

Queensland



**TRANSPORT OPERATIONS
(ROAD USE MANAGEMENT)
AND ANOTHER ACT
AMENDMENT ACT 2003**

Act No. 69 of 2003

Queensland



**TRANSPORT OPERATIONS (ROAD USE
MANAGEMENT) AND ANOTHER ACT
AMENDMENT ACT 2003**

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SCHEDULE 16

**AMENDMENT OF STATE TRANSPORT (PEOPLE MOVERS) ACT
1989**

Queensland



**Transport Operations (Road Use
Management) and Another Act Amendment
Act 2003**

Act No. 69 of 2003

***An Act to amend the *Transport Operations (Road Use Management)
Act 1995* and the *State Transport (People Movers) Act 1989****

[Assented to 22 October 2003]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Transport Operations (Road Use Management) and Another Act Amendment Act 2003*.

2 Acts amended

(1) Part 2 amends the *Transport Operations (Road Use Management) Act 1995*.

(2) The schedule amends the *State Transport (People Movers) Act 1989*.

PART 2—AMENDMENT OF TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995

3 Amendment of s 50AA (Power to require information)

Section 50AA—

insert—

‘(6A) Subsection (6B) applies if the person is called as a witness in a proceeding against someone else for the information offence.

‘(6B) The person is not entitled to refuse to answer a question in relation to the information offence because answering the question might tend to incriminate the person for an information offence (the “**particular offence**”).

‘(6C) However, the person’s answer, and any evidence directly or indirectly derived from the answer, is not admissible against the person in a civil or criminal proceeding for an information offence, whether or not the particular offence.

‘(6D) Also, nothing in subsection (6B) requires the person to answer a question that might tend to incriminate the person of an offence that is not an information offence.’.

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

(1) Section 57B(2)(a), after ‘influencing person’, first mention—

insert—

‘, or any associate of the influencing person,’.

(2) Section 57B(2)(b), ‘the influencing person was not’—

omit, insert—

‘neither the influencing person, nor an associate, was’.

(3) Section 57B(2)(a) and (b), after ‘act or omission’—

insert—

‘that is the offence’.

(4) Section 57B(3), definition “**influencing person**”—

omit.

(5) Section 57B(3)—

insert—

‘**“associate”**, of an influencing person, means any of the following persons to whom the influencing person, whether or not for reward, has given an interest, other than a security interest, in the vehicle—

(a) for an influencing person who is a individual—

(i) a spouse of the influencing person; or

(ii) a relative of the influencing person, whether by blood, spousal relationship or adoption; or

(iii) an employee of the influencing person; or

(iv) an employee of a corporation of which the influencing person is an executive officer; or

(v) a partner of the influencing person; or

- (vi) a corporation of which the influencing person is an executive officer; or
- (vii) a corporation in which the influencing person holds a controlling interest;
- (b) for an influencing person that is a corporation—
 - (i) an executive officer of the corporation; or
 - (ii) a spouse of an executive officer of the corporation; or
 - (iii) a relative of an executive officer of the corporation, whether by blood, spousal relationship or adoption; or
 - (iv) an employee of the corporation; or
 - (v) a person who holds a controlling interest in the corporation; or
 - (vi) a holding company of the corporation; or
 - (vii) a subsidiary of the corporation; or
 - (viii) a subsidiary of a holding company of the corporation;
- (c) a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the influencing person or, if the influencing person is a corporation, of the executive officers of the influencing person;
- (d) a person who, because of paragraph (a), (b) or (c), would be an associate of someone who is an associate of the influencing person if the associate were an influencing person.

Example of an associate—

If the influencing person, by a verbal agreement, leases the vehicle to a corporation that is a subsidiary of the influencing person, the corporation is an associate of the influencing person.

“holding company” see the Corporations Act, section 9.¹

“influencing person”, in relation to a vehicle, means any or all of the following persons—

- (a) the owner of the vehicle, or for a combination, of either of the vehicles;
- (b) the registered operator of the vehicle, or for a combination, of either of the vehicles;
- (c) a person, other than the owner or registered operator, who controls or directly influences the loading or operation of the vehicle.

“security interest” means an interest given by way of security for or in relation to a liability, whether present, contingent or future.

“subsidiary” see the Corporations Act, section 9.¹.

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

(1) Section 78(3)(d) to (f)—

renumber as section 78(3)(f) to (h).

(2) Section 78(3)—

insert—

- (d) if the person committed the offence while the person was disqualified from holding or obtaining a driver licence because the person had been convicted of an offence against the Queensland Road Rules, section 20,² for driving more than 40 km/h over the speed limit—6 months;
- (e) if the person committed the offence while the person’s authority to drive on a Queensland road under a non-Queensland driver licence was suspended because the person had been convicted of an offence against the Queensland Road Rules, section 20, for driving more than 40 km/h over the speed limit—6 months;’.

(3) Section 78(6), definition **“disqualified driver”**, paragraph (b)(ii)—

1 Corporations Act, section 9 (Dictionary)

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

renumber as paragraph (b)(iii).

