direction that has been given to the detained person that is relevant to the detained person's conduct; and

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(ii) any other matters the transit officer considered in deciding to detain the person;

(f) details of any evidence of the detained person's conduct mentioned in paragraph (e);

(g) if the detained person is a child or a person with impaired capacity, the details of any action taken under division 3 by the transit officer in relation to the detained person;

(h) when and where the detained person was first detained;

(i) each place to which the person was taken during the detention, and the time spent at each place;

(j) any event or consideration that affected the length of the detention;

(k) if the detained person is detained until a police officer arrives to deal with the person under section 129E—

(i) the name and rank of the police officer; and

(ii) when the police officer arrived to deal with the detained person; and

(iii) if the police officer took the detained person into the police officer's custody—when the police officer took the detained person into the police officer's custody;

(l) if the detained person is released from the detention under section 129E—

(i) the name and rank of the police officer who told the transit officer to release the person; and

(ii) when the detained person was released from the detention;

(m) details of any physical injury suffered by the detained person, or damage caused to the person's property, during the detention;

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(n) whether the transit officer exercised a power under section 129O in relation to the detained person and, if so—

(i) the reason for exercising the power; and

(ii) when and where the power was exercised; and

(iii) whether the exercise of the power required the removal of an outer garment worn by the detained person or a frisk search of the detained person;

(o) whether, under section 129T, the transit officer took and retained an article and, if so, a description of the article.

(3) A written report given under section 129F must not include information mentioned in subsection (2)(a) or (c).

129J Restrictions on questioning detained person

A transit officer must not while a person is being detained under this part—

(a) question the person about the person's involvement in the detainable offence in relation to which the person is detained; or

(b) in any way encourage, or provide an incentive for, the person to make a statement of any kind about the person's involvement in the detainable offence in relation to which the person is detained.

Division 3 Additional provisions about detaining children or persons with impaired capacity

129K Limitation on detaining child

In deciding whether to detain a child under this part, the transit officer must have regard to the need to ensure that detention is used only as a last resort.

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129L Responsible person to be notified of detention

(1) This section applies if—

(a) under this part, a transit officer is detaining a person at a place until a police officer arrives; and

(b) the detained person is a child or a person with impaired capacity; and

(c) the child's or person's name is known to the transit officer.

(2) The transit officer must, as soon as practicable, advise the responsible person for the child or person of the detention and the place where the child or person is being detained.

(3) Subsection (2) does not apply in relation to a child if the transit officer believes on reasonable grounds the child is an adult.

(4) In deciding whether the transit officer had reasonable grounds, a court may have regard to the child's apparent age and the circumstances of the detention.

(5) In this section—

responsible person means—

(a) for a child—

(i) the child's parent or guardian; or

(ii) a person who has lawful custody of the child; or

(iii) a person who has the day-to-day care and control of the child; or

(iv) an adult relative or friend acceptable to the child; or

(b) for a person with an impaired capacity—a guardian appointed for the person under the *Guardianship and Administration Act 2000*.

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129M Giving warning etc. to child or person with impaired capacity

(1) This section applies if, under this part, a transit officer gives a child or a person with an impaired capacity—

(a) a warning; or

(b) an opportunity to leave public transport infrastructure.

(2) The transit officer must take reasonable steps to ensure the child or person understands the purpose, nature and effect of the warning or opportunity to leave.

(3) The steps that can be taken include, for example—

(a) personally explaining the matters to the child or person; and

(b) having an interpreter or other person able to communicate effectively with the child or person give the explanation; and

(c) supplying an explanatory note in English or another language.

129N Nature of detention for child or person with impaired capacity

(1) This section applies if, under this part, a transit officer detains a child or a person with an impaired capacity.

(2) In deciding how and where to detain the child or person, or how to transport the child or person to a police officer, the transit officer must have regard to the following—

(a) the need to keep the child or person safe and promote the child's or person's physical and mental wellbeing;

(b) the need to treat the child or person with respect and dignity;

(c) the child's or person's age, maturity, capacity and, if appropriate, cultural and religious beliefs and practices;

(d) the need to ensure the child or person is detained for the least time that is justified in the circumstances.

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Division 4 Additional powers after person detained

129O Power to require detained person to remove outer garment etc.

(1) This section applies if a transit officer who has detained a person under this part reasonably suspects the person is carrying an article that could, or could be used to, cause harm to the person or someone else.

(2) The transit officer may direct the person to do 1 or more of the following—

(a) allow the officer to inspect the person's belongings;

(b) remove 1 or more outer garments worn by the person as specified by the officer and allow the officer to inspect the garments;

(c) remove all articles from the person's clothing and allow the officer to inspect them;

(d) allow the officer to frisk search the person.

(3) In this section—

inspect, an article, includes handle the article, open it and examine its contents.

129P Limits on directing removal of outer garment worn by detained person generally

(1) A transit officer may direct a person to remove an outer garment under this division only if the officer—

(a) considers on reasonable grounds the person is wearing an outer garment and a proper examination of the person and garment can not be carried out unless the outer garment is removed; and

(b) considers on reasonable grounds that the removal of the outer garment will not result in the person being in a state of undress; and

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(c) specifies the outer garment to be removed; and

(d) if practicable, ensures the person's compliance with the direction is carried out in an area or place that is out of view of members of the general public and that the officer considers, on reasonable grounds, provides suitable personal privacy to the person; and

(e) tells the person that even if the person removes the outer garment specified by the officer and allows the officer to examine the outer garment, the person may or may not be examined further.

(2) In this section—

state of undress, for a person, means—

(a) the person is naked or the person's genital or anal region is bare or, if the person is female, the person's breasts are bare; or

(b) the person is wearing only underwear; or

(c) the person is wearing only some outer garments so that some of the person's underwear is not covered by an outer garment.

129Q Limit on directing removal of outer garment worn by detained person who is a child or person with impaired capacity

(1) This section applies if a transit officer gives a direction to remove an outer garment under this division to a child, or a person with impaired capacity, who may not be able to understand the purpose of the direction.

(2) The transit officer must not permit the child or person to remove the outer garment other than in the presence of—

(a) if a responsible person for the child or person is at or in the immediate vicinity of the place where the outer garment is to be removed—the responsible person; or

(b) otherwise—another authorised person.

(3) In this section—

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responsible person means—

(a) for a child—

(i) the child's parent or guardian; or

(ii) a person who has lawful custody of the child; or

(iii) a person who has the day-to-day care and control of the child; or

(iv) an adult relative or friend acceptable to the child; or

(b) for a person with an impaired capacity—a guardian appointed for the person under the *Guardianship and Administration Act 2000* or an adult relative or friend acceptable to the person.

129R Limits on frisk searching detained person generally

(1) A transit officer may frisk search a person only if—

(a) the officer is the same sex as the person; and

(b) the officer—

(i) tells the person that the person has the right to request the frisk search be carried out in an area or place that is, if practicable, out of view of members of the general public and that the officer considers, on reasonable grounds, provides suitable personal privacy to the person; and

(ii) takes the person to the area or place, if the person requests the officer to do so.

(2) A transit officer who frisk searches a person must—

(a) ensure, as far as reasonably practicable, the way the person is searched causes minimal embarrassment to the person; and

(b) take reasonable care to protect the dignity of the person.

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129S Limits on frisk searching detained person who is a child or person with impaired capacity

(1) This section applies if a transit officer frisk searches a child, or a person with impaired capacity, who may not be able to understand the purpose of the search.

(2) The transit officer must conduct the frisk search in the presence of—

(a) if a responsible person for the child or person is at or in the immediate vicinity of the place where the frisk search is to be conducted—the responsible person; or

(b) otherwise—another authorised person.

(3) In this section—

responsible person means—

(a) for a child—

(i) the child's parent or guardian; or

(ii) a person who has lawful custody of the child; or

(iii) a person who has the day-to-day care and control of the child; or

(iv) an adult relative or friend acceptable to the child; or

(b) for a person with an impaired capacity—a guardian appointed for the person under the *Guardianship and Administration Act 2000* or an adult relative or friend acceptable to the person.

129T Power to take and retain particular articles

(1) This section applies if a transit officer acting under section 129O in relation to a person finds an article that may cause harm to the person or someone else.

(2) The transit officer may take and retain the article while the person is being detained under this part.

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(3) The transit officer must give the article to the police officer to whom the person is delivered under this part.

Note—

For return of the article, see the *Police Powers and Responsibilities Act 2000*, chapter 21, part 3 (Dealing with things in the possession of police service).

Division 5 Recording details of exercise of powers under this part

129U Chief executive must maintain a register of detentions

(1) The chief executive must keep a register of detentions under this part.

(2) The chief executive must—

(a) include each written report given to the chief executive under section 129H in the register; and

(b) keep the report in the register for 5 years after the detention to which the report relates.

(3) At any time within 3 years after a person is detained under this part, the person may ask the chief executive to give the person a copy of the written report of the detention.

(4) The chief executive must comply with the request as soon as reasonably practicable.

Division 6 Other provisions about functions and powers under this part

129V Guidelines must be followed

A transit officer performing a function or exercising a power under this part must follow the guidelines forming part of transit officer training.

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129W Application of youth justice principles

(1) A transit officer performing a function or exercising a power under this part in relation to a child must, in performing the function or exercising the power, have regard to the youth justice principles under the *Youth Justice Act 1992*.

(2) Subsection (1) does not limit any provision of this part that specifically provides for the application of a principle mentioned in the *Youth Justice Act 1992*, schedule 1.

129X Transit officer must not fail to comply with this part

(1) A transit officer must not knowingly fail to comply with this part without a reasonable excuse.

Note—

The transit officer's appointment may also be revoked under section 113G.

Maximum penalty—60 penalty units.

(2) To remove any doubt, it is declared that a purported exercise of a power under this part in contravention of this part is unlawful.

Part 4B Powers of court to make exclusion orders for protecting the public or property

129Y Definition for pt 4B

In this part—

transport indictable offence means an indictable offence, including an indictable offence dealt with summarily, committed on or in public transport infrastructure.

129Z What is an *exclusion order*

An ***exclusion order*** is an order that—

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(a) prohibits a person from using the public transport network for a period of not more than 2 years; or

(b) restricts, for a period of not more 2 years, a person's use of the public transport network in 1 or more of the following ways—

(i) restricting the general route services or public transport infrastructure the person may use;

(ii) restricting the days, or the times or periods of a day, when the person may use the public transport network;

Examples—

- restricting the use of the public transport network to during the day only
- restricting the use of the public transport network to weekdays only

(iii) restricting the purpose for which the person may use the public transport network.

Examples—

- restricting the use of the public transport network to travel to and from work or an educational institution
- restricting the use of the public transport network to travel to and from a hospital or another place providing medical treatment

129ZA Court may make exclusion order

(1) This section—

(a) applies to a court convicting a person of a relevant offence or transport indictable offence (each an ***exclusion order offence***); and

(b) provides for the making of an exclusion order in sentencing the person under the *Penalties and Sentences Act 1992* or, if the person is a child, the *Youth Justice Act 1992*.

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Note—

The *Penalties and Sentences Act 1992*, section 9(1) provides for the only purposes for which a sentence may be imposed on a person.

(2) In addition to any sentence a court may make in relation to a person the court is convicting for a relevant offence, the court may make an exclusion order in relation to the person if—

(a) the person has been convicted of an exclusion order offence—

(i) at least 1 other time during the last 12 months; or

(ii) at least 2 other times during the last 18 months; and

(b) the court is satisfied that, unless the order is made, the person would pose an unacceptable risk to—

(i) the good order or management of the public transport network; or

(ii) the safety and welfare of persons using the public transport network.

(3) In addition to any sentence a court may make in relation to a person the court is convicting for a transport indictable offence, the court may make an exclusion order in relation to the person if the court is satisfied that, unless the order is made, the person would pose an unacceptable risk to—

(a) the good order or management of the public transport network; or

(b) the safety and welfare of persons using the public transport network.

129ZB Matters court must consider in deciding whether to make exclusion order

(1) A court considering whether or not to make, or the terms of, an exclusion order in relation to a person must have regard to the following—

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(a) the matters to which the court must have regard when sentencing the person under the *Penalties and Sentences Act 1992* or, if the person is a child, the *Youth Justice Act 1992*;

(aa) whether the person is subject to a civil banning order;

(b) whether the making of the order is likely to cause undue hardship to the person or the person's family—

(i) by depriving the person of the person's means of earning a living; or

(ii) in another way, including, for example, by depriving the person of the ability—

(A) to study; or

(B) to maintain the person's health or the health of a member of the person's family;

(c) the effect the order would have on the person's safety and wellbeing, having regard to the person's age and any physical, intellectual or psychiatric disability.

(2) This section does not limit the matters to which the court may have regard in considering whether or not to make, or the terms of, an exclusion order under this part in relation to a person.

Note—

See, for example, the *Penalties and Sentences Act 1992*, section 189 which allows the court to consider, in particular circumstances, offences a person may have committed but for which the person has not been convicted.

129ZC Exclusion order to be explained if person before the court

(1) If the person in relation to whom a court is making an exclusion order is before the court, the court must explain the following things to the person in a way the court is reasonably satisfied the person will understand them—

(a) the purpose, terms and effect of the proposed exclusion order;

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(b) what may happen if the person does not comply with the proposed exclusion order, including, for example, that the person may be detained under part 4A;

(c) that the person may apply for a variation of the order under section 129ZF.

(1A) If the person (the ***relevant person***) in relation to whom a court made an exclusion order did not appear before the court when the court made the order, before serving the order on the person, the person serving the order must explain, or cause to be explained, to the relevant person—

(a) the purpose, terms and effect of the exclusion order; and

(b) the consequences of contravening the exclusion order; and

(c) that the exclusion order may be varied or revoked on the application of the relevant person or an authorised person.

(2) The process that a court adopts to explain things mentioned in subsection (1) may include using services of, or help from, other people to the extent the court considers appropriate.

Examples of services or help the court may consider appropriate—

1 The court may arrange for the court's proper officer or a public service employee at the court, to explain the exclusion order to a person.

2 A local interpreter or the telephone interpreter service may be used to explain the order to the person.

3 Explanatory notes, including explanatory notes prepared for non-English speakers, may be given to the person.

4 The court may arrange with a community government under the *Local Government (Community Government Areas) Act 2004*, an indigenous regional council under the *Local Government Act 1993*, a community justice group or group of elders for someone to explain the order to the person.

(3) Failure to comply with this section does not affect the validity of the exclusion order.

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129ZD Amendment or revocation of exclusion order generally

(1) The following persons may apply, in the approved form, to amend or revoke an exclusion order—

(a) a prosecutor;

(b) the person to whom the order applies.

(2) However, the person to whom the exclusion order applies can not apply for an amendment or revocation under this section within 3 months after the order was made.

Note—

However, section 129ZF provides for applications by the person to whom an exclusion order applies for variations of particular restrictions under the order if the person's personal circumstances change.

(3) The application—

(a) may be made only to a court of equivalent jurisdiction to the court in which the exclusion order was made; and

(b) may be made to a court convicting the person to whom the exclusion order applies of a relevant offence or transport indictable offence committed before or after the order was made.

(4) The applicant must give a copy of the application to—

(a) if the applicant is a prosecutor—

(i) the person to whom the exclusion order applies; and

(ii) the chief executive; or

(b) if the applicant is the person to whom the exclusion order applies—

(i) the prosecuting authority; and

(ii) the chief executive.

(5) The applicant must give the copy at least 21 days before the day on which the application is to be heard.

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(6) The prosecutor and person to whom the exclusion order applies are each entitled to be heard at the hearing of an application.

(7) A court may amend or revoke the exclusion order only if satisfied there has been a material change in the circumstances of the person to whom the order applies that justifies the amendment or revocation.

(8) In this section—

prosecuting authority means—

(a) if the prosecutor who appeared before the court when the exclusion order was made was a Crown prosecutor—the director of public prosecutions, or someone authorised to accept the application on the director's behalf; or

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

129ZE Order to be given to interested persons

(1) A proper officer of the court that makes, amends or revokes an exclusion order in relation to a person must as soon as possible—

(a) reduce the order to writing in the approved form; and

(b) cause a copy of the order to be given or sent to—

(i) the person; and

(ii) if the prosecutor who appeared before the court when the order was made was a Crown prosecutor—the director of public prosecutions, or someone authorised to accept the order of the director's behalf; and

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(iii) the commissioner of the police service, or someone authorised to accept the order on the commissioner's behalf; and

(iv) the chief executive.

(2) Without limiting subsection (1)(a), an exclusion order made under this part in relation to a person must state the following—

(a) the name of the person;

(b) the period for which the order applies;

(c) the prohibitions or restrictions that the order imposes.

(3) Failure to comply with this section does not affect the validity of the exclusion order.

129ZF Amendment of exclusion order that restricts access for changes in personal circumstances

(1) This section applies if—

(a) a court makes, in relation to a person, an exclusion order that restricts the person's use of the public transport network on the basis of particular personal circumstances of the person; and

(b) the personal circumstances have changed.

Example—

A court makes an exclusion order in relation to a person that restricts the person's use of the public transport network to only permit travel to and from a place of work, and the person's place of work changes.

