



Queensland

Transport (New Queensland Driver Licensing) Amendment Act 2008

Act No. 71 of 2008



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Transport (New Queensland Driver Licensing) Amendment Act 2008

Act No. 71 of 2008

An Act to amend the Police Powers and Responsibilities Act 2000, the Tow Truck Act 1973, the Transport Operations (Marine Safety) Act 1994, the Transport Operations (Passenger Transport) Act 1994 and the Transport Operations (Road Use Management) Act 1995 for particular purposes

[Assented to 11 December 2008]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Transport (New Queensland Driver Licensing) Amendment Act 2008*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Police Powers and Responsibilities Act 2000

3 Act amended in pt 2

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

4 Amendment of ch 7 hdg

Chapter 7, heading, after ‘documents,’—
insert—

‘accessing registered digital photos and other information.’

5 Insertion of new ch 7, pt 5A

Chapter 7—

insert—

‘Part 5A Accessing registered digital photos and other information

‘Division 1 Preliminary

‘195A Definitions for pt 5A

‘In this part—

access means—

- (a) in relation to a registered digital photo—obtain a copy of the digital photo, including by electronic communication; or
- (b) in relation to information stored electronically on a smartcard transport authority—view or take a copy of the information.

access approval order see section 195B(2).

adult proof of age card see the *Adult Proof of Age Card Act 2008*, section 5.

digital photo means a facial image encoded in a digital form.

emergency contact information, of a holder of a prescribed document, means any or all of the following information—

- (a) the name of a person to be contacted if there is a risk to the holder’s life or health;
- (b) the following information about a person mentioned in paragraph (a)—
 - (i) the person’s phone number;
 - (ii) the person’s address.

marine licence indicator means a marine licence indicator as defined in the *Transport Operations (Marine Safety) Act 1994*, schedule.

[s 5]

post-access approval order see section 195F(1).

prescribed document means any of the following documents—

- (a) an adult proof of age card;
- (b) a driver's certificate or assistant's certificate as defined in the *Tow Truck Act 1973*, schedule 2;
- (c) a marine licence indicator;
- (d) a driver authorisation as defined in the *Transport Operations (Passenger Transport) Act 1994*, section 24(1);
- (e) a prescribed authority as defined in the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

prescribed smartcard Act means any of the following Acts—

- (a) the *Adult Proof of Age Card Act 2008*;
- (b) the *Tow Truck Act 1973*;
- (c) the *Transport Operations (Marine Safety) Act 1994*;
- (d) the *Transport Operations (Passenger Transport) Act 1994*;
- (e) the *Transport Operations (Road Use Management) Act 1995*.

prescribed transport Act means a prescribed smartcard Act other than the *Adult Proof of Age Card Act 2008*.

registered digital photo means a digital photo kept by a relevant entity under a prescribed smartcard Act.

relevant entity, in relation to a prescribed document, means—

- (a) for a prescribed document other than a marine licence indicator—the chief executive of the department in which the prescribed smartcard Act under which the document was given or issued is administered; or
- (b) for a marine licence indicator—

-
- (i) the chief executive of the department in which the *Transport Operations (Marine Safety) Act 1994* is administered; or
 - (ii) the general manager appointed under the *Maritime Safety Queensland Act 2002*.

smartcard transport authority means any of the following—

- (a) a smartcard driver's certificate or a smartcard assistant's certificate as defined in the *Tow Truck Act 1973*, schedule 2;
- (b) a smartcard marine licence indicator as defined in the the *Transport Operations (Marine Safety) Act 1994*, schedule;
- (c) a smartcard driver authorisation as defined in the *Transport Operations (Passenger Transport) Act 1994*, section 35E(2);
- (d) a smartcard authority as defined in the *Transport Operations (Road Use Management) Act 1995*, section 91F(3).