(4) Section 78(6), definition “**disqualified driver**”, paragraph (b)—
insert—

‘(ii) the person was convicted of an offence against the Queensland Road Rules, section 20, for driving more than 40 km/h over the speed limit; or’.

(5) Section 78(6), definition “**disqualified driver**”, paragraph (c)(ii)—
renumber as paragraph (c)(iii).

(6) Section 78(6), definition “**disqualified driver**”, paragraph (c)—
insert—

‘(ii) because the person was convicted of an offence against the Queensland Road Rules, section 20, for driving more than 40 km/h over the speed limit; or’.

6 Amendment of s 79 (Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood)

(1) Section 79, heading, after ‘**blood**’—
insert—

‘**or breath**’.

(2) Section 79(2), from ‘whilst’ to ‘150 mg of alcohol per 100 mL of blood’—

omit, insert—

‘, while the person is over the general alcohol limit but is not over the high alcohol limit’.

(3) Section 79(2A), (2B) and (2D), from ‘whilst’ to ‘50 mg of alcohol per 100 mL of blood’—

omit, insert—

‘, while the person is over the no alcohol limit but is not over the general alcohol limit’.

(4) Section 79(2J), from ‘concentration’ to ‘50 mg of alcohol per 100 mL of blood’—

omit, insert—

‘person is over the no alcohol limit but is not over the general alcohol limit’.

(5) Section 79(3), from ‘concentration’ to ‘150 mg of alcohol per 100 mL of blood’—

omit, insert—

‘defendant was over the high alcohol limit’.

(6) Section 79(4)(b), from ‘concentration’, first mention, to ‘50 mg of alcohol per 100 mL of blood’—

omit, insert—

‘defendant was over the general alcohol limit’.

(7) Section 79(4)(b), from ‘concentration’, second mention, to ‘0 mg of alcohol per 100 mL of blood’—

omit, insert—

‘defendant was over the no alcohol limit’.

(8) Section 79(6)(a), from ‘whilst the concentration’ to ‘to the complaint’—

omit, insert—

‘while the defendant was over the general alcohol limit or, if at the material time the defendant was a person to whom subsection (2A), (2B) or (2J) referred, the defendant was over the no alcohol limit’.

(9) Section 79(6)(b)(ii), from ‘by virtue’ to ‘influenced thereby’—

omit, insert—

‘as indicated by the concentration of alcohol in the defendant’s blood or breath, influenced by alcohol’.

7 Insertion of new s 79A

After section 79—

insert—

‘79A When is a person over the limit

‘(1) For this Act, a person is over the “no alcohol limit” if—

- (a) the concentration of alcohol in the person's blood is more than 0 mg of alcohol in 100 mL of blood; or
- (b) the concentration of alcohol in the person's breath is more than 0 g of alcohol in 210 L of breath.

‘(2) For this Act, a person is over the “**general alcohol limit**” if—

- (a) the concentration of alcohol in the person's blood is, or is more than, 50 mg of alcohol in 100 mL of blood; or
- (b) the concentration of alcohol in the person's breath is, or is more than, 0.050 g of alcohol in 210 L of breath.

‘(3) For this Act, a person is over the “**high alcohol limit**” if—

- (a) the concentration of alcohol in the person's blood is, or is more than, 150 mg of alcohol in 100 mL of blood; or
- (b) the concentration of alcohol in the person's breath is, or is more than, 0.150 g of alcohol in 210 L of breath.

‘(4) For this Act—

- (a) the concentration of alcohol in a person's blood may be expressed as—
 - (i) a specified number of milligrams of alcohol in 100 mL of blood; or
 - (ii) a percentage that expresses the specified number of milligrams of alcohol in 100 mL of blood; and
- (b) the concentration of alcohol in a person's breath may be expressed as—
 - (i) a specified number of grams of alcohol in 210 L of breath; or
 - (ii) a specified number of grams in 210 L.

Examples for subsection (4)—

1. The concentration of alcohol in a person's blood may be expressed as 63 mg of alcohol in 100 mL of blood or as 0.063%.
2. The concentration of alcohol in a person's breath may be expressed as 0.063 g of alcohol in 210 L of breath or as 0.063g/210 L.’.

8 Amendment of s 80 (Provisions with respect to breath tests and laboratory tests)

(1) Section 80(1), definition **“breath analysing instrument”**, paragraph (a)—

omit, insert—

‘(a) for finding out the concentration of alcohol in—

- (i) a person’s blood by analysing a specimen of the person’s breath; or
- (ii) a person’s breath by analysing a specimen of the person’s breath; and’.

(2) Section 80(1), definition **“breath test”**, ‘blood that is performed on a specimen of the person’s’—

omit.

(3) Section 80(6)(a), from ‘concentration’ to ‘50 mg of alcohol per 100 mL of blood’—

omit, insert—

‘person is over the general alcohol limit’.

(4) Section 80(6)(aa), from ‘concentration’ to ‘0 mg of alcohol per 100 mL of blood’—

omit, insert—

‘person is over the no alcohol limit’.

(5) Section 80(8B)(d), after ‘doctor’—

insert—

‘or nurse’.

(6) Section 80(9)(d), after ‘person’s blood’—

insert—

‘or breath’.