(2) The person may apply to a court of equivalent jurisdiction to the court in which the exclusion order was made for an order (an ***exclusion variation order***) to vary the restrictions that, under the exclusion order, apply to the person's use of the public transport network.

(3) An application for an exclusion variation order must—

(a) be in the approved form; and

(b) be accompanied by—

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(i) an affidavit made by the person outlining why the variation mentioned in the application is necessary; and

(ii) the information, or details of the information, the applicant intends to rely on for the application.

(4) Subsection (3) does not prevent the applicant from producing further evidence at the hearing of the application.

(5) A court to which an application for an exclusion variation order is made may vary the restrictions applying under the exclusion order only if the court—

(a) has had regard to—

(i) the restrictions and the matters mentioned in section 129ZB; and

(ii) whether the applicant has contravened the exclusion order other than in circumstances mentioned in section 129ZG(2); and

(b) considers the justice of the case requires it to vary the restrictions.

(6) An exclusion variation order must state the restrictions, as varied, that are to apply to the applicant's use of the public transport network for the remainder of the period for which the exclusion order applies in relation to the applicant.

(7) A proper officer of the court that makes an exclusion variation order in relation to a person must as soon as possible—

(a) reduce the order to writing in the approved form; and

(b) cause a copy of the order to be given or sent to each person mentioned in section 129ZE(1)(b).

(8) Failure to comply with subsection (6) or (7) does not affect the validity of the exclusion variation order.

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129ZG Offence to contravene exclusion order

(1) A person to whom an exclusion order applies must not contravene the order, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) Without limiting what may constitute a reasonable excuse for subsection (1), it is a reasonable excuse for a person to contravene an exclusion order applying to the person—

(a) if, when the contravention happened, the person was not aware, and was reasonably not aware, that the order had been made; or

(b) if the person is contravening the exclusion order because of an emergency; or

(c) if—

(i) the person has applied for an exclusion variation order under section 129ZF; and

(ii) the court has not decided the application; and

(iii) the contravention of the exclusion order relates reasonably to the changed circumstances in relation to which the exclusion variation order is sought.

Example for paragraph (c)—

A person to whom an exclusion order applies has a reasonable excuse if—

(a) the person has applied for a variation of the exclusion order because—

(i) it restricts the person's use of the public transport network to only permit travel to and from the person's place of work; and

(ii) the person's place of work has changed; and

(b) the person uses the public transport network, in contravention of the exclusion order, to travel to and from the new place of work while the court is considering the application.

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(3) If a court that convicts a person of an offence against subsection (1) is of equivalent jurisdiction to the court that made the exclusion order, the court may, in addition to or instead of sentencing the person under subsection (1), amend the order.

Part 4C Powers of court to make civil banning orders for protecting the public or property

Division 1 Preliminary

129ZH Definitions for pt 4C

In this part—

act of violence includes an attempted or threatened act of violence.

authorised person means—

(a) the chief executive; or

(b) a police officer.

civil banning order see section 129ZJ(1).

interim civil banning order see section 129ZP(2).

respondent see section 129ZJ(1).

129ZI Purpose of pt 4C

The purpose of this part is to provide for the making of civil banning orders to help—

(a) ensure the safety and security of persons using the public transport network; and

(b) preserve the amenity and condition of the public transport network; and

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(c) protect revenue from the public transport network.

Division 2 Orders

129ZJ What is a *civil banning order*

(1) A ***civil banning order*** is an order made in relation to a person who is an adult (the ***respondent***) that prohibits the respondent, until a stated date, from doing, or attempting to do, any of the following—

(a) using the public transport network for a period of not more than 12 months; or

(b) restricting, for a period of not more than 12 months, a person's use of the public transport network in 1 or more of the following ways—

(i) restricting the general route services or public transport infrastructure the person may use;

(ii) restricting the days, or the times or periods of a day, when the person may use the public transport network;

Examples—

- restricting the use of the public transport network to during the day only
- restricting the use of the public transport network to weekdays only

(iii) restricting the purpose for which the person may use the public transport network.

Examples—

- restricting the use of the public transport network to travel to and from work or an educational institution
- restricting the use of the public transport network to travel to and from a hospital or another place providing medical treatment

(2) The stated date in the civil banning order must be a date no later than 12 months after—

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(a) if an interim civil banning order is made—the day on which the interim civil banning order is made; or

(b) otherwise—the day on which the civil banning order is made.

(3) A civil banning order takes effect—

(a) if the respondent or a legal or other representative of the respondent is present at the hearing of the application—when it is made; or

(b) otherwise—when the order is served on the respondent.

129ZK Who may apply for a civil banning order

An authorised person may apply to a Magistrates Court for a civil banning order to be made in relation to a respondent.

129ZL Application for a civil banning order

(1) An application for a civil banning order in relation to a respondent must state the following—

(a) the name of the respondent;

(b) the details of the order sought;

(c) the information necessary to satisfy the court of the matters mentioned in section 129ZO(1) or (2)(a) to (f);

(d) the details of any previous application for a civil banning order for the respondent and the outcome of the application;

(e) that affidavits in response to the application may be filed under section 129ZM;

(f) that the application may, under section 129ZN(2), be decided in the respondent's absence.

(2) The application must state that, if the respondent would like the court hearing the application to consider a matter mentioned in section 129ZO(2)(g) to (i), the respondent must provide information about the matter to the court.

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(3) The application must be accompanied by any affidavit the authorised person intends to rely on at the hearing of the application.

(4) The application, with any accompanying affidavit, must be—

(a) filed in the court; and

(b) served on the respondent within 10 business days after being filed.

129ZM Response by respondent

(1) The respondent may file affidavits to be relied on by the respondent for the hearing of the application.

(2) The respondent must file the affidavits within 28 business days after the day the application is filed.

129ZN Hearing of application

(1) If a respondent appears before the court that is to hear and decide an application for a civil banning order, the court may—

(a) hear and decide the application; or

(b) adjourn the application, whether or not it makes an interim civil banning order; or

(c) dismiss the application.

(2) If a respondent fails to appear before the court that is to hear and decide the application for a civil banning order and the court is satisfied that a copy of the application has been served on the respondent, the court may—

(a) proceed to hear and decide the application in the absence of the respondent; or

(b) adjourn the application, whether or not it makes an interim civil banning order; or

(c) dismiss the application.

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129ZO Making a civil banning order

(1) The court may make a civil banning order for a respondent if satisfied—

(a) either—

(i) within 12 months before the date of the application for the civil banning order, the respondent committed a relevant act of violence; or

(ii) within any 12-month period occurring in the 2 years before the date of the application for the civil banning order, the respondent was served 10 or more infringement notices for a relevant offence or relevant offences; and

(b) if paragraph (a)(ii) applies, the infringement notices have been dealt with under the *State Penalties Enforcement Act 1999*; and

(c) unless the order is made, the respondent would pose an unacceptable risk to—

(i) the good order or management of the public transport network; or

(ii) the safety and welfare of persons using the public transport network.

(2) In considering whether to make, or the terms of, the order, the court must have regard to all of the circumstances of the case, including the following—

(a) whether the respondent is, or has been, subject to another civil banning order;

(b) whether the respondent is subject to a condition, relating to the use of the public transport network, under the *Bail Act 1980*, section 11;

(c) whether the respondent, or any other person, was charged with an offence arising out of the act of violence mentioned in subsection (1)(a)(i) and the result of any proceeding in relation to the charge;

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(d) whether the respondent, or any other person, was charged with an offence arising out of a relevant offence mentioned in subsection (1)(a)(ii) and the result of any proceeding in relation to the charge;

(e) whether the respondent is subject to an exclusion order;

(f) the respondent's criminal history;

(g) whether the making of the order is likely to cause undue hardship to the respondent or the respondent's family—

(i) by depriving the respondent of the respondent's way of earning a living; or

(ii) in another way, including, for example, by depriving the respondent of the ability—

(A) to study; or

(B) to maintain the respondent's health or the health of a member of the respondent's family;

(h) the effect the order would have on the respondent's safety and wellbeing, having regard to the respondent's age and any physical, intellectual or psychiatric disability;

(i) any other of the respondent's personal circumstances and the likely effect of the order on those circumstances.

(3) This section does not limit the matters to which the court may have regard in considering whether or not to make, or the terms of, a civil banning order under this part in relation to a person.

(4) The court may impose any conditions it considers necessary on a civil banning order.

(5) The court may make a civil banning order whether or not the respondent has been charged with, convicted of, acquitted of, or sentenced for an offence arising out of the act of violence mentioned in subsection (1)(a)(i).

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(6) For subsection (7), definition *dealt with*, a reference in the *State Penalties Enforcement Act 1999* to an alleged offender is taken to be a reference to the respondent.

(7) In this section—

dealt with, for an infringement notice for a relevant offence served on a respondent, means one of the following has happened under the *State Penalties Enforcement Act 1999*—

(a) the respondent has paid the fine for the infringement notice in full;

(b) the respondent has elected to have the matter of the relevant offence dealt with by a Magistrates Court and the matter has been finally decided against the respondent;

(c) the respondent has applied for approval to pay the fine for the infringement notice by instalments;

(d) an order has been made against the respondent for the relevant offence under section 38 of that Act.

relevant act of violence means an act of violence—

(a) committed by a person on the public transport network, against another person or property, without a reasonable excuse; and

(b) of a nature that would cause a person on public transport infrastructure to reasonably fear bodily harm to any person or damage to property.

129ZP Interim civil banning order

(1) This section applies if an authorised person has made an application, under section 129ZL, for a civil banning order for a respondent.

(2) The authorised person may apply to a Magistrates Court for an order (an ***interim civil banning order***) for the respondent to be in force until—

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(a) the court finally decides the application for the civil banning order; or

(b) the application for the civil banning order otherwise ends.

(3) The application for the interim civil banning order must state—

(a) the information necessary to satisfy the court of the matters mentioned in subsection (7); and

(b) that affidavits in response to the application may be filed under subsection (5); and

(c) that the application may, under subsection (8), be decided in the respondent's absence.

(4) The application, with any accompanying affidavit, must be—

(a) filed in the court; and

(b) served on the respondent within 5 business days after being filed.

(5) The respondent may file affidavits to be relied on by the respondent for the hearing of the application.

(6) The respondent must file the affidavits within 15 business days after the day the application is filed.

(7) The court may make the interim civil banning order if the court is satisfied—

(a) the application has been served on the respondent; and

(b) there are reasonable grounds for believing there is sufficient basis to make a civil banning order.

(8) The interim civil banning order may be made whether or not the respondent appears before the court or makes submissions.

(9) An interim civil banning order may prohibit the respondent from doing, or attempting to do, anything that a person may be prohibited from doing by a civil banning order.

(10) An interim civil banning order takes effect—

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(a) if the respondent or a legal or other representative of the respondent is present at the hearing of the application—when it is made; or

(b) otherwise—when the order is served on the respondent.

129ZQ Varying or revoking civil banning order for changes in circumstances

(1) The following persons may apply (the ***applicant***) to the Magistrates Court for an order to vary or revoke a civil banning order—

(a) an authorised person;

(b) the respondent.

(2) However, the respondent may not, without the leave of the court, make the application until at least 3 months after the civil banning order is made.

(3) The application must—

(a) be in the approved form; and

(b) be accompanied by—

(i) an affidavit made by the applicant outlining why the variation or revocation mentioned in the application is necessary; and

(ii) the information, or details of the information, the applicant intends to rely on for the application.

(4) Within 14 business days after the application is filed, the applicant must give a copy of the application to—

(a) if the applicant is the respondent—the authorised person; or

(b) if the applicant is an authorised person—the respondent.

(5) The authorised person and respondent are each entitled to be heard at the hearing of the application.

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(6) If the respondent makes the application, subsection (3) does not prevent the respondent from producing further evidence at the hearing of the application.

(7) The court may vary or revoke a civil banning order only if the court—

(a) has had regard to—

(i) the matters mentioned in section 129ZO so far as they are relevant to the application; and

(ii) whether the respondent has, without a reasonable excuse under section 129ZZ, contravened the civil banning order; and

(b) is satisfied there has been a material change in the circumstances of the respondent that justifies the variation or revocation; and

(c) considers the justice of the case requires the variation or revocation.

129ZR Court may make civil banning order by consent

(1) The Magistrates Court may make a civil banning order in a form agreed to by an authorised person and the respondent.

(2) The order may include only matters that may be dealt with under this part.

129ZS Orders must be served and explained

(1) If a court makes a civil banning order or interim civil banning order for a respondent, the order must be served on the respondent.

(2) Subsection (3) applies if a respondent or a legal or other representative of the respondent appears before a court hearing an application for a civil banning order or an interim civil banning order for the respondent.

(3) Before making the order, the court must explain, or cause to be explained, to the respondent—

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(a) the purpose, terms and effect of the order; and

(b) the consequences of contravening the order; and

(c) for a civil banning order—that the order may be varied or revoked on the application of the respondent or an authorised person.

(4) Subsection (5) applies if a respondent or a legal or other representative of the respondent did not appear before a court when the court made a civil banning order or an interim civil banning order for the respondent.

(5) Before serving the order on the respondent, the person serving the order must explain, or cause to be explained, to the respondent—

(a) the purpose, terms and effect of the order; and

(b) the consequences of contravening the order; and

(c) for a civil banning order—that the order may be varied or revoked on the application of the respondent or an authorised person.

(6) The explanation under subsection (3) or (5) must be made in language or in a way likely to be readily understood by the respondent.

(7) Failure to comply with this section does not affect the validity of the civil banning order.

129ZU No costs to be awarded

The Magistrates Court must not award costs on proceedings under this division unless the court dismisses the application as frivolous or vexatious or another abuse of process.

129ZV No filing fee is payable

A fee is not payable for making an application, or filing another document, under this part.

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129ZW Standard of proof

A question of fact in proceedings under this part, other than proceedings for an offence, is to be decided on the balance of probabilities.

129ZX General application of rules of court

The *Uniform Civil Procedure Rules 1999* apply in relation to applications made to the court under this part to the extent the rules are consistent with this part.

129ZY Interaction with criminal proceedings

(1) An application under this part may be made and a court may, as authorised by this Act, dispose of the application, even if a person concerned in the application has been charged with an offence arising out of the act of violence on which the application is based.

(2) Subsection (4) applies if the person against whom—

(a) a civil banning order has been made; or

(b) a court has refused to make a civil banning order; or

(c) proceedings are current (***current proceedings***) in which a civil banning order or an order varying or revoking a civil banning order is sought;

is charged with an offence mentioned in subsection (1).

(3) Also, subsection (4) applies if the person is charged with an offence mentioned in subsection (1) and the court has done either of the following relating to a civil banning order naming the person as the respondent—

(a) revoked, or refused to revoke, the civil banning order;

(b) varied, or refused to vary, the civil banning order, including the conditions imposed on the order.

(4) A reference to—

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(a) making, or refusing to make, the order, or a revocation or variation; or

(b) the existence of current proceedings; or

(c) the fact that evidence of a particular nature or content was given in—

(i) the proceedings in which the order, revocation or variation was made or refused; or

(ii) the current proceedings;

is inadmissible in the trial of the person for an offence arising out of the act of violence on which the application for the order, revocation, or variation, or relevant to the current proceedings, is based.

(5) To remove any doubt, it is declared that, subject to this section, an application, proceeding or order under this part in relation to the conduct of the person does not affect any proceeding against the person for an offence arising out of the same conduct.

(6) The person may be punished for the offence mentioned in subsection (5) despite any order made against the person under this part.

(7) In this section—

civil banning order includes an interim civil banning order.

129ZZ Contravention of civil banning order or interim civil banning order

(1) A person must not, without reasonable excuse, contravene a civil banning order.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) It is a reasonable excuse for a person to contravene a civil banning order applying to the person—

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(a) if, when the contravention happened, the person was not aware, and was reasonably not aware, that the order had been made; or

(b) if the person is contravening the order because of an emergency; or

(c) if—

(i) the person has applied for an order to vary the civil banning order; and

(ii) the court has not decided the application; and

(iii) the contravention of the civil banning order reasonably relates to the changed circumstances in relation to which the application is made.

Example for paragraph (c)—

A person to whom a civil banning order applies has a reasonable excuse if—

(a) the person has applied for an order to vary the civil banning order because—

(i) it restricts the person's use of the public transport network to only permit travel to and from the person's place of work; and

(ii) the person's place of work has changed; and

(b) the person uses the public transport network, in contravention of the civil banning order, to travel to and from the new place of work while the Magistrates Court is considering the application.

(3) If the Magistrates Court convicts a person of an offence against subsection (1), the court may, in addition to or instead of sentencing the person under subsection (1), vary the civil banning order.

(4) In this section, other than subsection (2)(c)—

civil banning order includes an interim civil banning order.

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Division 3 Appeals

129ZZA Appeals

An authorised person or a respondent in relation to whom a decision of the Magistrates Court under this part has been made may appeal against the decision to the District Court.

129ZZB Time for appeal

(1) An appeal must be started within 1 month after the decision is made (the ***appeal period***).

(2) On application, the District Court may extend the appeal period.

129ZZC Starting appeal

(1) A person starts an appeal by filing a notice of appeal with the registrar.