'Division 2 Access approval order for registered digital photo

'195B Access approval order

- '(1) This section applies if a police officer considers it is reasonably necessary for the investigation, prosecution or enforcement of the criminal law for a police officer to access a registered digital photo.
- '(2) The police officer may apply to a justice for an order authorising a police officer to access the registered digital photo (***access approval order***).
- '(3) The application must—
 - (a) be sworn; and

-
- ‘(2) The fact that a person is missing is not, for that reason only, an actual or imminent serious risk to the person’s life or health for subsection (1)(a).
 - ‘(3) A police officer may access the registered digital photo for the purpose of reducing the risk.

‘195F Post-access approval order

- ‘(1) As soon as reasonably practicable after accessing a registered digital photo under section 195E(3), the police officer must apply to a justice in writing for an order approving the access (*post-access approval order*).
- ‘(2) The application must be sworn and state the grounds on which the post-access approval order is sought.
- ‘(3) The applicant need not appear at the consideration of the application, unless the justice otherwise requires.
- ‘(4) The justice may refuse to consider the application until the police officer gives the justice all the information the justice requires about the application in the way the justice requires.

Example—

The justice may require additional information supporting the application to be given by statutory declaration.

‘195G Making of post-access approval order

‘The justice may make the post-access approval order only if satisfied of each of the following—

- (a) in the circumstances existing before the police officer accessed the registered digital photo under section 195E(3), the police officer had the suspicion and belief required under that section for accessing the photo;
- (b) there was no other way for the police officer to obtain immediately a current photo of the person whose registered digital photo was accessed.

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‘195H Appeal

- ‘(1) This section applies if the justice refuses to make the post-access approval order.
- ‘(2) Within 28 days after the justice refuses to make the post-access approval order, the commissioner may appeal against the justice’s order to a Magistrates Court.
- ‘(3) The Magistrates Court hearing the appeal may—
 - (a) confirm the justice’s order; or
 - (b) set aside the justice’s order and make a post-access approval order for the access.

‘Division 4 Accessing information stored electronically on a smartcard transport authority

‘195I Accessing information stored electronically on a prescribed document

- ‘(1) A police officer may, without the consent of the holder of a prescribed document, access information (other than emergency contact information) stored electronically on the document for the purpose of exercising a power—
 - (a) under a prescribed transport Act; or
 - (b) in relation to the Criminal Code, section 328A.

Note—

The Criminal Code, section 328A creates offences for the dangerous operation of a vehicle.

- ‘(2) A police officer may, without the consent of the holder of a prescribed document, access emergency contact information stored electronically on the document if the police officer reasonably believes—
 - (a) there is an immediate risk to the holder’s life or health; and

-
- (b) immediate access to the information is likely to enable a police officer to take action to reduce the risk; and
 - (c) the holder is unable, for any reason, to give the police officer the holder's emergency contact information.

Example—

The holder is incoherent or unconscious.

'(3) Also, a police officer may access emergency contact information stored electronically on a prescribed document if emergency circumstances exist in which—

- (a) the holder of the prescribed document has died; and
- (b) a person with, or near, the holder is a person whom the police officer reasonably believes—
 - (i) is a minor or has, or appears to have, a mental, intellectual or physical impairment; and
 - (ii) is a dependant of the holder because of an attribute mentioned in subparagraph (i); and
 - (iii) because of the attribute, is unable to give the police officer the holder's emergency contact information.

'(4) A police officer may only use the emergency contact information accessed under subsection (3) for giving reasonable help to the person who is with, or near, the deceased holder of the prescribed document.

'(5) In this section—

intellectual impairment means a condition of a person that—

- (a) is attributable to an intellectual, psychiatric, cognitive or neurological impairment of the person or a combination of those impairments; and
- (b) results in—
 - (i) a substantial reduction of the person's capacity for communication, social interaction or learning; and
 - (ii) the person needing support.

[s 5]

‘Division 5 Other provisions about accessing registered digital photos and other information

‘195J Giving copy of access approval order to relevant entity

‘As soon as practicable after an access approval order or post-access approval order is made in relation to a prescribed document, the commissioner must give the relevant entity a copy of the order.