(7) Section 80(9), after ‘doctor’—

insert—

‘or nurse’.

(8) Section 80(9A), after ‘doctor’, second mention—

insert—

‘or nurse’.

(9) Section 80(14)—

omit.

(10) Section 80(15) and (15G), after ‘the blood’—

insert—

‘or breath’.

(11) Section 80(16), ‘such specimen shall deliver the same’—

omit, insert—

‘the specimen must deliver it, or arrange for it to be delivered on the police officer’s behalf’.

(12) Section 80(19), ‘sends a specimen of blood’—

omit, insert—

‘delivers a specimen of blood, or arranges for a specimen of blood to be delivered on the officer’s behalf’.

(13) Section 80(19)(a), after ‘by the officer’—

insert—

‘and any person who delivered the specimen on the officer’s behalf’.

(14) Section 80(22)(a), from ‘concentration’, first mention, to ‘50 mg of alcohol per 100 mL of blood’—

omit, insert—

‘person is over the general alcohol limit’.

(15) Section 80(22)(a), from ‘concentration’, second mention, to ‘0 mg of alcohol per 100 mL of blood’—

omit, insert—

‘person is over the no alcohol limit’.

(16) Section 80(22)(c)(i), from ‘concentration’, first mention, to ‘50 mg of alcohol per 100 mL of blood’—

omit, insert—

‘person is over the general alcohol limit’.

(17) Section 80(22)(c)(i), from ‘concentration’, second mention, to ‘0 mg of alcohol per 100 mL of blood’—

omit, insert—

‘person is over the no alcohol limit’.

(18) Section 80(24), from ‘Evidence’ to ‘the blood of a person’—

insert—

‘Evidence of the presence of the concentration of alcohol in the blood or breath of a person, or the drug or metabolite of the drug in the blood of a person.’.

(19) Section 80(24A)(c), from ‘concentration’ to ‘150 mg of alcohol per 100 mL of blood’—

omit, insert—

‘person was over the high alcohol limit’.

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

(1) Section 81(1)(b)—

omit, insert—

‘(b) the concentration of alcohol—

- (i) in the person’s blood is less than 100 mg of alcohol in 100 mL of blood; or
- (ii) in the person’s breath is less than 0.100 g of alcohol in 210 L of breath;’.

(2) Section 81(3)(f), after ‘person’s blood’—

insert—

‘or breath’.

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

Section 86(2A) and (2C), after ‘in the blood’—

insert—

‘or breath’.

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

(1) Section 87(5)(db)(ii), from ‘concentration’ to ‘50 mg of alcohol per 100 mL of blood’—

omit, insert—

‘person was over the general alcohol limit’.

(2) Section 87(5B)(c)—

omit, insert—

‘(c) a suspension under the *State Penalties Enforcement Act 1999*; or’.

12 Insertion of new ch 7, pt 6

After chapter 7, part 5—

insert—

**‘PART 6—TRANSITIONAL PROVISIONS FOR THE
TRANSPORT OPERATIONS (ROAD USE
MANAGEMENT) AND ANOTHER ACT AMENDMENT
ACT 2003**

‘198 Evidentiary value of certificates preserved

‘A certificate, or a copy of the certificate, stating the concentration of alcohol present in a person’s blood as indicated by a breath analysing instrument issued before the commencement of this section continues, after the commencement, to be as effectual as it was before the commencement, including in evidence in any proceeding.’.

13 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘**“general alcohol limit”** see section 79A.³

“high alcohol limit” see section 79A.⁴

“no alcohol limit” see section 79A.⁵.

3 Section 79A (When is a person over the limit)

4 Section 79A (When is a person over the limit)

5 Section 79A (When is a person over the limit)

SCHEDULE

AMENDMENT OF STATE TRANSPORT (PEOPLE MOVERS) ACT 1989

section 2(2)

1 Insertion of new s 2—

After section 1—

insert—

‘2 Operation of Act after commencement of this section

‘(1) After the commencement—

- (a) this Act has effect only for the purposes of existing systems; and
- (b) a person can not commit an offence under section 17(1)(a) or (b)⁶ in relation to a people mover system, other than an existing system for which there is a licence in force under this Act.

‘(2) To remove any doubt, it is declared that, after the commencement—

- (a) the chief executive must not enter into an agreement under part 3 in relation to a people mover system; and
- (b) this Act does not apply to the construction or operation of a people mover system, other than the operation of an existing system for which there is a licence in force under this Act.

Note—

After the commencement, a people mover system could be constructed and operated under the authority of the *Integrated Planning Act 1997* and other relevant law. This Act will not be relevant.

‘(3) Despite subsection (1)(a), the chief executive must not act under section 19(1A)⁷ to issue a further licence to any person.

6 Section 17 (Construction and operation of people mover system)

7 Section 19 (Period of licence)

SCHEDULE (continued)

‘(4) Subsection (3) does not prevent the renewal of a licence in accordance with the provisions of the licence.

‘(5) In this section—

“**commencement**” means the commencement of this section.

“**existing system**” means a people mover system that, immediately before the commencement, was in operation under a licence under part 4.’.