(2) The notice must—

(a) be signed by the person or the person's lawyer; and

(b) state, briefly and precisely, the grounds of the appeal.

(3) If the notice is not filed in the appeal period, the person must also file with the registrar a notice of application for extension of time for filing the notice.

129ZZD Registrar to give respondent copies of particular documents

The registrar must give the respondent to an appeal copies of any of the following documents filed with the registrar for the appeal—

(a) the notice of appeal;

(b) a notice of application for extension of time for filing a notice mentioned in paragraph (a).

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129ZZE Stay of operation of decision

An appeal does not stay the operation of the decision.

129ZZF District Court's powers on appeal

(1) An appeal is by way of rehearing.

(2) The District Court—

(a) has all the powers and duties of the court that made the decision appealed from; and

(b) may draw inferences of fact, not inconsistent with the findings of the court; and

(c) may, on special grounds, receive further evidence as to questions of fact, either orally in court, by affidavit or in another way; and

(d) may order that the matter be remitted for rehearing to the court in which the decision appealed from was made.

(3) Subsection (2)(a) does not limit the powers that the District Court has in its civil jurisdiction.

(4) The decision of the District Court upon an appeal is final and conclusive.

129ZZG No costs on appeal

The District Court must not award costs on an appeal under this division unless the court dismisses the appeal as frivolous or vexatious or another abuse of process.

Division 4 Miscellaneous

129ZZH Service of documents

(1) This section applies if a provision of this part requires a respondent to be served with a document.

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(2) The document must be served personally on the respondent.

(3) However, if, despite reasonable attempts being made, a document is unable to be personally served on a respondent, an authorised person may apply to the Magistrates Court to authorise substituted service under subsection (4).

(4) If it appears to the court that it is not reasonably practicable to serve the document personally on the respondent, the court may authorise another way of serving it (***substituted service***).

Example of substituted service—

by personal service of the document on a relative, guardian or other person with whom the respondent is known to associate

(5) When serving a document that requires the appearance of a respondent in a court, the person serving the document must explain the contents of the document to the respondent in language likely to be understood by the respondent, having regard, for example, to the respondent's age and cultural, educational and social background.

129ZZI Police commissioner must provide information relevant to applications

(1) The chief executive may ask the commissioner of the police service to give the chief executive the information the chief executive requires to make, or to consider making, an application for a civil banning order in relation to a person.

(2) Without limiting subsection (1), the information may include the following—

(a) the criminal history of the person;

(b) police statements in relation to any act of violence committed by the person;

(c) statements of witnesses or victims of any act of violence committed by the person;

(d) other evidentiary material relating to any act of violence committed by the person.

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(3) Subject to subsection (4), the commissioner must provide the information requested.

(4) The obligation of the commissioner to comply with the chief executive's request applies only to information in the possession of the commissioner or to which the commissioner has access.

Part 5 Other enforcement matters

130 False or misleading information

(1) A person must not—

(a) state anything to the chief executive, an authorised person or a review panel the person knows is false or misleading in a material particular; or

(b) omit from a statement made to the chief executive, an authorised person or a review panel anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—150 penalty units.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the statement made was false or misleading to the person's knowledge.

131 False, misleading or incomplete documents

(1) A person must not give to the chief executive, an authorised person or a review panel a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—150 penalty units.

(2) Subsection (1) does not apply to a person who, when giving the document to the chief executive, authorised person or review panel—

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(a) informs the chief executive, authorised person or review panel, to the best of the person's ability, how it is false, misleading or incomplete; and

(b) gives the correct information to the chief executive, authorised person or review panel if the person has, or can reasonably obtain, the correct information.

(3) A complaint against a person for an offence against subsection (1) is sufficient if it states that the statement made was false, misleading or incomplete to the person's knowledge.

(4) In this section—

document includes a report under this or another Act.

132 Compensation

(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this chapter, including, for example, in complying with a requirement made of the person under this chapter.

(2) Payment of compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction for the recovery of compensation; or

(b) an offence against this Act brought against the person by whom the claim is made.

(3) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

133 Authorised person to give notice of damage

(1) An authorised person who, in the exercise, or purported exercise, of a power under this chapter, damages anything must immediately give written notice of the particulars of the damage.

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(2) The notice must be given to the person who appears to the authorised person to be the owner of the thing.

(3) If, for any reason, it is not practicable to comply with subsection (2), the authorised person must—

(a) leave the notice at the place where the damage happened; and

(b) ensure the notice is left in a reasonably secure way and in a conspicuous position.

(4) In this section—

owner of a thing includes the person in possession or control of the thing.

134 Consent to entry by an authorised person

(1) This section applies if the authorised person intends to seek the consent of an occupier of a place to an authorised person entering the place under this chapter.

(2) Before seeking the consent, the authorised person must inform the occupier—

(a) of the purpose of the entry; and

(b) that anything found and seized may be used in evidence in court; and

(c) that the occupier is not required to consent.

(3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgement of the consent.

(4) The acknowledgement must—

(a) state the occupier was informed—

(i) of the purpose of the entry; and

(ii) that anything found and seized may be used in evidence in court; and

(iii) that the occupier was not required to consent; and

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(b) state the occupier gave the authorised person consent under this chapter to enter the place and exercise powers under this chapter.

(5) If the occupier signs an acknowledgement of consent, the authorised person must immediately give a copy to the occupier.

135 Obstructing authorised person

(1) A person must not obstruct an authorised person in the exercise of a power under this or another Act, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(2) If a person has obstructed an authorised person under subsection (1) and the authorised person decides to exercise the power, the authorised person must, if practicable, warn the person—

(a) that the authorised person considers the person's conduct is obstructing the authorised person; and

(b) that it is an offence to obstruct the authorised person, unless the person has a reasonable excuse.

136 Impersonating authorised person

A person must not pretend to be an authorised person.

Maximum penalty—75 penalty units.

Chapter 11A Payment of fares and directions and offences

143AA Definitions for ch 11A

In this chapter—

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driver includes—

(a) a conductor or train guard on or near a public passenger vehicle who is operating in relation to the vehicle; and

(b) for a ferry, the master of the ferry or a deckhand operating in relation to the ferry.

fare evasion provision means a provision of a regulation that creates an offence about fare evasion in relation to the use or hire of a public passenger vehicle.

master see the *Transport Operations (Marine Safety) Act 1994*, section 7.

143AB Regulation may provide for matters relating to payment of fares

(1) A regulation may provide for a matter relating to the payment of a fare in relation to the use or hire of a public passenger vehicle.

(2) Without limiting subsection (1), a regulation may—

(a) prescribe offences for fare evasion in relation to the use or hire of a public passenger vehicle; or

(b) enable a driver or authorised person to request that a person—

(i) produce evidence that the person is not contravening, or has not contravened, a fare evasion provision; or

(ii) produce evidence of the person's entitlement to a concession fare for the person's use or hire of a public passenger vehicle; or

(c) enable the chief executive to charge a person an amount for the use or hire of a public passenger vehicle if the person defaults in paying the fare for the use or hire.

(3) In this section—

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fare, for a taxi, includes an amount a taxi driver may charge a person under a regulation for cleaning a taxi soiled by the person.

143AD Obtaining hire or use of vehicle by fraud or misrepresentation

A person must not obtain, or attempt to obtain, the use or hire of a public passenger vehicle by fraud or misrepresentation.

Maximum penalty—40 penalty units or 6 months imprisonment.

143AE Interfering with public transport infrastructure, service, vehicle or equipment

(1) A person must not wilfully and unlawfully interfere with public transport infrastructure or a public passenger service, public passenger vehicle or service equipment.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) In this section—

interfere with means damage, deface or otherwise improperly interfere with.

vehicle includes the vehicle's equipment.

143AG Direction to leave, or not to enter, vehicle

(1) Subsection (2) applies if the driver or an authorised person reasonably believes that a person who is on, or about to enter, a public passenger vehicle—

(a) is creating, or is likely to create, a disturbance or nuisance on the vehicle; or

(b) is causing, or is likely to cause a danger to anyone; or

(c) is contravening, or has just contravened, section 143AE or a fare evasion provision prescribed by regulation.

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(2) The driver or an authorised person may direct the person to leave, or not to enter, the vehicle.

(3) If a person is on a public passenger vehicle that is hired by someone else, without the hirer's permission, the driver or an authorised person may direct the person to leave the vehicle.

143AH Direction to leave or not to enter vehicle that is full

If—

(a) a person is about to enter, or has just entered, a public passenger vehicle, or a compartment of a public passenger vehicle, that appears already to have its full complement of passengers; and

(b) the driver or an authorised person tells the person, in a general way, that the vehicle or compartment is full and that the person can not board the vehicle or compartment or remain on the vehicle or in the compartment; and

(c) the person fails to leave, or not to enter, the vehicle or compartment;

the driver or an authorised person may direct the person to leave, or not to enter, the vehicle or compartment.

143AHA Power to require person to leave public transport infrastructure if person committing particular offences

(1) An authorised person may direct a person to leave public transport infrastructure if—

(a) the authorised person finds the person committing an offence against a relevant provision; and

(b) the authorised person reasonably believes the person may continue to commit or immediately repeat the offence.

(2) If the person does not obey the direction, the authorised person may use force that is reasonable to get the person to leave.

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(3) The authorised person may exercise the power mentioned in subsection (2) in, or in an area adjacent to, the public transport infrastructure.

Examples of an area adjacent to public transport infrastructure—

- a footpath adjacent to a parked bus
- the side of a road adjacent to a light rail station or platform
- an area open to or used by the public that is adjacent to a busway

(4) In this section—

relevant provision means—

(a) section 143AE; or

(b) a provision of this Act that—

(i) is about creating a disturbance or nuisance; and

(ii) is prescribed by regulation; or

(c) a fare evasion provision prescribed by regulation; or

(d) any of the following provisions of the *Transport Infrastructure Act 1994*—

(i) section 255;

(ii) section 257;

(iii) section 329;

(iv) section 377; or

(e) the Rail Safety National Law (Queensland), section 227.

143AHB Power to require person to leave or not enter public transport infrastructure if person contravening order

(1) An authorised person may—

(a) direct a person to leave public transport infrastructure if the person is in or on the public transport infrastructure in contravention of an exclusion order or a civil banning order; or

(b) direct a person not to enter public transport infrastructure if the authorised person reasonably

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believes the person would be in contravention of an exclusion order or a civil banning order if the person enters the public transport infrastructure.

(2) If the person does not obey the direction, the authorised person may use force that is reasonable to get the person to leave or not enter the public transport infrastructure.

(3) The authorised person may exercise the power mentioned in subsection (2) in, or in an area adjacent to, the public transport infrastructure.

Examples of an area adjacent to public transport infrastructure—

- a footpath adjacent to a parked bus
- the side of a road adjacent to a light rail station or platform
- an area open to or used by the public that is adjacent to a busway

(4) An authorised person can not give a direction under this section if the authorised person is satisfied the person has a reasonable excuse for contravening the order.

(5) For subsection (4), a person has a reasonable excuse for contravening the order if—

(a) for an exclusion order—the person has a reasonable excuse mentioned in section 129ZG(2); or

(b) for a civil banning order—the person has a reasonable excuse mentioned in section 129ZZ(2).

143AHC Direction to ensure orderly movement

An authorised person may give a direction to a person on public transport infrastructure for the purpose of ensuring the orderly movement of persons onto, off, toward or away from public transport infrastructure.

143AHD Direction to ensure safety and security

(1) An authorised person may give a direction to a person on public transport infrastructure if the authorised person reasonably believes the direction is necessary to ensure the safety or security of 1 or more of the following—

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(a) persons employed on or in public transport infrastructure;

(b) public transport infrastructure;

(c) users of public transport infrastructure.

(2) Without limiting subsection (1), an authorised person may give a direction about—

(a) driving or parking a vehicle on public transport infrastructure; or

(b) leaving property on public transport infrastructure.

143AI Direction not to be given in particular circumstances

A driver or authorised person must not give a direction under this chapter—

(a) if complying with the direction is likely to endanger the safety of a person; or

(b) if the direction is given to a school student and is inconsistent with a code of conduct prescribed under a regulation.

Maximum penalty—5 penalty units.

143AJ Person given direction to be told particular things

(1) The person giving a direction under this chapter must tell, in a general way, the person to whom the direction is given—

(a) the reason the person has been given the direction; and

(b) that it is an offence to fail to comply with the direction, unless the person has a reasonable excuse.

Example of paragraph (a)—

The reason is that you are being a nuisance to other passengers.

(2) Subsection (1) does not apply if the direction is given because of an emergency.

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143AK Offence to contravene direction

A person must not contravene a direction given to the person under this chapter, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Chapter 12 Miscellaneous

Part 1 General

143B Approval of basis for funding for transport function

(1) The chief executive may enter into an agreement providing for help from the State for a transport function only if the Minister has approved the basis on which the help is to be provided.

(2) In considering whether to give an approval under subsection (1), the Minister must have regard to the principle that help from the State for a transport function should be provided principally for—

(a) public passenger services that the government requires to be provided and that would not be provided, or provided at the same level, without help from the State; or

(b) facilities for public passenger services that the government requires to be provided and that would not be provided, or provided at the same level, without help from the State; or

(c) vehicles that the government requires to be used on public passenger services and that would not be provided, or provided at the same level, without help from the State.

(3) Each annual report of the department must include—

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(a) details of help provided by the State to a person who receives help during the year to which the report relates; and

(b) reasons for the help.

(4) In this section—

help includes funding and financial or other assistance.

transport function means a function under this Act or that is necessary or incidental to achieving the objectives of this Act but does not include—

(a) funding or other financial assistance under section 52; or

(b) arrangements under section 144.

143C Unclaimed credit in passenger accounts

(1) This section applies in relation to a passenger account that is in credit, including credit of a deposit paid in relation to the account.

(2) The chief executive may, with the Minister's approval, use the credit in the passenger account for an objective of this Act mentioned in section 2 if, in the previous 5 years, no transaction has been recorded on the account.

(3) Subsection (2) does not affect a person's right to a refund of the credit in the person's passenger account.

(4) The *Public Trustee Act 1978*, section 102B does not apply in relation to the credit in the passenger account.

(5) In this section—

passenger account means an account with the department held by a person for the purpose of paying a fare for the use or hire of a public passenger vehicle.

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144 Transport arrangements for students

(1) The chief executive may make arrangements for the transport of students to and from schools or other educational establishments.

(2) Without limiting the scope of arrangements, arrangements may include—

(a) arrangements for transporting students with or without charge between their homes and their educational establishments; and

(b) arrangements for paying all or part of students' reasonable travel expenses.

(3) The chief executive may ask an education authority or principal of a non-State school to give the chief executive information about a student, or a student's parent, that is relevant to the administration of the arrangements, including, for example, information relevant to the student's eligibility for assistance under the arrangements.

Examples of information that may be relevant to the administration of arrangements—

- the home address of a student or a student's parent
- information about whether or not a student is enrolled in a stated educational establishment
- information about a student's attendance at the student's educational establishment
- a student's date of birth or year level at the student's educational establishment

(4) If the chief executive makes a request under subsection (3), the education authority or principal of the non-State school must give the chief executive the requested information.

(5) Subsection (4) applies to requested information in the possession of the education authority or principal of the non-State school or to which the authority or principal has access.

(6) Subsection (4) applies despite any other Act or law of the State, including, for example, the *Education (General Provisions) Act 2006*, section 426.

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(7) A relevant person who has gained or has access to information obtained under subsection (4) must not make a record of the information, use the information or disclose the information to anyone else, unless the recording, use or disclosure is—

(a) for a purpose of this Act; or

(b) with the written consent of the person to whom the information relates or, if the person is a student who is a child, of the student's parent; or

(c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or

(d) permitted or required by another Act.

Maximum penalty—50 penalty units.

(8) In this section—

disclose, information, includes give access to the information.

education authority means—

(a) the chief executive of the department in which the *Education (General Provisions) Act 2006* is administered; or

(b) the principal of a State instructional institution as defined under the *Education (General Provisions) Act 2006*.

non-State school means an accredited school under the *Education (Accreditation of Non-State Schools) Act 2017*.

parent, of a student, means—

(a) if the student is a child—a person who is the student's parent as defined under the *Education (General Provisions) Act 2006*, section 10; or

(b) if the student is an adult—a person who was the student's parent as defined under the *Education (General Provisions) Act 2006*, section 10, immediately before the student stopped being a child.

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principal, of a non-State school with no position by that name, means the person responsible for the school's day-to-day management.

relevant person means a person who—

(a) is performing or has performed a function under this Act; or

(b) is or was otherwise engaged in the administration of this Act.

147 Demand management

The Minister may authorise a local government to carry out, under a local law, demand management measures to encourage the use of public passenger transport.

148 Inquiries about person's suitability to hold accreditation or authorisation

(1) The chief executive may make inquiries about a person to help in deciding whether—

(a) the person is a suitable person to hold, or continue to hold, operator accreditation, driver authorisation or booking entity authorisation; or

(b) the person or another person of whom the person is a partner is a suitable person to hold, or continue to hold, operator accreditation or booking entity authorisation; or

(c) a corporation of which the person is an executive officer is a suitable person to hold, or continue to hold, operator accreditation or booking entity authorisation; or

(d) another person is a suitable person to hold, or continue to hold, booking entity authorisation if, under a regulation, the person's criminal history is relevant to the decision.