‘195K Using registered digital photo and information

‘A police officer may only use a registered digital photo, or information stored electronically on a smartcard transport authority, that has been accessed under this part for the purpose for which the access was allowed.

‘195L Destruction of registered digital photo

- ‘(1) As soon as practicable after a registered digital photo accessed by a police officer under this part or a prescribed smartcard Act is no longer required for the purpose for which it was accessed, the police officer who accessed the photo must destroy all copies of it obtained from the access.
- ‘(2) If a registered digital photo is accessed under section 195E and a post-access approval order is not obtained for the photo, the police officer who accessed the photo must destroy all copies of it obtained from the access as soon as practicable after—
 - (a) unless paragraph (b) applies, the 28 days mentioned in section 195H(2) ends; or
 - (b) if the commissioner starts an appeal under that section in relation to the access—the appeal is finally decided.
- ‘(3) The destruction of a registered digital photo under this section must be carried out in the presence of a justice.’.

6 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

‘access, for chapter 7, part 5A, see section 195A.

access approval order, for chapter 7, part 5A, see section 195B(2).

adult proof of age card, for chapter 7, part 5A, see section 195A.

digital photo, for chapter 7, part 5A, see section 195A.

emergency contact information, of a holder of a prescribed document, for chapter 7, part 5A, see section 195A.

marine licence indicator, for chapter 7, part 5A, see section 195A.

post-access approval order, for chapter 7, part 5A, see section 195A.

prescribed document, for chapter 7, part 5A, see section 195A.

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

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

registered digital photo, for chapter 7, part 5A, see section 195A.

relevant entity see section 195A.

smartcard transport authority see section 195A.’.

-
- (b) the chief executive is satisfied the person's most recent digital photo is still a true likeness of the person; and
 - (c) the shelf life of the person's most recent digital photo and digitised signature, or the most recent extension of the shelf life under subsection (4), has not ended and will not end before—
 - (i) the term of the authority applied for ends; or
 - (ii) if a duplicate of the person's driver's certificate or assistant's certificate is applied for—the term of the driver's certificate or assistant's certificate ends.
- '(4) The chief executive may, for this Act, extend the shelf life of the person's most recent digital photo and digitised signature.
- '(5) The period for which the shelf life may be extended under subsection (4) must not result in the shelf life being extended under the subsection for periods totalling more than 6 months.

Example—

If the shelf life has been extended previously under subsection (4) for 2 months, the next extension under the subsection must not be for more than 4 months.

- '(6) In this section—
- shelf life***, of a digital photo and digitised signature, means 10 years after the photo and signature are taken.

'19B Using digital photo and digitised signature

- '(1) The chief executive may, with a person's consent, use the person's most recent digital photo and digitised signature for any of the following purposes—
- (a) to help identify the person for deciding whether or not to grant an application for a relevant certificate;
 - (b) to reproduce the person's digital photo and digitised signature on a relevant certificate;
 - (c) to verify the person's identity for security purposes relating to the relevant certificate.

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Example of security purposes—

the obtaining or resetting of a PIN for the relevant certificate

- ‘(2) The chief executive may use a person’s most recent digital photo and digitised signature to help in an investigation of, or proceeding for, an offence that—
- (a) happens—
 - (i) in making the application for which the person’s digital photo and digitised signature are taken under section 19A(1); or
 - (ii) during the retention period for the digital photo and digitised signature; and
 - (b) involves a person obtaining or attempting to obtain any of the following by a false statement, misrepresentation or any other dishonest way—
 - (i) a relevant certificate or its renewal;
 - (ii) a PIN or other security for a relevant certificate.
- ‘(3) In this section—
- relevant certificate*** means—
- (a) a driver’s certificate or assistant’s certificate; or
 - (b) a duplicate of a driver’s certificate or assistant’s certificate.