(2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for a written report

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about a person's criminal history or whether the person is or has been subject to a relevant order for an offence mentioned in schedule 1A, part 1.

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

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

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

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

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

(4) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the person's criminal history.

(5) Subsection (4) applies to the criminal history in the commissioner's possession or to which the commissioner has access.

(6) If the police commissioner gives the chief executive information under subsection (2) about a person who is or has been subject to a relevant order for an offence mentioned in schedule 1A, part 1, the information must include the following information about the person—

(a) that the person is or has been subject to a relevant order for an offence mentioned in schedule 1A, part 1;

(b) if the person is or has been subject to a relevant order that is a disqualification order under the *Working with Children (Risk Management and Screening) Act 2000*—the duration and details of the disqualification order;

(c) if the person is or has been subject to an offender prohibition order—

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(i) a brief description of the conduct that gave rise to the order; and

(ii) the duration and details of the order, including whether it is or was a temporary offender prohibition order or a final offender prohibition order.

148A Notice of change in police information about a person

(1) This section applies if—

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

(b) the person's criminal history changes.

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

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

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

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

(c) whether the change is—

(i) a charge made against the person for an offence; or

(ii) a conviction of the person;

(d) details of the charge or conviction.

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

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

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(2) The chief executive and the commissioner may enter into a written arrangement by which the information is given or received.

(3) Without limiting subsection (2), the arrangement may provide for the electronic transfer of information, including on a daily basis.

(4) However, if information is to be electronically transferred and, under this Act, there is a limitation on who may access the information or the purposes for which the information may be used, the arrangement must provide for the limitation.

148BA Obtaining information from chief executive (corrective services)

(1) Without limiting section 148, the chief executive may, by written notice, ask the chief executive (corrective services) whether—

(a) a person applying for driver authorisation is or has been subject to a relevant order; or

(b) a person holding driver authorisation is or has been subject to a relevant order.

(2) The chief executive (corrective services) must give the chief executive notice of the information requested under subsection (1).

(3) The notice mentioned in subsection (2) must—

(a) be in writing; and

(b) state the following—

(i) the person's name;

(ii) that the person is or has been subject to the relevant order.

(4) The chief executive (corrective services) and the chief executive may enter into a written arrangement by which written notices are given under subsection (1).

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(5) Without limiting subsection (4), the arrangement may provide for the written notices to be given electronically.

(6) However, if written notices under subsection (1) are to be given electronically and, under an Act, there is a limitation on who may access the information mentioned in the notices or the purposes for which that information may be used, the arrangement must provide for the limitation.

(7) The disclosure of information by the chief executive (corrective services) under this section is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See section 148C for the confidentiality of information under this Act.

(8) In this section—

chief executive (corrective services) means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

148BB Information sharing in relation to entitlements to concession fares

(1) The chief executive may enter into an arrangement with a relevant entity for sharing or exchanging information held by the chief executive or relevant entity.

(2) The arrangement may relate only to information about whether a person is entitled to a concession fare for the person's use or hire of a public passenger vehicle.

(3) In this section—

public passenger vehicle does not include a booked hire vehicle, limousine or taxi.

relevant entity means—

(a) an educational institution; or

(b) an entity of the State, another State or the Commonwealth; or

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(c) another entity prescribed by regulation.

148C Confidentiality

(1) A person must not disclose, record or use information the person gained—

(a) through involvement in the administration of this Act; or

(b) because of an opportunity provided by the involvement.

Maximum penalty—200 penalty units.

(2) However, a person may disclose, record or use the information—

(a) in the discharge of a function under this Act; or

(b) if it is authorised—

(i) under another Act or a regulation; or

(ii) by the person to whom the information relates; or

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

(3) In this section—

disclose information means—

(a) intentionally or recklessly disclose the information; or

(b) allow access to the information.

information includes a digital photo and digitised signature.

149 Offences of dishonesty

(1) A person must not apply for or obtain an accreditation, authorisation, contract or licence under this Act by intentionally or recklessly making a false representation.

Maximum penalty—60 penalty units.

(2) A person must not forge an accreditation, authorisation, contract or licence under this Act.

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Maximum penalty—60 penalty units.

(3) A person must not intentionally or recklessly obtain, or help someone else obtain, a financial benefit under this Act to which the person is not entitled.

Maximum penalty—60 penalty units.

(4) A person must not—

(a) use an accreditation, authorisation, contract or licence under this Act fraudulently; or

(b) permit the fraudulent use by someone else of an accreditation, authorisation, contract or licence under this Act.

Maximum penalty—60 penalty units.

150 Records and evidence from records

(1) The chief executive must keep records of the grant, refusal to grant, amendment, suspension and cancellation of accreditations, authorisations, contracts and licences under this Act.

(2) A certificate apparently signed by a delegate of the chief executive and stating any of the following matters is evidence of the matter—

(a) that a person mentioned in the certificate held or did not hold an accreditation, authorisation, contract or licence of a stated kind on a day or throughout a period mentioned in the certificate;

(b) the conditions of an accreditation, authorisation, contract or licence held by a named person under this Act on a day or throughout a period mentioned in the certificate;

(c) that a person did not give a stated notice to the chief executive.

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150A Approval of forms

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

150B Offences to be counted for particular penalty provisions

(1) This section applies in relation to the following provisions (each a ***relevant provision***)—

(a) section 27(1);

(b) section 74(1) and (2);

(c) section 75(2);

(d) section 76(1);

(e) section 77(1);

(f) section 78(1) and (2);

(g) a provision of a regulation prescribed by regulation to be a provision to which this section applies.

(2) For working out whether an offence against a relevant provision is a first, second, third or later offence, each offence committed by the person against the provision must be counted.

150C When a person has committed an offence

(1) This section applies for working out, for the following provisions, whether a person has committed an offence against a provision of an Act—

(a) section 91ZHA;

(b) section 150B;

(c) a provision of a regulation prescribed by regulation to be a provision to which this section applies.

(2) A person has committed an offence if the person—

(a) has been convicted of the offence; or

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(b) has been served with an infringement notice for the offence and the infringement notice has been dealt with under the *State Penalties Enforcement Act 1999*.

(3) For subsection (2)(b), an infringement notice for an offence served on a person has been dealt with under the *State Penalties Enforcement Act 1999* if 1 of the following has happened under that Act—

(a) the fine for the infringement notice has been paid in full;

(b) the person has applied for approval to pay the fine for the infringement notice by instalments;

(c) an enforcement order has been made against the person for the offence under section 38 of that Act.

151 Proceedings for offences

(1) An offence against this Act is a summary offence.

(2) A proceeding for an offence must start—

(a) within 1 year after the offence is committed; or

(b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

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

152 No need to prove appointments

In a proceeding for an offence against this Act, there is no need to prove the appointment of an authorised person.

153 Prosecutions for railway offences

(1) This section applies to an offence against this Act committed by a person while the person was travelling by rail.

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(2) A complaint for the offence may be heard at a place appointed for holding Magistrates Courts within any of the districts through which the person travelled on the rail journey.

(3) This section has effect despite, but does not limit, the *Justices Act 1886*, section 139.

153A Facilitation of proof—dangerous goods offences

(1) In a prosecution for a dangerous goods offence, if an authorised person gives evidence that he or she believes, or at a particular time relevant to the exercise of a power by the officer, believed, any of the matters referred to in subsection (2), the court must accept the matter as proved if—

(a) it considers the belief to be, or to have been, reasonable; and

(b) there is no evidence to the contrary.

(2) The matters are as follows—

(a) that dangerous goods described in transport documentation carried in a rail vehicle are or were being carried in the rail vehicle;

(b) that particular goods are or were dangerous goods or dangerous goods of a particular type;

(c) if a marking or placard on or attached to a substance or packaging indicates or indicated that the substance is or was or the packaging contains or contained particular dangerous goods—that the substance is or was or the container contains or contained those dangerous goods;

(d) if a marking on, or attached to, a package indicates or indicated that the package contains or contained particular dangerous goods—that the package contains or contained those dangerous goods;

(e) if a marking or placard on or attached to a vehicle or equipment indicates or indicated that the vehicle or equipment is or was being used to transport dangerous

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goods—that the vehicle or equipment is or was being used to transport those dangerous goods;

(f) if a marking or placard on or attached to a substance or packaging indicates or indicated, in relation to the substance, the packaging or the contents of the packaging, a particular capacity, tare weight, origin, character, specification, ownership or date of manufacture—that the substance, the packaging or the contents of the packaging has or had that capacity, tare weight, origin, character, specification, ownership or date of manufacture;

(g) if a marking on, or attached to, a package indicates or indicated, in relation to the contents of the package, a particular capacity, tare weight, origin, character, specification, ownership or date of manufacture—that the contents of the package has or had that capacity, tare weight, origin, character, specification, ownership or date of manufacture;

(h) if a marking or placard on or attached to a vehicle or packaging indicates, in relation to the load of the vehicle or the contents of the packaging, a particular quantity of dangerous goods—that the vehicle or container contains or contained that quantity of dangerous goods;

(i) that a person is or is not, or was or was not at a particular time, accredited in relation to the transport by rail of dangerous goods.

153B Facilitation of proof—general

(1) In a proceeding for an offence against this Act—

(a) an allegation or averment in a complaint stating any of the following matters is evidence of the matter, and, in the absence of evidence to the contrary, is proof of the matter—

(i) at a particular time, a stated thing was or was not a vehicle or motor vehicle;

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(ii) at a particular time, a stated vehicle or motor vehicle was or was not of a particular class or description; and

(b) a certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

(i) at a particular time, a stated motor vehicle was or was not a taxi, limousine or booked hire vehicle;

(ii) at a particular time, a gazette notice under this Act was in force and had not been amended or repealed by another gazette notice;

(iii) at a particular time, a stated place was or was not a cross-border taxi rank;

(iv) at a particular time, a person did, or did not, hold operator accreditation;

(v) at a particular time, a person did, or did not, hold driver authorisation;

(vi) at a particular time, a person did, or did not, hold operator accreditation to provide a particular kind of public passenger service;

(vii) at a particular time, a person did, or did not, hold driver authorisation to drive a vehicle to provide a particular kind of public passenger service;

(viii) at a particular time, a particular compliance plate was, or was not, on or fitted to a motor vehicle;

(ix) at a particular time, a stated authorised person was trained and authorised to use a revenue protection device;

(x) at a particular time, a stated ticket or other item was electronically read or scanned by a revenue protection device, and a stated document is a record or report of the reading or scan;

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(xi) at a particular time, a stated public passenger vehicle was an approved vehicle in relation to the use or hire of the vehicle;

(xii) at a particular time, a stated vehicle was a relevant public passenger vehicle;

(xiii) at a particular time, a stated amount was the fare payable for the use or hire of a relevant public passenger vehicle for a stated journey; and

(c) evidence that a number plate showing a particular registration number was attached to a motor vehicle, at a particular time, is evidence that the motor vehicle is the motor vehicle noted in the register of vehicles, at that time, as having that registration number; and

(d) a document, or a copy of a document, purporting to be an invoice, receipt or other record of an amount that is or was payable, or has been paid, for a service for the carriage of passengers, is evidence of a matter stated in the document or copy; and

(e) a certificate purporting to be signed by the chief executive stating that, at a particular time, a stated motor vehicle had a particular characteristic or other attribute is evidence of the matter, and, in the absence of evidence to the contrary, is proof of the matter; and

(f) a document purporting to be a record of a matter stated on a compliance plate, or in the RAV, is evidence of the matter and, in the absence of evidence to the contrary, is proof of the matter.

(2) In a proceeding for an offence against relevant transport legislation relating to the provision of a public passenger service, the defendant bears the evidential burden of proving the service is a public passenger service excluded from this Act by regulation under the definition *public passenger service*.

(3) In this section—

approved vehicle means an approved vehicle under—

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(a) a regulation made under section 143AB; or

(b) a regulation made under section 155 about matters relating to fares charged for the use of particular public passenger vehicles.

compliance plate means a plate—

(a) authorised to be placed on a motor vehicle, or taken to have been placed on a motor vehicle, under—

(i) the repealed *Motor Vehicle Standards Act 1989* (Cwlth); or

(ii) the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018* (Cwlth), schedule 3, part 3, division 1; or

(b) fitted to a motor vehicle under a standard determined under the *Road Vehicle Standards Act 2018* (Cwlth), section 12.

RAV means the Register of Approved Vehicles under the *Road Vehicle Standards Act 2018* (Cwlth).

register of vehicles means a register of vehicles kept by the chief executive under a transport Act as defined under the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

relevant public passenger vehicle means a public passenger vehicle being used to provide a public passenger service under an agreement that—

(a) is entered into by, or for, the State, the department or the chief executive; and

(b) requires the operator of the service to charge fares set or decided by the chief executive.

relevant transport legislation see section 69.

revenue protection device means an instrument—

(a) that can be used to electronically read or scan a ticket or other item for the purpose of determining whether a

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person is contravening, or has just contravened, a fare evasion provision; and

(b) that is prescribed by regulation.

154 Attempt to commit offence

(1) A person must not attempt to commit an offence against this Act.

Maximum penalty—half the maximum penalty for committing the offence.

(2) Section 4 (Attempts to commit offences) of the Criminal Code applies to subsection (1).

(3) However, this section does not apply to an offence against section 143AD or a fare evasion provision prescribed by regulation.

154A Direction to pay operator the penalty recovered for fare evasion etc.

(1) This section applies to an offence or alleged offence under this Act in relation to a fare or ticket for a public passenger service.

(2) The court may direct that part or all of a fine or penalty recovered for an offence to which this section applies be paid to a stated person aggrieved by the commission of the offence.

(3) The chief executive may direct that part or all of the penalties paid under infringement notices for alleged offences to which this section applies be paid to the operator providing the public passenger service.

(4) While the direction under subsection (3) remains in force, penalties recovered under the infringement notices are to be paid in accordance with the direction.

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Part 1A General provisions relating to transport of dangerous goods by rail

154AB Application of pt 1A

This part applies to a proceeding for a dangerous goods offence.

154AC Special defence of compliance with direction

It is a defence to a charge for the offence if the person charged establishes that the act or omission that was the offence was done in compliance with a direction given by an authorised person.

154AD Responsibility for acts or omissions of representative

(1) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(2) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(3) In this section—

representative means—

(a) for a corporation—an executive officer, employee or agent of the corporation; or

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(b) for an individual—an employee or agent of the individual.

state of mind, of a person, includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

154AE Transport documentation

(1) Transport documentation relating to the transport of dangerous goods by rail is admissible and is evidence of—

(a) the identity and status of the parties to the transaction to which it relates; and

(b) the destination or intended destination of the load to which it relates.

(2) The reference in subsection (1) to the status of parties includes a reference to their status in relation to their involvement in the transport of dangerous goods.

Part 2 Authorisations for competition legislation

Division 1 Interpretation

154B Definitions for pt 2

In this part—

CCA means the *Competition and Consumer Act 2010* (Cwlth).

Competition Code means the Competition Code under the *Competition Policy Reform (Queensland) Act 1996*.

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competition legislation means CCA, section 51(1)(b) or the Competition Code, section 51.

fare provision see section 154C.

identified provision see section 154D.

management entity means—

(a) the State; or

(b) a State influenced entity.

management entity provision see section 154E.

service entity means an entity that provides or proposes to provide 1 or more public passenger services in Queensland as an operator.

service entity provision see section 154F.

State influenced entity see section 154G.

154C Meaning of *fare provision*

(1) For this part, a ***fare provision*** is a provision about a fare (the ***relevant fare***) applying for a public passenger service of 1 or more service entities.

(2) However, a provision is a ***fare provision*** only if—

(a) the provision has the purpose, or has or is likely to have the effect, of—

(i) fixing, controlling or maintaining the fare; or

(ii) providing for the fixing, controlling or maintaining of the fare; and

(b) the provision is negotiated and agreed to in the context of a contract, arrangement or understanding for coordinating or integrating public passenger services; and

(c) at any particular time the provision is given effect to, the relevant fare is consistent with any model fare structure arrangement that—

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(i) has been approved by the chief executive; and

(ii) has been published in the gazette; and

(iii) is still in force.

154D Meaning of *identified provision*

For this part, a provision is an ***identified provision*** if it is a provision about—

(a) the coordination or integration of public passenger services of 2 or more service entities; or

(b) the route to be used or not to be used by a service entity in providing a public passenger service; or

(c) an area in which a service entity will or will not provide a public passenger service; or

(d) where a service entity will or will not pick up or set down passengers in providing a public passenger service; or

(e) the times a service entity will or will not provide a public passenger service; or

(f) the persons or classes of persons to whom a service entity will or will not provide a public passenger service; or

(g) a characteristic of a vehicle, vessel or item of rolling stock a service entity will or will not use to provide a public passenger service; or

(h) a service entity not providing a public passenger service that competes, or if it were provided, would compete, with a public passenger service of another service entity; or

(i) a service entity providing a public passenger service for or on behalf of another person, including another service entity, whether as principal or agent; or

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(j) a service entity issuing a ticket for a public passenger service, if all or part of the service is to be provided by 1 or more other service entities; or

(k) the name, sign, decal or logo under which a service entity is to provide a public passenger service; or

(l) the terms on which a service entity provides a public passenger service; or

(m) the promotion of a public passenger service provided by 1 or more of the service entities.