‘19C Restricted access to a digital photo

- ‘(1) The chief executive may allow a person to access a digital photo kept by the chief executive under this Act if each of the following applies—
- (a) the person’s facial image is encoded on the digital photo;
 - (b) the person applies to the chief executive, in the approved form, for the access;
 - (c) the person establishes, to the chief executive’s reasonable satisfaction, the person’s connection to the

digital photo by other evidence of his or her identity, or by facial recognition technology.

Example of other evidence for paragraph (c)—

a valid Australian passport

- ‘(2) An application mentioned in subsection (1)(b) may be made by electronic communication.
- ‘(3) The chief executive must allow a police officer to access a digital photo kept by the chief executive under this Act if either of the following applies—
- (a) the access is for exercising a power in relation to this Act or the Criminal Code, section 328A;

Note—

The Criminal Code, section 328A creates offences for the dangerous operation of a vehicle.

- (b) the access is authorised under the *Police Powers and Responsibilities Act 2000*.
- ‘(4) In this section—
- access*, a digital photo, means obtain a copy of the digital photo, including by electronic communication.

‘19D Deleting digital photo and digitised signature from register or similar record

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

‘19E Restricted access to information stored electronically on a smartcard certificate

- ‘(1) A person must not access information stored electronically on a smartcard certificate, unless the person is—
- (a) the holder of the smartcard certificate; or

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- (b) a person who has the holder's consent to access the information; or
- (c) an authorised officer, including a police officer, and the access is for exercising a power under this Act; or
- (d) a police officer who is authorised under the *Police Powers and Responsibilities Act 2000* to access the information.

Maximum penalty—20 penalty units.

(2) In this section—

access, in relation to information stored electronically on a smartcard certificate, means view or take a copy of the information.

smartcard certificate means a smartcard driver's certificate or a smartcard assistant's certificate.

'19F Retention period for digital photo and digitised signature

- (1) Subject to subsections (2) to (5), the retention period for a digital photo and digitised signature is 30 years after the day on which the digital photo and digitised signature are taken under this Act or a prescribed smartcard Act.
- (2) Unless subsection (4) or (5) applies, the retention period for a digital photo and digitised signature taken under section 19A(1), if the relevant certificate mentioned in that subsection was not granted or renewed, is—
 - (a) 6 months after the day on which the digital photo and digitised signature are taken; or
 - (b) the period decided by the chief executive;whichever is the shorter period.
- (3) Unless subsection (4) or (5) applies, the retention period for a digital photo and digitised signature taken under a regulation for verification of a person's identity as mentioned in section 43(3)(c) is 24 hours after the digital photo and digitised signature are taken.

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‘19H Restricted release of information

- ‘(1) The chief executive may release information kept under this Act about a person’s driver’s certificate or assistant’s certificate to—
- (a) on receiving an application in the approved form—
 - (i) the person; or
 - (ii) with the person’s written consent—another entity; 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 to an entity information kept under this Act about a person’s driver’s certificate or assistant’s certificate if—
- (a) the person produces the certificate 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 certificate.
- ‘(3) Information that may be released under subsection (1) or (2) does not include a digital photo and digitised signature.
- ‘(4) An application mentioned in subsection (1)(a) or (2)(b) may be made by electronic communication.’.

10 Amendment of s 36C (Confidentiality)

Section 36C(3)—

insert—

‘information includes a digital photo and digitised signature.’.

11 Amendment of s 43 (Regulation-making power)

Section 43—

insert—

- ‘(3) Without limiting subsection (1), or (2)(b) or (d), a regulation may provide for the following—
- (a) a driver’s certificate or assistant’s certificate to be in the form of a card or something similar approved by the chief executive and on which information may be stored electronically;
 - (b) a PIN to be used by the holder of a driver’s certificate or assistant’s certificate as a security measure to protect information stored electronically on the certificate;
 - (c) verification of a person’s identity for security purposes relating to a driver’s certificate or assistant’s certificate, including, for example, by requiring the person to allow the chief executive to take a digital photo and digitised signature of the person.’.

12 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

‘**digital photo** means a facial image encoded in a digital form.

digitised signature means a person’s signature encoded in a digital form.

electronic communication see the *Electronic Transactions (Queensland) Act 2001*, schedule 2.

most recent digital photo, of a person—

- (a) means the most recent digital photo of the person taken and kept by—
 - (i) the chief executive under this Act; or
 - (ii) any chief executive under a prescribed smartcard Act; and
- (b) includes the most recent digital photo taken and kept under the *Transport Operations (Marine Safety) Act*

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1994 by the general manager appointed under the *Maritime Safety Queensland Act 2002*.

most recent digitised signature, of a person—

- (a) means the most recent digitised signature of the person taken and kept by—
 - (i) the chief executive under this Act; or
 - (ii) any chief executive under a prescribed smartcard Act; and
- (b) includes the most recent digitised signature taken and kept under the *Transport Operations (Marine Safety) Act 1994* by the general manager appointed under the *Maritime Safety Queensland Act 2002*.

prescribed smartcard Act means any of the following Acts—

- (a) the *Adult Proof of Age Card Act 2008*;
- (b) the *Transport Operations (Marine Safety) Act 1994*;
- (c) the *Transport Operations (Passenger Transport) Act 1994*;
- (d) the *Transport Operations (Road Use Management) Act 1995*.

retention period, for a digital photo and digitised signature, means the retention period worked out under section 19F.

smartcard assistant's certificate means an assistant's certificate in the form provided for under section 43(3)(a).

smartcard driver's certificate means a driver's certificate in the form provided for under section 43(3)(a).

take, in relation to a digital photo or digitised signature, includes obtain.'

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‘Division 3A Biometric data and other information relating to marine licences

‘63A Obtaining digital photo and digitised signature

- ‘(1) A person who applies for the grant or renewal of a marine licence (the *authority applied for*), or an amendment of the person’s marine licence, must allow the chief executive or general manager to take and keep a digital photo and digitised signature of the person.
- ‘(2) If the person does not comply with subsection (1), the chief executive or general manager must refuse to consider the application.
- ‘(3) Subsection (1) does not apply to the person if—
 - (a) as allowed under this part or a prescribed smartcard Act, the chief executive or general manager is keeping the person’s most recent digital photo and digitised signature; and
 - (b) the chief executive or general manager is satisfied the person’s most recent digital photo is still a true likeness of the person; and
 - (c) the shelf life of the person’s most recent digital photo and digitised signature, or the most recent extension of the shelf life under subsection (4), has not ended and will not end before—
 - (i) the term of the authority applied for ends; or
 - (ii) if an amendment of the person’s marine licence is applied for—the term of the marine licence indicator ends.
- ‘(4) The chief executive or general manager may, for this Act, extend the shelf life of a person’s most recent digital photo and digitised signature.

- ‘(5) The period for which the shelf life may be extended under subsection (4) must not result in the shelf life being extended under the subsection for periods totalling more than 6 months.

Example—

If the shelf life has been extended previously under subsection (4) for 2 months, the next extension under the subsection must not be for more than 4 months.

- ‘(6) In this section—

shelf life, of a digital photo and digitised signature, means 10 years after the photo and signature are taken.

‘63B Using digital photo and digitised signature

- ‘(1) The chief executive or general manager may, with a person’s consent, use the person’s most recent digital photo and digitised signature for any of the following purposes—

- (a) to help identify the person for deciding whether or not to grant an application for a marine licence;
- (b) to reproduce the person’s digital photo and digitised signature on a smartcard marine licence indicator;
- (c) to verify the person’s identity for security purposes relating to the smartcard marine licence indicator.