154E Meaning of *management entity provision*

(1) For this part, a ***management entity provision*** is a provision about the supply by a management entity of a service for a public passenger service of 1 or more service entities.

(2) However, a provision is a ***management entity provision*** only if the provision is—

(a) about the persons or classes of persons to whom the service will be supplied; or

(b) to the effect that the management entity is to supply the service on condition that the service entity or entities are to acquire service equipment, including from a person who is not a party to the contract, arrangement or understanding containing the provision.

154F Meaning of *service entity provision*

(1) For this part, a ***service entity provision*** is a provision about the acquisition, use or supply of service equipment for a public passenger service of 1 or more service entities.

(2) However, a provision is a ***service entity provision*** only if the provision is—

(a) about the persons or classes of persons from whom the service equipment will be acquired or to whom the service equipment will be supplied; or

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(b) to the effect that a service entity or management entity is to supply the service equipment on condition that another person, including another service entity or management entity, is to acquire other service equipment, including from a person who is not a party to the contract, arrangement or understanding containing the provision.

154G Meaning of *State influenced entity*

(1) For this part, a ***State influenced entity*** is an entity whose functions include coordinating or facilitating the integration of public passenger services.

(2) However, an entity is a ***State influenced entity*** only if at least 1 of the following applies—

(a) the State has power to appoint a person to, or remove a person from, the board or managing body of the entity;

(b) the State has power to vote, or control a vote, at a meeting of the board or managing body of the entity;

(c) the State has power to vote, or control a vote, at a meeting of the members of the entity.

154H References to public passenger services in pt 2

(1) A reference in this part to a public passenger service does not include a reference to a public passenger service that is a taxi service or booked hire service.

(2) A reference in this part to the public passenger service of a service entity is a reference to a public passenger service the service entity provides or proposes to provide in Queensland as an operator.

154I Extended meanings of certain expressions in pt 2

For this part—

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(a) reference to making a contract or arrangement containing a particular provision includes reference to the following—

(i) offering to make a contract or arrangement containing the particular provision;

(ii) refusing to make a contract or arrangement unless the contract or arrangement contains the particular provision; and

(b) reference to arriving at an understanding containing a particular provision includes reference to the following—

(i) offering to arrive at an understanding containing the particular provision;

(ii) refusing to arrive at an understanding unless the understanding contains the particular provision; and

(c) reference to the supply of something includes reference to the following—

(i) the supply of the thing at a particular price;

(ii) an offer to supply the thing;

(iii) an offer to supply the thing at a particular price;

(iv) giving, or offering to give, a discount, allowance, rebate or credit in relation to the supply or proposed supply of the thing;

(v) resupply of the thing; and

(d) reference to the supply of something on a condition includes reference to a refusal to supply the thing without the condition.

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Division 2 Authorisations

154J Authorisations for coordination and integration of public passenger services

The following things are specifically authorised for the competition legislation—

(a) 2 or more service entities making a contract or arrangement, or arriving at an understanding, that includes an identified provision, but only if the contract, arrangement or understanding was first approved by the Minister;

(b) a service entity giving effect to an identified provision mentioned in paragraph (a);

(c) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a fare provision;

(d) a service entity giving effect to a fare provision mentioned in paragraph (c);

(e) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a provision under which the service entities—

(i) are to share revenue or profits received by any of them in relation to a public passenger service of 1 or more of them; or

(ii) are to pay all or part of the costs related to providing a public passenger service of 1 or more of them;

(f) a service entity giving effect to a provision mentioned in paragraph (e);

(g) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a service entity provision;

(h) a service entity giving effect to a service entity provision mentioned in paragraph (g);

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(i) 1 or more service entities and a management entity making a contract or arrangement, or arriving at an understanding, containing an identified provision, a fare provision, a management entity provision or a service entity provision;

(j) a service entity or management entity giving effect to a provision mentioned in paragraph (i);

(k) a management entity and another entity (the ***system entity***) making a contract or arrangement, or arriving at an understanding, containing a provision about the system entity doing 1 or more of the following in relation to service equipment for 1 or more service entities' public passenger services—

(i) designing the equipment;

(ii) making the equipment;

(iii) building the equipment;

(iv) installing the equipment;

(v) maintaining the equipment;

(l) an entity giving effect to a provision mentioned in paragraph (k).

154K Provisions limiting application of authorisations

(1) Section 154J applies to a service entity in relation to a public passenger service it provides or proposes to provide only if the service entity is—

(a) if the public passenger service is a service for the carriage of passengers on a railway—

(i) a railway manager for the railway; or

(ii) a railway operator who is an accredited person under the Rail Safety National Law (Queensland) in respect of railway operations relating to the railway; or

(iii) the Authority; or

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(b) if the public passenger service is a ferry service—the operator of the ferry service; or

(c) otherwise—the holder of an operator accreditation for the public passenger service.

(2) Section 154J(b), (d), (f) and (h) applies to a provision for only 5 years after the contract, arrangement or understanding containing the provision is made or arrived at.

154L Provisions supporting application of authorisations

(1) A thing authorised under section 154J, as qualified by section 154K, is authorised even if—

(a) it has a purpose, or an effect or likely effect, of substantially lessening competition in a market; or

(b) it has a purpose described in CCA, section 46(1) or the Competition Code, section 46(1); or

(c) the applicable contract, arrangement or understanding contains a provision that—

(i) under CCA, section 4D, is taken to be an exclusionary provision under CCA; or

(ii) under the Competition Code, is taken to be an exclusionary provision under the Competition Code.

(2) A thing mentioned in section 154J(g), (h), (i), (j), (k) or (l), as qualified by section 154K, is authorised even if it involves an entity to which the provision applies engaging in the practice of exclusive dealing in a way described in CCA, section 47 or in the Competition Code, section 47.

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Part 3 Regulation-making power

155 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made prescribing offences for a contravention of a regulation and fixing a maximum penalty of not more than 80 penalty units for the contravention.

(3) A regulation may—

(a) prescribe fees, charges and taxes payable for the issue of instruments or doing other things under this Act; or

(b) make provision about the safety of public passenger services and issues affecting the safety of the services, including, for example, the use of security cameras and other security devices in vehicles used to provide the services; or

(c) relate to fares charged for the use of public passenger services or payment surcharges for fares; or

(d) make provision about the rights and obligations of passengers and drivers of public passenger vehicles; or

(da) provide for a matter relating to persons, vehicles or other property on public transport infrastructure; or

(e) specify the requirements for operator accreditation, driver authorisation or booking entity authorisation; or

(f) provide for the funding or operation of public passenger services and issues affecting the services; or

(g) specify requirements for public passenger vehicles or for equipment for public passenger vehicles; or

(h) require the collection, maintenance, retention or production of records; or

(i) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of busway land—

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(i) buses operating on a busway established on the busway land;

(ii) persons having the permission of the chief executive to be on the busway land; or

(j) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of light rail land—

(i) light rail vehicles operating on a light rail established on the light rail land;

(ii) persons having the permission of the chief executive or a light rail manager for the light rail to be on the light rail land.

Chapter 13 Transitional and validation provisions

Part 1 Transitional provision for Transport Legislation Amendment Act 2002

156 Continuation of temporary service contracts

A temporary service contract entered into under this Act as in force immediately before the commencement of this section continues for its term as a service contract under this Act unless it is sooner cancelled or terminated under this Act.

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Part 1A Transitional provisions for Transport and Other Legislation Amendment Act 2004

Division 1 Authorised persons

157 Authorised persons

(1) A person who, immediately before the commencement of this section, was an authorised person for a railway under section 116(1) or (2) or an authorised person for a light rail under section 116(2A) is taken to be an authorised person under section 111.

Editor's note—

Section 116 (Appointment of authorised persons for railways or light rail) was omitted by 2004 Act No. 9 section 20.

(2) Subsection (1) does not affect any limitation on the powers of the authorised person existing immediately before the commencement of this section.

Division 3 Driver disqualifying offences

162 Driver disqualifying offences

(1) For the purposes of a reference in this Act to a category A driver disqualifying offence, category B driver disqualifying offence or category C driver disqualifying offence, it is declared that—

(a) the reference includes a reference to the offence whether the offence was or is committed before or after the commencement of this section; and

(b) a reference to a conviction of the offence includes a conviction of the offence whether the conviction

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happened before or after the commencement of this section.

(2) If the person has been convicted of a category A disqualifying offence before the commencement of this section—

(a) if the person holds driver authorisation on the commencement—the driver authorisation is immediately cancelled on the commencement; and

(b) if the person has applied for the grant or renewal of driver authorisation before the commencement that has not been finalised—the application is terminated on the commencement; and

(c) if the person immediately before the commencement has an entitlement to have driver authorisation granted or renewed under a decision of a court on appeal from the decision of the chief executive—the entitlement is extinguished on the commencement.

163 Transitional regulation-making power

(1) A regulation made after the commencement of this section may provide that a regulation in existence immediately before the commencement is amended from the commencement in order to take account of the creation of driver disqualifying offences for driver authorisations on the commencement.

(2) Subsection (1) applies even if the regulation is not a beneficial provision within the meaning of the *Statutory Instruments Act 1992*, section 34.

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Part 1B Transitional provisions for Transport and Other Legislation Amendment Act (No. 2) 2004

164 Provisions dealing with impact of decisions of local governments on public passenger transport

(1) This section applies if under section 145 as in force immediately before the commencement of part 3 of the amending Act a local government applied to the chief executive for approval for a matter and the chief executive's decision on the application has not been made.

(2) Sections 145 and 146 and schedule 2, as in force immediately before the commencement, continue to apply in relation to the matter as if the amending Act had not been enacted.

(3) In this section—

amending Act means the *Transport and Other Legislation Amendment Act (No. 2) 2004*.

Part 2 Transition of references in Acts

174 Application of part

This part applies to references in Acts enacted before its commencement.

175 Urban Passenger Service Proprietors Assistance Act 1975 references

A reference to the *Urban Passenger Service Proprietors Assistance Act 1975* is taken to be a reference to this Act.

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176 Urban Public Passenger Transport Act 1984 references

A reference to the *Urban Public Passenger Transport Act 1984* is taken to be a reference to this Act.

177 State Transport Act 1960 references etc.

(1) A reference (whether express or implied) to a provision of the *State Transport Act 1960* repealed by this Act is taken to be a reference to this Act.

(2) A reference to a licence to hire-taxi-meter cab or a licence to hire-exempted cab under the *State Transport Act 1960* is taken to be a reference to a taxi service licence under this Act.

(3) A reference to a licence to hire-private hire car under the *State Transport Act 1960* is taken to be a reference to a limousine service licence.

Part 3 Validation of particular service contracts

178 Validation of service contracts in Translink area

(1) This section applies if, before the commencement of the relevant section—

(a) a person provided a public passenger service for a service contract area or route that is in the Translink area; and

(b) the public passenger service was provided under a written agreement with the chief executive that was a service contract.

(2) The written agreement and anything done under the agreement, is taken to be, and to have always been, as valid as it would be if it were a written agreement with the chief executive within the meaning of section 43(1)(a)(ii), entered into after the commencement of the relevant section.

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(3) Without limiting subsection (2), the public passenger service provided under the written agreement is taken to be, and to have always been, as validly provided under the agreement as it would have been if it had been provided after the commencement of the relevant section.

(4) Subsection (2) does not make invalid any instrument that is valid.

(5) In this section—

relevant section means the *Transport Legislation Amendment Act 2005*, section 52.

Part 5 Provision for Transport Legislation Amendment Act 2008, part 7

180 Category C driver disqualifying offence

(1) For the purposes of a reference in this Act to a category C driver disqualifying offence, it is declared that the reference includes a reference to a section 9 offence only if the section 9 offence was committed after the commencement.

(2) For the purposes of a reference in this Act to a conviction of a person for a category C driver disqualifying offence, it is declared that the reference includes a conviction for a section 9 offence only if the section 9 offence was committed after the commencement.

(3) In this section—

commencement means the commencement of the *Transport Legislation Amendment Act 2008*, section 43.

section 9 offence means an offence against the *Summary Offences Act 2005*, section 9.

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Part 6 Provision for Transport Operations (TransLink Transit Authority) Act 2008

181 Existing declarations under s 42(2) for a scheduled passenger service

(1) This section applies to a declaration under section 42(2) if—

(a) it was in force immediately before the *Transport Operations (TransLink Transit Authority) Act 2008*, section 104(2) commences; and

(b) under the declaration, a service contract is required to provide a specified kind of service that, under this Act as in force before the commencement, was a long distance scheduled passenger service or a scheduled passenger service.

(2) On the commencement, the declaration is taken to be a declaration under section 42(2) to provide the same kind of service as a general route service.

Part 7 Transitional provision for Transport and Other Legislation Amendment Act 2008, part 6, division 1

182 Application of ch 11, pt 4B

Chapter 11, part 4B applies only in relation to an offence committed after the commencement of this section.

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

Division 1 Provisions for relocated provisions

184 Relocation of TransLink Act provisions

(1) To remove any doubt, it is declared that the relocated provisions were not re-enacted by the Transport and Other Legislation Amendment Act 2010, but merely moved (without re-enactment) to this Act.

(2) Without limiting subsection (1) and to further remove any doubt, it is also declared that the relocation did not—

(a) impliedly repeal or amend, or otherwise affect the operation of, the existing provisions of this Act, the relocated provisions or the provisions of any other law; or

(b) affect the meaning or effect that the existing or relocated provisions, or the provisions of the other law, had because of the respective times when they were enacted.

(3) However, definitions in this Act apply to all provisions of this Act.

(4) In an Act or document, a reference to a provision of the TransLink Act that is relocated to this Act by the *Transport and Other Legislation Amendment Act 2010* may, if the context permits, be taken to be a reference to the relocated provision in this Act.

(5) In this section—

relocated provision means a provision of the TransLink Act that is relocated to this Act by the *Transport and Other Legislation Amendment Act 2010*, section 132.

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

Division 2 Other provisions

185 Provision for s 67B

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

(2) In this section—

commencement means the commencement of this section.

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

186 Provision for s 67D

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

(2) In this section—

commencement means the commencement of this section.

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

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

(1) This section applies to a contract or arrangement made or entered into in relation to a non-TransLink area before section 67H commences.

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(2) Section 67H does not apply to the performance of the contract or arrangement until the first anniversary of the commencement of this section.

Part 10 Validation of regulation

188 Validation of Transport Legislation Amendment (Postponement) Regulation (No. 1) 2008

(1) The postponement regulation is, and is taken to always have been, validly made under the *Acts Interpretation Act 1954*, section 15DA(3) despite the 2 year limitation imposed by that provision.

(2) In this section—

postponement regulation means the *Transport Legislation Amendment (Postponement) Regulation (No. 1) 2008*, SL No. 350.

Part 11 Transitional provisions for Transport and Other Legislation Amendment Act 2011

189 Application of amended provisions about driver disqualifying offences in relation to driver authorisations

(1) A postcommencement provision applies in relation to an application for driver authorisation made but not decided before the commencement.

(2) Also, a postcommencement provision applies to a person who holds driver authorisation granted or renewed before the commencement.

(3) In this section—

commencement means the commencement of this section.

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postcommencement provisions means the following provisions as in force on and from the commencement—

(a) section 28B;

(b) schedule 3, definition, *category A driver disqualifying offence*;

(c) schedule 3, definition, *category B driver disqualifying offence*;

(d) schedule 3, definition, *category C driver disqualifying offence*;

(e) schedule 1A.

190 Application of ch 11, pt 4B immediately before the commencement

(1) Chapter 11, part 4B immediately before the commencement of this section applies in relation to a relevant application in relation to a person made but not decided before the commencement of this section.

(2) In this section—

relevant application, in relation to a person, means an application under chapter 11, part 4B for the following—

(a) an exclusion order in relation to the person;

(b) an order varying or revoking an exclusion order in relation to a person.

191 Application of ch 11, pt 4C

(1) Chapter 11, part 4C does not apply to an act of violence committed by a person before the commencement of this section.

(2) Chapter 11, part 4C does not apply in relation to an infringement notice served on a person before the commencement of this section.

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Part 12 Transitional provision for Weapons Amendment Act 2011

192 Meaning of disqualifying offence

(1) For deciding whether an offence against the *Weapons Act 1990*, section 51(1), is a disqualifying offence, an offence committed before the commencement can not be taken into account.

(2) In this section—

commencement means the commencement of the *Weapons Amendment Act 2011*.

Part 13 Transitional and declaratory provisions for Transport Operations (Passenger Transport) and Other Legislation Amendment Act 2012

193 Definitions for pt 13

In this part—

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

transfer day means the day on which the *Transport Operations (Passenger Transport) and Other Legislation Amendment Act 2012*, section 32 commences.

TransLink means either of the following entities established under the repealed Act—

(a) the TransLink Transit Authority;

(b) the TransLink Transit Authority Employing Office.

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194 Declaratory provision for s 62AAG(6)

It is declared that section 62AAG(6), definition *specified kind*, as inserted in this Act by the *Transport Operations (TransLink Transit Authority) Act 2008*, section 93, is taken always to have referred to section 42.

195 Novation of TransLink contracts to the State

(1) This section applies to a contract—

(a) to which, immediately before the transfer day, TransLink is a party; and

(b) that is not a service contract, work performance arrangement or contract of employment.

(2) The following apply despite any provision of the contract—

(a) the State is taken to be a party to the contract instead of TransLink;

(b) the State assumes TransLink's liabilities and rights under the contract;

(c) a reference in the contract to TransLink is taken to be a reference to the State;

(d) changes to the contract that are necessary for, or incidental to, the matters in paragraphs (a) to (c) are taken to have been made.

(3) Subsection (2), or any thing done under it, does not—

(a) discharge or otherwise affect the contract or the performance of the contract by another party to it; or

(b) fulfil a condition allowing a person to terminate the contract or be released, wholly or partly, from the contract or a liability under it.

(4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to any matter under subsection (2)—

(a) the advice is taken to have been obtained; and

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(b) the consent or notice is taken to have been given.

(5) In this section—

contract includes a deed or other instrument, whether or not for consideration.

196 Existing service contracts not affected

(1) To remove any doubt, it is declared that, subject to subsection (2), the repeal of the repealed Act does not, of itself, alter or in any way affect a service contract.

(2) A service contract that, immediately before the transfer day, was a TransLink service contract is taken to be an integrated mass transit service contract.

(3) In this section—

TransLink service contract see section 62AAC as in force immediately before the transfer day.

197 Transfer of TransLink assets and liabilities to the State

(1) At the beginning of the day on the transfer day—

(a) TransLink is divested of all TransLink assets and released from all TransLink liabilities; and

(b) TransLink assets become the assets of the State; and

(c) TransLink liabilities are assumed by the State.

(2) This section does not limit or otherwise affect section 195(2)(b).

(3) In this section—

TransLink asset means an asset that, immediately before the transfer day, is an asset of TransLink.

TransLink liability means a liability that, immediately before the transfer day, is a liability of TransLink.

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198 Successor in law

(1) The State is the successor in law of TransLink.

(2) Without limiting subsection (1), proceedings by or against TransLink, or that could have been started by or against TransLink before the transfer day, may be continued or started by or against the State.

199 Registration of transferred assets

(1) This section applies to the registrar of titles or other person responsible for keeping a register for dealings about an asset that, under section 197(1)(b), becomes an asset of the State.

(2) The registrar or person must, if asked by the State in the appropriate form, and on payment of any fee, record a transfer of the asset to the State.

(3) In this section—

registrar of titles means a public official or authority responsible for registering title to land and dealings affecting land.

200 References to former body known as TransLink

(1) A reference in a document to TransLink is, if the context permits, taken to be a reference to the State.

(2) This section does not apply to an industrial instrument.

201 Preservation of rights of employees

(1) An employee of TransLink, other than the chief executive officer of TransLink, is transferred to the department.

(2) On the transfer mentioned in subsection (1)—

(a) the employee retains and is entitled to all rights that have accrued to the employee because of the person's employment with TransLink; and

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(b) the employee's service as an employee of TransLink is taken to be service of a like nature in the public service for deciding the employee's rights as a public service employee; and

(c) the employee's continuity of service is not broken.

202 Special event declarations

(1) A special event declaration made under the previous declaration provisions and in effect immediately before the transfer day has effect from the transfer day as if it were a declaration made under section 67C.

(2) A written approval given under the previous approval provisions and in effect before the transfer day has effect from the transfer day as if it were the chief executive's written approval given under section 67E.

(3) In this section—

previous approval provisions means sections 67D and 67H as in force before the transfer day.

previous declaration provisions means sections 67B and 67F as in force before the transfer day.

Part 14 Validation provisions for Transport and Other Legislation Amendment Act 2014

203 Extended services under integrated mass transit service contracts

(1) This section applies if, before the commencement of this section, a person was permitted, required or invited to provide, under an integrated mass transit service contract, a road-based general route service for an undeclared area or route.

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(2) The undeclared area or route is taken to be, and to always have been, part of the integrated mass transit area.

(3) The chief executive must, by notice on the department's website, add the undeclared area or route to a service contract area or route within the integrated mass transit area.

(4) The notice must be published on the department's website within 56 days after the commencement of this section.

204 Extended services under standard service contracts

(1) This section applies if, before the commencement of this section, a person was permitted, required or invited to provide, under a standard service contract for a service contract area or route, a road-based general route service for an undeclared area or route.

(2) The undeclared area or route is taken to be, and to always have been, part of the service contract area or route.

(3) The chief executive must, by notice on the department's website, add the undeclared area or route to the service contract area or route.

(4) The notice must be published on the department's website within 56 days after the commencement of this section.

(5) This section applies to a road-based general route service that is a school service only if the service runs to a timetable fixed under the contract.

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

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under the TPC Act by the chief executive of the department in which that Act is administered.

Part 16 Transitional provision for Transport Legislation (Taxi Services) Amendment Act 2016

206 Application of s 70

Section 70, as in force on the commencement, applies only in relation to an offence that happens after the commencement.

Part 17 Transitional provision for Heavy Vehicle National Law and Other Legislation Amendment Act 2016

207 Regulation-making power—expiry or repeal of taxi and limousine industry assistance regulation

(1) A regulation may provide for a matter of a saving or transitional nature relating to the expiry or repeal of a regulation under section 155A (***taxi and limousine industry assistance regulation***).

(2) A regulation under subsection (1) may provide for the continued operation of all or part of the taxi and limousine industry assistance regulation for any of the following purposes—

(a) determining an application for financial assistance made, but not determined, before the expiry or repeal of the taxi and limousine industry assistance regulation;

(b) starting or deciding a review of a decision relating to an application for financial assistance;

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(c) the repayment of all or part of financial assistance paid to a person before or after the expiry or repeal of the taxi and limousine industry assistance regulation.

Part 18 Transitional provisions for Transport and Other Legislation (Personalised Transport Reform) Amendment Act 2017

208 Definitions for part

In this part—

amending Act means the *Transport and Other Legislation (Personalised Transport Reform) Amendment Act 2017*.

previous, in relation to a provision of this Act, means the provision as in force before the commencement.

209 Existing taxi service bailment agreements

(1) A taxi service bailment agreement in force immediately before the commencement continues in force despite the repeal of chapter 4A of the Act by the amending Act.

(2) However, previous chapter 4A does not continue to apply to the taxi service bailment agreement.

210 Existing taxi administration service contracts

(1) This section applies to a service contract for the administration of taxi services that is in force immediately before the commencement.

(2) The service contract ends on the commencement.

(3) However, a provision of the service contract about the taxi subsidy scheme continues in force to the extent the provision

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applies to a taxi service provided to a person before the commencement.

(4) If a review of the holder's performance under the service contract had started but not ended under section 46 before the commencement, the review ends on the commencement.

(5) In this section—

taxi subsidy scheme means the scheme provided for by a regulation under previous section 80 under which the State pays the whole or part of taxi fares for particular groups.

211 Existing taxi service areas

(1) This section applies to a taxi service area declared by the chief executive under previous section 71 if the declaration was in force immediately before the commencement.

(2) The taxi service area is taken to be a taxi service area declared under section 91ZT.

212 Record of booking for a limousine service

(1) This section applies to a record made before the commencement required to be kept under previous section 87C if it has been less than 2 years since the record was made.

(2) Previous section 87C continues to apply in relation to the record—

(a) as if the reference in the section to 5 years were a reference to 2 years; and

(b) as if this Act had not been amended by the amending Act.

213 Suspension of taxi service licence or limousine service licence

(1) This section applies if—

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(a) a taxi service licence continued in force under section 91E(1) was, immediately before the commencement, suspended under a regulation under previous section 79(1); or

(b) a limousine service licence continued in force as a limousine licence under section 91H(2) was, immediately before the commencement, suspended under a regulation under previous section 91(1).

(2) The licence continues to be suspended under this Act until the suspension period ends.

214 Reviews of decisions related to taxi service administration contracts

(1) This section applies to a decision under section 46(8) or (9), 47(1) or (3) or 47A(3) in relation to a service contract for the administration of taxi services made before the commencement.

(2) Chapter 10 does not apply to the decision.

(3) An application for a review of the decision made under section 102 that, on the commencement, has not been decided or withdrawn is taken to have been withdrawn.

(4) An application to QCAT for a review of an internal review decision for a decision mentioned in subsection (1) made under section 103 that, on the commencement, has not been decided or withdrawn is taken to have been withdrawn.

(5) In this section—

internal review decision, for a decision, means the chief executive's decision on a review of the decision under section 102.

215 Reviews of decision relating to taxi service licences and limousine service licences

(1) This section applies to the following decisions made before the commencement—

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(a) a decision relating to a taxi service licence under—

(i) a regulation under previous section 75(1) or 79; or

(ii) previous section 77(2);

(b) a decision relating to a limousine service licence under a regulation under previous section 88(1) or 91.

(2) Chapter 10 applies to the decision, and to an application to the chief executive or QCAT for a review relating to the decision, as if the decision was made under the following provision of chapter 7 as in force after the commencement—

(a) for a decision made under previous section 75(1) or 88(1)—section 91P(1);

(b) for a decision made under previous section 77(2)—section 91G(3);

(c) for a decision made under previous section 79 or 91—section 91T.

216 No compensation

Compensation is not payable by the State because of the amendment of this Act by the amending Act.

Part 19 Transitional provision for Transport and Other Legislation Amendment Act 2017

217 Category A driver disqualifying offence

(1) Subject to subsection (3), for the purposes of a reference in this Act to a category A driver disqualifying offence, it is declared that—

(a) the reference includes a reference to a new category A driver disqualifying offence whether the offence was or is committed before or after the commencement; and

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(b) a reference to a conviction of the offence includes a conviction of a new category A driver disqualifying offence whether the conviction happened before or after the commencement.

(2) The following paragraphs apply to a person who has been convicted of a new category A driver disqualifying offence before the commencement—

(a) if the person has applied for the grant or renewal of driver authorisation before the commencement and the application has not been finalised—

(i) the application is terminated on the commencement; and

(ii) the chief executive must refund to the applicant the application fee for the application;

(b) if the person has applied for an internal or external review of a decision of the chief executive relating to a refusal to grant or renew driver authorisation under section 28B because of the conviction and the review has not been decided on the commencement—the application for review is taken to have been withdrawn on the commencement;

(c) if, immediately before the commencement, the person has an entitlement to have driver authorisation granted or renewed under a decision of the chief executive or QCAT under a review of the decision of the chief executive—the entitlement is extinguished on the commencement;

(d) the person is not eligible to apply for driver authorisation, or a renewal of driver authorisation, after the commencement.

(3) If a person who has been convicted of a new category A driver disqualifying offence before the commencement holds driver authorisation on the commencement, subsection (1) does not apply in relation to the person for the term of the authorisation.

(4) In this section—

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new category A driver disqualifying offence means an offence that is a category A disqualifying offence but, immediately before the commencement, was not a category A disqualifying offence.

Note—

Generally speaking, new category A driver disqualifying offences relate to attempted rape of an adult.

Part 20 Transitional provision for Personalised Transport Ombudsman Act 2019

218 Proceedings for particular offences

(1) This section applies if a person is alleged to have committed an offence against any of the following provisions before the commencement—

(a) former section 143AC;

(b) former section 143ADA;

(c) former section 143ADB.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be punished for the offence, as if the *Personalised Transport Ombudsman Act 2019*, sections 125 and 126 had not commenced.

(3) Subsection (2) applies despite the Criminal Code, section 11.

(4) In this section—

former, in relation to a provision, means as in force before the commencement.

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Schedule 1 Disqualifying offences—provisions of the Criminal Code

schedule 3, def *disqualifying offence*

Part 1 Existing provisions

1 chapter 9 (Breaches of the peace)

2 chapter 16 (Offences relating to the administration of justice)

3 chapter 20 (Miscellaneous offences against public authority)

4 chapter 22 (Offences against morality)

5 chapter 26 (Assaults and violence to the person generally—justification and excuse)

6 chapter 27 (Duties relating to the preservation of human life)

7 chapter 28 (Homicide—suicide—concealment of birth)

7A chapter 28A (Unlawful striking causing death)

8 chapter 29 (Offences endangering life or health)

9 chapter 30 (Assaults)

10 chapter 32 (Rape and sexual assaults)

11 chapter 33 (Offences against liberty)

11A section 359E (Punishment of unlawful stalking, intimidation, harassment or abuse)

12 section 363 (Child-stealing)

13 chapter 36 (Stealing)

14 chapter 37 (Offences analogous to stealing)

15 chapter 38 (Stealing with violence—extortion by threats)

16 chapter 39 (Burglary—housebreaking—and like offences)

17 chapter 40 (Other fraudulent practices)

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18 chapter 41 (Receiving property stolen or fraudulently obtained and like offences)

20 chapter 42A (Secret commissions)

21 chapter 46 (Offences)

22 chapter 49 (Punishment of forgery and like offences)

23 chapter 52 (Personation)

24 chapter 56 (Conspiracy)

Part 2 Provisions repealed by Criminal Law Amendment Act 1997

1 section 343A (Assaults occasioning bodily harm)

2 section 344 (Aggravated assaults)

Part 3 Provisions repealed by Criminal Code and Other Acts Amendment Act 2008

1 chapter 42 (Frauds by trustees and officers of companies and corporations—false accounting)

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Schedule 1A Driver disqualifying offences

schedule 3, definitions *category A driver disqualifying offence*, *category B driver disqualifying offence* and *category C driver disqualifying offence*

Part 1 Category A driver disqualifying offences

Division 1A Classification of Computer Games and Images Act 1995

1 section 23 (Demonstration of an objectionable computer game before a minor)

2 section 26(3) (Possession of objectionable computer game)

3 section 27(3) and (4) (Making objectionable computer game)

4 section 28 (Obtaining minor for objectionable computer game)

Division 1B Classification of Films Act 1991

1 section 41(3) (Possession of objectionable film)

2 section 42(3) and (4) (Making objectionable film)

3 section 43 (Procurement of minor for objectionable film)

Division 1C Classification of Publications Act 1991

1 section 12 (Sale etc. of prohibited publication)

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2 section 13 (Possession of prohibited publication)

3 section 14 (Possession of child abuse publication)

4 section 15 (Exhibition or display of prohibited publication)

5 section 16 (Leaving prohibited publication in or on public place)

6 section 17(1) (Producing prohibited publication)

7 section 17(2) (Producing prohibited publication)

8 section 17(3) and (4) (Producing prohibited publication)

9 section 18 (Procurement of minor for RC publication)

10 section 20 (Leaving prohibited publication in or on private premises)

Division 1 Existing provisions of the Criminal Code

2 section 210 (Indecent treatment of children under 16) unless, when the offence was committed, the offender was aged between 17 and 20 (both inclusive) and the person against whom the offence was committed was aged between 14 and 20 (both inclusive)

3 section 213 (Owner etc. permitting abuse of children on premises)

4 section 215 (Engaging in penile intercourse with child under 16)

5 section 216 (Abuse of persons with an impairment of the mind)

6 section 217 (Procuring young person etc. for penile intercourse)

6AA section 217A (Obtaining commercial sexual services from person who is not an adult)

6AB section 217B (Allowing person who is not an adult to take part in commercial sexual services)

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6AC section 217C (Conduct relating to provision of commercial sexual services by person who is not an adult)

6A section 218 (Procuring sexual acts by coercion etc.), if the offence was committed against a child

7 section 218A (Using internet etc. to procure children under 16)

7A section 218B (Grooming child under 16 years or parent or carer of child under 16 years)

8 section 219 (Taking child for immoral purposes)

8A section 221 (Conspiracy to defile), if the offence was committed against a child

9 section 222 (Incest), if the person in relation to whom the offence was committed was a child when the offence was committed

10 section 228 (Obscene publications and exhibitions), if section 228(2) or (3) applies

10A section 228A (Involving child in making child exploitation material)

10B section 228B (Making child exploitation material)

10C section 228C (Distributing child exploitation material)

10D section 228D (Possessing child exploitation material)

10E section 228DA (Administering child exploitation material website)

10F section 228DB (Encouraging use of child exploitation material website)

10G section 228DC (Distributing information about avoiding detection)

10H section 228I (Producing or supplying child abuse object)

10I section 228J (Possessing child abuse object)

11 section 229B (Repeated sexual conduct with a child)

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12E section 300 (Unlawful homicide), only if the unlawful killing is murder under section 302 and was committed against a child

13 section 349 (Rape)

14 section 350 (Attempt to commit rape)

15 section 351 (Assault with intent to commit rape), if the offence was committed against a child

16 section 352 (Sexual assaults), if the offence was committed against a child

Division 2 Provisions of the Criminal Code repealed by the Criminal Law Amendment Act 1997

1 section 208 (Unlawful anal intercourse), if section 208(2)(b) applies

2 section 222 (Incest by man), if the person in relation to whom the offence was committed was a child under 16 years when the offence was committed

3 section 223 (Incest by adult female), if the person in relation to whom the offence was committed was a child when the offence was committed

4 section 344 (Aggravated assaults), as the provision was in force from 20 December 1946 until its repeal by the *Criminal Law Amendment Act 1997*, if—

(a) the circumstance of aggravation was that the unlawful assault was an offence of a sexual nature as defined by the *Criminal Law Amendment Act 1945*, section 2A; and

(b) the person in relation to whom the offence was committed was a child when the offence was committed

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Division 3 Provisions of the Criminal Code repealed by the Criminal Code, Evidence Act and Other Acts Amendment Act 1989

1 section 212 (Defilement of girls under twelve)

2 section 214 (Attempt to abuse girls under ten)

3 section 220 (Unlawful detention with intent to defile or in a brothel), if the person in relation to whom the offence was committed was a child when the offence was committed

Division 3A Provision of the Criminal Code repealed by the Health and Other Legislation Amendment Act 2016

1 section 208 (Unlawful sodomy) unless, when the offence was committed, the offender was aged between 17 and 20 (both inclusive) and the person in relation to whom the offence was committed was not a person with an impairment of the mind and was aged between 14 and 17 (both inclusive)

Division 3B Provision of the Criminal Code repealed by the Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020

1 section 218B (Grooming children under 16)

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Division 3C Provisions of the Criminal Code repealed by the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Act 2024

1 section 229G (Procuring engagement in prostitution) only if an offender was or could have been liable as mentioned in section 229G(2)

2 section 229H (Knowingly participating in provision of prostitution) only if an offender was or could have been liable as mentioned in section 229H(2)

3 section 229I (Persons found in places reasonably suspected of being used for prostitution etc.) only if an offender was or could have been liable as mentioned in section 229I(2)

4 section 229L (Permitting young person etc. to be at place used for prostitution)

Division 4 Criminal Code (Cwlth)

1 section 270.6 (Sexual servitude offences), only if an offender was or could have been liable as mentioned in section 270.8

2 section 270.7 (Deceptive recruiting for sexual services), only if an offender was or could have been liable as mentioned in section 270.8

2A section 273A.1 (Possession of child-like sex dolls etc.)

3 section 474.19 (Using a carriage service for child pornography material)

4 section 474.20 (Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service)

5 section 474.22 (Using a carriage service for child abuse material)

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5A section 474.22A (Possessing or controlling child abuse material obtained or accessed using a carriage service)

6 section 474.23 (Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service)

7 section 474.26 (Using a carriage service to procure persons under 16 years of age)

8 section 474.27 (Using a carriage service to "groom" persons under 16 years of age)

Division 5 Customs Act 1901 (Cwlth)

1 section 233BAB (Special offence relating to tier 2 goods), if the offence involved child pornography or child abuse material

Division 6 Provisions of the Crimes Act 1914 (Cwlth) repealed by the Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010 (Cwlth)

1 section 50BA (Sexual intercourse with child under 16)

2 section 50BB (Inducing child under 16 to engage in sexual intercourse)

3 section 50BC (Sexual conduct involving child under 16)

4 section 50BD (Inducing child under 16 to be involved in sexual conduct)

5 section 50DA (Benefiting from offence against this Part)

6 section 50DB (Encouraging offence against this Part)

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Part 2 Category B driver disqualifying offences

Note—

See the definition *category B driver disqualifying offence* in schedule 3 for the full list of category B driver disqualifying offences.

Criminal Code

3 section 328A (Dangerous operation of a vehicle)

Weapons Act 1990

section 65 (Unlawful trafficking in weapons)

Part 3 Category C driver disqualifying offences

Division 1 Existing provisions of the Criminal Code

1 chapter 9 (Breaches of the peace)

2 chapter 16 (Offences relating to the administration of justice)

3 chapter 20 (Miscellaneous offences against public authority)

4 chapter 22 (Offences against morality)

5 chapter 26 (Assaults and violence to the person generally—justification and excuse)

6 chapter 27 (Duties relating to the preservation of human life)

7 chapter 28 (Homicide—suicide—concealment of birth)

7A chapter 28A (Unlawful striking causing death)

8 chapter 29 (Offences endangering life or health)

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9 chapter 30 (Assaults)

10 chapter 33 (Offences against liberty)

10A section 359E (Punishment of unlawful stalking, intimidation, harassment or abuse)

11 chapter 36 (Stealing)

12 chapter 37 (Offences analogous to stealing)

13 chapter 38 (Stealing with violence—extortion by threats)

14 chapter 39 (Burglary—housebreaking—and like offences)

15 chapter 40 (Other fraudulent practices)

16 chapter 41 (Receiving property stolen or fraudulently obtained and like offences)

18 chapter 42A (Secret commissions)

19 chapter 46 (Offences)

20 chapter 49 (Punishment of forgery and like offences)

21 chapter 52 (Personation)

22 chapter 56 (Conspiracy)

Division 2 Provisions of the Criminal Code repealed by the Criminal Law Amendment Act 1997

1 section 343A (Assaults occasioning bodily harm)

2 section 344 (Aggravated assaults)

Division 3 Provisions of the Criminal Code repealed by the Criminal Code and Other Acts Amendment Act 2008

1 chapter 42 (Frauds by trustees and officers of companies and corporations—false accounting)

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Schedule 1B Integrated mass transit area

section 62AAA

- Arana Hills, Albany Creek and Dayboro–Petrie service contract area/route
- Bribie Island and Bribie Island–Caboolture service contract area/route
- Brisbane service contract area/route
- Burbank/McKenzie service contract area/route
- Caboolture service contract area/route
- Camira/Springfield and Wacol Railway Station to Inala Plaza via Carole Park, Ellen Grove, Forest Lake and Doolandella service contract area/route
- Cleveland/Redland Bay service contract area/route
- Dakabin/Mango Hill (North Lakes) service contract area
- Deception Bay/Narangba service contract area/route
- Gold Coast service contract area
- Gold Coast–Coomera service contract area
- Ipswich/Goodna service contract area
- Logan service contract area
- Park Ridge and Beaudesert–Brisbane service contract area/route
- Ormeau–Beenleigh service contract route
- Redcliffe, Kallangur, Petrie and Redcliffe–Brisbane service contract area/route
- Samford Valley–Ferny Grove service contract route
- Strathpine and Murrumba Downs service contract area/route
- Sunshine Coast service contract area
- Sunshine Coast service contract area no. 2

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Schedule 2 Reviewable decisions

section 102

Section	Description of decision
17	refusal to grant or renew operator accreditation
20	amendment, suspension or cancellation of operator accreditation
28B	category B driver disqualifying offence—refusal to grant or renew driver authorisation or cancellation of driver authorisation
28C	category C driver disqualifying offence—refusal to grant or renew driver authorisation or suspension or cancellation of driver authorisation
29	refusal to grant or renew driver authorisation or the imposition of a condition on driver authorisation
32	amendment, suspension or cancellation of driver authorisation or the imposition of a condition on driver authorisation
36B(1)	decision to give essential infrastructure direction
36B(1)	decision to fix conditions for essential infrastructure direction
46(8)	requirement to take steps to remedy service inadequacies
46(9)	termination of service contract for failure to remedy service inadequacies
47(1) or (3)	amendment, suspension or cancellation of a service contract
47A(3)	contract holder's performance has been unsatisfactory
62AC(4)	contract holder's performance has been unsatisfactory

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Section	Description of decision
91G(3)	requirement to pay amount as condition of transfer of taxi service licence between areas
91K	refusal to issue booked hire service licence
91O(1)	imposing a condition on a taxi service licence or booked hire service licence
91P	amendment of a taxi service licence, limousine licence or booked hire service licence
91T	suspension or cancellation of a taxi service licence, limousine licence or booked hire service licence, other than immediate suspension of the licence
91W	refusal to grant booking entity authorisation
91Y(1)	imposing a condition on a booking entity authorisation
91Z	amendment of a booking entity authorisation
91ZA	suspension or cancellation of a booking entity authorisation, other than immediate suspension of the authorisation
91ZQ(2)(b)	giving a direction to comply with a provision of relevant transport legislation within a stated period
126D	forfeiture of seized things
126N	decision to give dangerous situation notice

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Schedule 3 Dictionary

section 3

accredited operator means a person who holds an operator accreditation, including operator accreditation granted on a provisional basis under section 18.

act of violence, for chapter 11, part 4C, see section 129ZH.

air service means a scheduled passenger service provided by aircraft between airports in the State.

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

assault has the meaning given by the Criminal Code, section 245.

authorised booking entity see section 91V(2).

authorised driver means a person who holds a driver authorisation, including driver authorisation granted on a provisional basis under section 30.

authorised person—

(a) for chapter 11, part 4C—see section 129ZH; or

(b) otherwise—means a person who is—

(i) an authorised person under section 111(1); or

(ii) appointed as an authorised person under section 111(2); or

(iii) a transit officer.

authorising document means—

(a) for booking entity authorisation—a document evidencing the booking entity authorisation; or

(b) for driver authorisation—a document evidencing the driver authorisation.

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Authority means the Authority established under the *Queensland Rail Transit Authority Act 2013*, section 6.

bodily harm has the meaning given by the Criminal Code, section 1.

booked hire service see section 71.

booked hire service licence see section 91J.

booked hire vehicle means—

(a) a motor vehicle stated in a booked hire service licence; or

(b) a substitute vehicle for the licence.

booking entity authorisation see section 91V(1).

booking record, for a booked hire service, see section 80.

booking service, for a booked hire service, see section 72.

bus means a motor vehicle with seating capacity for 9 or more passengers (excluding the driver).

business practices, for chapter 7, part 3, see section 83.

busway see the *Transport Infrastructure Act 1994*, schedule 6.

category A driver disqualifying offence means any of the following offences committed by a person who is subject to an obligation or order mentioned in the *Working with Children (Risk Management and Screening) Act 2000*, section 17(1)(b), or by a person when the person was at least 18 years and for which an imprisonment order is or was imposed—

(a) an offence against a provision of an Act mentioned in schedule 1A, part 1, subject to any qualification relating to the provision mentioned in the part;

(b) an offence of counselling or procuring the commission of, or attempting or conspiring to commit, an offence mentioned in paragraph (a), and to which paragraph (a) does not otherwise apply;

(c) an offence against a law of another jurisdiction, including a jurisdiction outside Australia, that

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substantially corresponds to an offence mentioned in paragraph (a) or (b).

category B driver disqualifying offence means—

(a) any of the following that is not a category A driver disqualifying offence—

(i) an offence listed in the *Working with Children (Risk Management and Screening) Act 2000*, schedule 2, 3, 4 or 5, subject to any qualification mentioned in the schedule;

(ii) an offence against a provision of an Act mentioned in schedule 1A, part 2, subject to any qualification relating to the provision mentioned in the part;

(iii) an offence of counselling or procuring the commission of, or attempting or conspiring to commit, an offence mentioned in subparagraph (i) or (ii), and to which paragraph (i) or (ii) does not otherwise apply;

(iv) an offence against a law of another jurisdiction, including a jurisdiction outside Australia, that substantially corresponds to an offence mentioned in subparagraph (i), (ii) or (iii); or

(b) an offence mentioned in the definition *category A driver disqualifying offence*, paragraph (a), (b) or (c), committed by a person when the person was—

(i) under 18 years, whether or not an imprisonment order is or was imposed, if the person is not subject to an obligation or an order mentioned in the *Working with Children (Risk Management and Screening) Act 2000*, section 17(1)(b); or

(ii) at least 18 years and—

(A) no imprisonment order is or was imposed; and

(B) the person is not subject to an obligation or order mentioned in the *Working with Children (Risk Management and Screening) Act 2000*, section 17(1)(b).

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category C driver disqualifying offence means any of the following that is not a category A driver disqualifying offence or a category B driver disqualifying offence—

(a) an offence against a provision of the Criminal Code mentioned in schedule 1A, part 3;

(b) an offence against the *Drugs Misuse Act 1986* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative;

(c) an offence against the *Weapons Act 1990* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative;

(d) an offence against this Act;

(e) an offence against the *Transport Operations (Passenger Transport) Regulation 2018*, for which the maximum penalty is at least 20 penalty units;

(ea) an offence against the *Summary Offences Act 2005*, section 9;

(f) an offence of counselling or procuring the commission of, or attempting or conspiring to commit, an offence mentioned in paragraph (a), (b), (c), (d), (e) or (ea), and to which paragraph (a), (b), (c), (d), (e) or (ea) does not otherwise apply;

(g) an offence against a law of another jurisdiction, including a jurisdiction outside Australia, that substantially corresponds to an offence mentioned in paragraph (a), (b), (c), (d), (e), (ea) or (f).

CCA, for chapter 12, part 2, see section 154B.

chief executive (employment screening) means the chief executive of the department in which the *Working with Children (Risk Management and Screening) Act 2000* is administered.

civil banning order, for chapter 11, part 4C, see section 129ZJ(1).

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community transport service means a service for the carriage of passengers funded or subsidised out of public money or by a charity and provided for the benefit of a particular group.

Competition Code, for chapter 12, part 2, see section 154B.

competition legislation, for chapter 12, part 2, see section 154B.

consignor—

1 A person is the ***consignor*** in relation to goods transported, or to be transported, by rail or goods that are dangerous goods if the person is any of the following—

(a) the person who has consented to being, and is, named or otherwise identified as the consignor of the goods in the transport documentation for the consignment;

(b) if there is no person as described in paragraph (a)—

(i) for goods transported or to be transported by rail—the person who engages an operator of the railway, either directly or through another person, to transport the goods by rail; or

(ii) for goods that are dangerous goods—the person who engages a prime contractor, either directly or through another person, to transport the goods; or

(iii) if there is no person as described in subparagraph (i) or (ii)—the person who has possession of, or control over, the goods immediately before the goods are transported by rail; or

(iv) if there is no person as described in subparagraph (i), (ii) or (iii)—the person who loads a vehicle with the goods, for transport by rail, at a place—

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(A) where goods in bulk are stored, temporarily held or otherwise held waiting collection; and

(B) that is unattended, other than by the driver or trainee driver of the rail vehicle or someone else necessary for the normal operation of the rail vehicle, during loading;

(c) if there is no person as described in paragraph (a) or (b) and the goods are imported into Australia through a place in Queensland—the importer of the goods.

2 Also, a person is the consignor of goods for transport by rail if the person arranges for the conveyance of the goods on a rail vehicle owned or controlled by the person.

conviction includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

courtesy transport service means a service for the carriage of passengers provided, free of charge, by an entity using a vehicle owned or leased by the entity for customers, clients or students of the entity.

criminal history of a person means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

(a) despite section 6 of that Act, includes a conviction of the person to which the section applies; and

(b) despite section 5 of that Act, includes a charge made against the person for an offence.

cross-border taxi rank means a taxi rank identified, by a sign erected or placed by the chief executive at the taxi rank, as a taxi rank where a NSW taxi can ply or stand for hire by a person intending to make a journey to New South Wales.

dangerous goods means—

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(a) goods prescribed under a regulation to be dangerous goods; or

(b) for implied references in relation to goods too dangerous to be transported—see chapter 11, part 3C.

dangerous goods authority means an entity in a participating dangerous goods jurisdiction that has functions under a corresponding law to the *Transport Infrastructure Act 1994*, chapter 14 that correspond to the chief executive's functions under that chapter.

dangerous goods offence means—

(a) an offence against chapter 11, the *Transport Infrastructure Act 1994*, chapter 14 or a dangerous goods regulation involving or relating to the transport of dangerous goods by rail; or

(b) for implied references in relation to goods too dangerous to be transported—see chapter 11, part 3C.

dangerous goods regulation means—

(a) a regulation made under the *Transport Infrastructure Act 1994*, chapter 14, applying to the transport of dangerous goods by rail; or

(b) for implied references in relation to goods too dangerous to be transported—see chapter 11, part 3C.

dangerous situation see section 126L.

dangerous situation notice see section 126N.

demand management measures includes pricing of parking, other demand management pricing, bus priority and high vehicle occupancy measures.

Example of high vehicle occupancy measures—

dedicated transit lanes

department's website means a website, or part of a website, administered by the department.

detainable offence means—

(a) an offence involving assault occasioning bodily harm of a person; or

(b) an offence involving assault of a person for the purpose of stealing something from the person; or

(c) an offence against the Criminal Code, chapter 32; or

Note—

The Criminal Code, chapter 32 contains offences relating to rape and sexual assault.

(d) an offence involving wilful damage of property.

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

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

disqualifying offence, in relation to operator accreditation or booking entity authorisation, means—

(a) an offence against this Act, whether the act relating to the offence was or is committed before or after the commencement of this paragraph; or

(b) an offence against a provision of the Criminal Code mentioned in schedule 1; or

(c) an offence against the *Drugs Misuse Act 1986* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or

(d) an offence against the *Weapons Act 1990* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or

(e) an offence prescribed by regulation; or

(f) an offence against a law of another jurisdiction, including a jurisdiction outside Australia, that substantially corresponds to an offence mentioned in paragraph (a), (b), (c), (d) or (e).

drive, a vehicle, includes operate or otherwise be in charge of the vehicle.

driver—

(a) generally—means the driver of a public passenger vehicle; and

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(b) for chapter 11A—see section 143AA.

driver authorisation see section 24.

driver disqualifying offence, in relation to driver authorisation, means—

(a) a category A driver disqualifying offence; or

(b) a category B driver disqualifying offence; or

(c) a category C driver disqualifying offence.

driver licence see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

driver service includes a service of actually providing a vehicle, on hire or otherwise, if a driver for the vehicle is offered or available by, through or on behalf of the operator.

emergency service contract means a contract entered into under section 48A.

essential infrastructure direction see section 36B(4).

essential public transport infrastructure means infrastructure the subject of a declaration under section 36A(1).

exclusion order see section 129Z.

exclusion variation order see section 129ZF(2).

executive officer of a corporation means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

fare, in relation to a public passenger service, means—

(a) the price payable for use of the service; or

(b) the provisions of, or arrangements for, a discount, allowance, rebate or credit applying in relation to the price payable for use of the service.

fare evasion provision see section 143AA.

fare provision, for chapter 12, part 2, see section 154C.

fatigue, for chapter 7, part 3, see section 83.

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ferry includes ship, boat, barge and hovercraft.

ferry service means a public passenger service provided by a ferry on or over water, and includes a service provided by water taxi.

fixed track vehicle includes a train and a light rail vehicle.

foreign person means—

(a) an individual who usually lives in a foreign country; or

(b) a corporation incorporated in a foreign country.

free of charge, for a courtesy transport service, includes without any of the following—

(a) any payment or other consideration for the service;

(b) requiring or asking for a levy, donation or other monetary contribution for the service, for example, the purchase of a ticket in a raffle;

(c) displaying a receptacle, whether on the vehicle used to provide the service or elsewhere, in such a way as to suggest that a donation is expected or required to travel on the vehicle.

frisk search, a person, means search the person by quickly running hands over the person's outer garments.

general route service means a scheduled passenger service, other than a scheduled passenger service prescribed by regulation, that may be used by—

(a) the general public; or

(b) a substantial part of the public; or

(c) a person who pays a subscription or a membership fee that is paid principally for the service.

goods too dangerous to be transported means goods prescribed under a dangerous goods regulation as goods too dangerous to be transported.

hire on-the-spot, for chapter 7, see section 69.

holder, for a service contract, means the operator—

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(a) with whom the chief executive has entered the contract under section 38B; or

(b) to whom the contract has been transferred under section 48(1)(a) or (b).

identified provision, for chapter 12, part 2, see section 154D.

impaired capacity has the meaning under the *Guardianship and Administration Act 2000*.

imprisonment order means an imprisonment order under the *Working with Children (Risk Management and Screening) Act 2000*.

in a rail vehicle includes on the vehicle.

information notice, for a decision, means a notice stating that a person affected by the decision may—

(a) under section 102—ask for the decision to be reviewed by the chief executive; and

(b) under the *Transport Planning and Coordination Act 1994*, part 5, division 2—apply to QCAT for the decision to be stayed; and

(c) under section 103—ask for the chief executive's decision on the review (the ***reviewed decision***) to be reviewed by QCAT; and

(d) under the QCAT Act—apply to QCAT for the reviewed decision to be stayed.

infringement notice means an infringement notice under the *State Penalties Enforcement Act 1999*, part 3.

integrated mass transit area see section 62AAA.

integrated mass transit service contract see section 62AAC.

interim civil banning order, for chapter 11, part 4C, see section 129ZP(2).

light rail see the *Transport Infrastructure Act 1994*, schedule 6.

light rail manager, for a light rail, see the *Transport Infrastructure Act 1994*, schedule 6.

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light rail operator, for a light rail, see the *Transport Infrastructure Act 1994*, schedule 6.

light rail vehicle see the *Transport Infrastructure Act 1994*, schedule 6.

limousine means—

(a) a motor vehicle stated in a limousine licence; or

(b) a substitute vehicle for the licence.

limousine licence see section 91H(1).

load, in relation to goods and to a rail vehicle, includes any of the following—

(a) load 1 or more packages of the goods in or on the rail vehicle;

(b) place or secure 1 or more packages of the goods on the rail vehicle;

(c) to remove doubt—carry out an activity mentioned in paragraphs (a) and (b) in relation to a bulk container, freight container, or tank that is part of a rail vehicle;

(d) supervise an activity mentioned in paragraph (a), (b) or (c);

(e) manage or control an activity mentioned in paragraphs (a) to (d);

but does not include load goods into packaging already on the rail vehicle or place or secure packages in or on further packaging already on the vehicle.

local nominee, of an authorised booking entity, see section 91ZD(1).

management entity, for chapter 12, part 2, see section 154B.

management entity provision, for chapter 12, part 2, see section 154E.

master, for chapter 11A, see section 143AA.

motor vehicle has the meaning given by the *Transport Operations (Road Use Management) Act 1995*.

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non-integrated mass transit area, for chapter 6, part 4, see section 67B.

NSW taxi means a motor vehicle used to provide a taxi service—

(a) under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* (NSW); or

(b) under a taxi licence continued in force under schedule 2, section 3 of that Act.

obstruct includes abuse, hinder, insult, resist, threaten or attempt to obstruct.

occupier of a place includes a person who reasonably appears to be the occupier, or in charge of, the place.

operator means a person carrying on the business of providing a public passenger service.

operator accreditation see section 12.

original taxi service licence see section 91E(1).

pack, in relation to dangerous goods, includes the following—

(a) put goods in packaging, even if that packaging is already on a rail vehicle;

Example for paragraph (a)—

A person who uses a hose to fill the tank of a tank rail vehicle with petrol packs the petrol for transport.

(b) enclose or otherwise contain more than 1 package, even if that packaging is already on a rail vehicle;

(c) supervise an activity mentioned in paragraph (a) or (b);

(d) manage or control an activity mentioned in paragraph (a), (b) or (c).

packaging, in relation to dangerous goods—

(a) means anything that contains, holds, protects or encloses the goods, whether directly or indirectly, to enable them to be received or held for transport, or to be transported; and

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(b) includes anything prescribed under a dangerous goods regulation to be packaging.

Notes—

1 It may be that a container constitutes the whole of the packaging of goods, as in the case of a drum in which goods, including for example dangerous goods, are directly placed.

2 The term is not used in the same way as it is used in United Nations publications relating to the transport of dangerous goods.

payment surcharge see section 91ZS(1).

person in control includes—

(a) for a ferry—the person who has, or reasonably appears to have, command or charge of the ferry; and

(b) for another vehicle—the vehicle's driver or the person who reasonably appears to be the vehicle's driver.

person in the chain of responsibility, for a taxi service or booked hire service, see section 84.

placard means a label or emergency information panel as prescribed under a regulation.

place includes land, waters and premises, but does not include a vehicle.

premises includes—

(a) a building, wharf or other structure; and

(b) a part of a building, wharf or other structure; and

(c) land or waters where a building, wharf or other structure is situated.

prescribed day for chapter 6, part 2, division 2AA, see section 62AAB.

prescribed person, for a railway manager, railway operator or the Authority, means—

(a) an employee of the railway manager, railway operator or Authority who is a transit officer; or

(b) an employee of the railway manager, railway operator or Authority, or a member of the railway manager's, railway operator's or Authority's board, who is

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responsible for managing or supervising the performance of a function or the exercise of a power by a person mentioned in paragraph (a).

prescribed school service contract means a service contract—

(a) to provide a service for which no declaration has been made under section 42; and

(b) that is, or is part of, an arrangement under section 144.

prime contractor, in relation to the transport of dangerous goods, means the person who, in conducting a business for or involving the transport of dangerous goods, has undertaken to be responsible for, or is responsible for, the transport of the goods.

proper officer, of a court making an exclusion order, has the meaning given by the *Penalties and Sentences Act 1992*, section 4.

provides, for a taxi service or booked hire service, for chapter 7, see section 73.

public notice means a notice published in a newspaper circulating generally throughout the State or, if the matter being published is of interest only in a particular area, in a newspaper circulating generally throughout the area.

public passenger service means a service for the carriage of passengers if—

(a) the service is provided for fare or other consideration; or

(b) the service is provided in the course of a trade or business (but not if it is provided by an employer solely for employees); or

(c) the service is a courtesy transport service or community transport service;

and includes a driver service but does not include a service excluded from this Act by a regulation.

public passenger vehicle means any of the following vehicles used to transport members of the public—

(a) a bus;

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(b) a ferry;

(c) a taxi;

(d) a fixed track vehicle;

(e) an aircraft;

(f) a limousine;

(g) a booked hire vehicle;

(h) another vehicle used to provide a public passenger service;

(i) a vehicle classified by regulation as a public passenger vehicle.

public place means a place that the public is entitled to use, is open to the public or is used by the public, whether or not on payment of money.

public transport infrastructure means any of the following—

(a) a railway;

(b) a train or other public passenger vehicle being operated by a railway manager or railway operator;

(c) a light rail;

(d) a light rail vehicle or other public passenger vehicle being operated by a light rail manager, or light rail operator, for a light rail;

(e) a bus or other motor vehicle being used for a general route service;

(f) a busway;

(g) busway transport infrastructure as defined under the *Transport Infrastructure Act 1994*, schedule 6;

(h) a ferry being used for a general route service;

(i) a station, platform or other structure or place for the taking on and letting off of passengers of a vehicle mentioned in paragraph (b), (d), (e) or (h), including the following—

(i) a railway station or platform;

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(ii) a light rail station or platform;

(iii) facilities for passengers to interchange between the same or different modes of transport;

Examples—

- Cannon Hill bus interchange
- Roma Street busway/railway interchange

(iv) a bus station;

(v) a bus stop, including the area in the immediate vicinity of the bus stop;

(vi) a jetty or other structure at which a ferry makes a scheduled stop for a ferry service, and any associated structure;

(vii) landscaping associated with a station, platform or other structure or place;

(j) car parking and set down facilities for intending passengers of a vehicle mentioned in paragraph (b), (d), (e) or (h), including the following—

(i) a car park under the control of a railway manager or railway operator;

(ii) a car park under the control of a light rail manager, or light rail operator;

(iii) a car park associated with a busway;

(k) any other structure or facilities for the use or convenience of passengers of a vehicle mentioned in paragraph (b), (d), (e) or (h).

Examples of other structures or facilities—

overhead or underground walkways between railway platforms, footpaths, seating, ticketing machines, public toilets, signage

public transport network means the following—

(a) all general route services;

(b) all public transport infrastructure associated with a general route service.

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Queensland driver licence see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

rail, for chapter 11 in relation to the transportation of dangerous goods by rail, includes cableway.

rail government entity see the *Transport Infrastructure Act 1994*, schedule 6.

rail vehicle, for chapter 11 in relation to the transportation of dangerous goods by rail, includes a unit of rolling stock and a cableway car.

railway includes—

(a) for chapters 11 and 11A—a carpark or bus station under a railway manager's control; and

(b) in relation to the transportation of dangerous goods by rail—a cableway.

railway manager has the meaning given by the *Transport Infrastructure Act 1994*.

railway operator has the meaning given by the *Transport Infrastructure Act 1994*.

reasonably means on grounds that are reasonable in all the circumstances.

reasonably believes means believes on reasonable grounds.

reasonably practicable, in relation to a duty to ensure safety, for chapter 7, part 3, see section 83.

reasonably suspects means suspects on reasonable grounds.

relevant driver offence see section 91ZI.

relevant emergency service officer means an officer of any of the following—

(a) the Queensland Ambulance Service;

(b) the Queensland Fire and Rescue Service;

(c) the Queensland Police Service;

(d) the State Emergency Service;

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(e) a service of another State, corresponding to a service mentioned in paragraphs (a) to (d), if there is a dangerous goods authority for the State;

(f) a unit of the Australian Defence Force corresponding to a service mentioned in paragraphs (a) to (d).

relevant information, for chapter 11, part 2, division 1, subdivision 2, see section 111D.

relevant offence—

(a) for chapter 11, part 4—see section 126P; or

(b) for chapter 11, part 4B or 4C, means—

(i) an offence against a relevant provision as defined in section 143AHA(4); or

(ii) an offence against section 143AC as in force before 9 March 2020.

relevant order means—

(a) an imprisonment order; or

(b) the obligations or an order mentioned in the *Working with Children (Risk Management and Screening) Act 2000*, section 17(1)(b).

relevant transport legislation—

(a) for chapter 7—see section 69; or

(b) for chapter 11—see section 110.

remedial action notice see section 126K.

respondent, for chapter 11, part 4C, see section 129ZJ(1).

restricted driver authorisation means driver authorisation that is restricted under section 29A.

road means—

(a) an area of land dedicated to public use as a road; or

(b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or

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(c) a bridge, culvert, ferry, ford, tunnel or viaduct; or

(d) a pedestrian or bicycle path; or

(e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d).

road-based general route service means a general route service that—

(a) is not an air service; or

(b) is not a ferry service; or

(c) does not involve a rail vehicle.

road works has the same meaning as in the *Transport Infrastructure Act 1994*, chapter 6 (Road transport infrastructure).

safety law, for chapter 7, part 3, see section 83.

safety risk, for chapter 7, part 3, see section 83.

scheduled passenger service means a public passenger service—

(a) conducted on a route in accordance with a timetable for the service; or

(b) conducted on a route that forms a circle or loop (commonly called a 'loop service'); or

(c) conducted on a continuous basis between 2 points (commonly called a 'shuttle service'); or

(d) under which the vehicle used may, at the request of individual passengers, deviate from the usual route from time to time (commonly called a 'route deviation service'); or

(e) under which the actual route to be traversed may vary within a corridor or zone at the request of individual passengers each time the service operates (commonly called a 'dial and ride service').

school service means a scheduled passenger service only or primarily for the transport of school students to and from

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school (other than for school excursions) on days that schools are open for instruction.

school student means a school student attending, as a student—

(a) a State school under the *Education (General Provisions) Act 2006*; or

(b) an accredited school under the *Education (Accreditation of Non-State Schools) Act 2017*.

service contract see section 38(1).

service contract area or route means an area or route for which a service contract is required under section 42 to provide particular public passenger services.

service entity, for chapter 12, part 2, see section 154B.

service entity provision, for chapter 12, part 2, see section 154F.

service equipment, for a public passenger service, means any of the following used in operating the service—

(a) facilities, including ticketing systems, network monitoring systems, communications equipment and timing systems;

(b) infrastructure, including tunnels, stations, parking facilities and passenger interchanges;

(c) goods or services related to something mentioned in paragraph (a) or (b).

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

special event, for chapter 6, part 4, means an event the subject of a declaration under section 67C.

standard means a standard in force under this Act.

standard service contract means a service contract that is not—

(a) an integrated mass transit service contract; or

(b) a prescribed school service contract.

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State influenced entity, for chapter 12, part 2, see section 154G.

substitute vehicle means a motor vehicle allowed to be used under a taxi service licence, a limousine licence or a booked hire service licence under a regulation under section 91R(3)(b).

tare means the weight of a vehicle equipped for travelling on a railway, but not including any load.

taxi means—

(a) a motor vehicle stated in a taxi service licence; or

(b) a substitute vehicle for the licence.

taxi service see section 70.

taxi service area means an area declared under section 91ZT.

taxi service licence see section 91D.

timetable, for a scheduled passenger service, means an arrangement under which the starting time or finishing time, or both, for each service is fixed.

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

transit officer see section 111(3).

transit officer training means a course of training for qualification for appointment as a transit officer complying with section 111L.

transport dangerous goods includes—

(a) pack, load and unload the goods, and transfer them to or from a rail vehicle, for their transport; and

(b) mark packages, and unit loads, containing dangerous goods; and

(c) placard containers and rail vehicles in which dangerous goods are transported.

transport coordination plan means the transport coordination plan developed under the *Transport Planning and Coordination Act 1994*.

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transport documentation means each of the following—

(a) for a rail vehicle—

(i) each contractual document directly or indirectly associated with—

(A) a transaction for the actual or proposed transport by rail of goods or any previous transport of the goods by any transport method; or

(B) goods, to the extent the document is relevant to the transaction for their actual or proposed transport by rail; or

(ii) each document—

(A) contemplated in a contractual document mentioned in subparagraph (i); or

(B) required by law, or customarily given, in connection with a contractual document or transaction mentioned in subparagraph (i);

Examples—

- a bill of lading
- a consignment note
- a container weight declaration
- a contract of carriage
- a delivery order
- an export receival advice
- an invoice
- a load manifest
- a sea carriage document
- a vendor declaration
- train wire
- sequential consist
- loading form

(b) for the transport of dangerous goods—documentation required to be kept under a dangerous goods regulation.

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transport indictable offence, for chapter 11, part 4B, see section 129Y.

undeclared area or route means an area or route that is not a specified area or route to which a declaration, for a road-based general route service, under section 42(2) relates.

unit of rolling stock means a vehicle designed to run on rails.

Example—

A unit of rolling stock includes a vehicle that operates on a railway and is used, or is proposed to be used, for either of the following purposes—

(a) transporting passengers or freight on a railway;

(b) maintenance work, or other work associated with, a railway.

vehicle includes a ferry.

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