Example of security purposes—

the obtaining or resetting of a PIN for the marine licence indicator

- ‘(2) The chief executive or general manager may use a person’s most recent digital photo and digitised signature to help in an investigation of, or proceeding for, an offence that—

- (a) happens—
 - (i) in making the application for which the person’s digital photo and digitised signature are taken under section 63A(1); or
 - (ii) during the retention period for the digital photo and digitised signature; and

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- (b) involves a person obtaining or attempting to obtain any of the following by a false statement, misrepresentation or any other dishonest way—
 - (i) a marine licence;
 - (ii) a marine licence indicator or its renewal;
 - (iii) a PIN or other security for a marine licence indicator.

‘63C Restricted access to a digital photo

- ‘(1) The chief executive or general manager may allow a person to access a digital photo kept by the chief executive or general manager under this Act if each of the following applies—
 - (a) the person’s facial image is encoded on the digital photo;
 - (b) the person applies to the chief executive or general manager, in the approved form, for the access;
 - (c) the person establishes, to the chief executive’s or general manager’s reasonable satisfaction, the person’s connection to the digital photo by other evidence of his or her identity, or by facial recognition technology.

Example of other evidence for paragraph (c)—

a valid Australian passport

- ‘(2) An application mentioned in subsection (1)(b) may be made by electronic communication.
- ‘(3) The chief executive or general manager must allow a police officer to access a digital photo kept by the chief executive or general manager under this Act if either of the following applies—
 - (a) the access is for exercising a power in relation to this Act or the Criminal Code, section 328A;

Editor's note—

The Criminal Code, section 328A creates offences for the dangerous operation of a vehicle (which is defined under the Criminal Code, section 1 to include a vessel).

- (b) the access is authorised under the *Police Powers and Responsibilities Act 2000*.

‘(4) In this section—

access, a digital photo, means obtain a copy of the digital photo, including by electronic communication.

‘63D Deleting digital photo and digitised signature from register or similar record

‘When the retention period for a digital photo and digitised signature taken under this Act ends—

- (a) the chief executive must delete the photo and signature from any register or similar record kept by the chief executive under this Act; and
- (b) if the general manager keeps a register or similar record containing digital photos and digitised signatures taken and kept by the general manager under this Act—the general manager must delete the photo and signature from the register or similar record.

‘63E Storing emergency contact information electronically on a smartcard marine licence indicator

- ‘(1) An applicant for a marine licence, or the holder of a marine licence, may apply to the chief executive or general manager, in the approved form, to have the person’s emergency contact information stored electronically on any smartcard marine licence indicator given to the person.
- ‘(2) After receiving the application, the chief executive or general manager must electronically store the emergency contact information on the smartcard marine licence indicator.

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‘63F Restricted access to information stored electronically on a smartcard marine licence indicator

- ‘(1) A person must not access information stored electronically on a smartcard marine licence indicator, unless the person is—
- (a) the holder of the smartcard marine licence indicator; or
 - (b) a person who has the holder’s consent to access the information; or
 - (c) subject to subsection (2), a shipping inspector, including a police officer, and the access is for exercising a power under this Act; or
 - (d) a police officer who is authorised under the *Police Powers and Responsibilities Act 2000* to access the information.

Maximum penalty—20 penalty units.

- ‘(2) A person acting under subsection (1)(c) must not access emergency contact information stored electronically on the smartcard marine licence indicator.

Maximum penalty—20 penalty units.

- ‘(3) In this section—
access, in relation to information stored electronically on a smartcard marine licence indicator, means view or take a copy of the information.

‘63G Retention period for digital photo and digitised signature

- ‘(1) Subject to subsections (2) to (5), the retention period for a digital photo and digitised signature is 30 years after the day on which the digital photo and digitised signature are taken under this Act or a prescribed smartcard Act.
- ‘(2) Unless subsection (4) or (5) applies, the retention period for a digital photo and digitised signature taken under section 63A(1), if the marine licence mentioned in that subsection was not granted or renewed, is—

-
- (a) 6 months after the day on which the digital photo and digitised signature are taken; or
- (b) the period decided by the chief executive;
- whichever is the shorter period.
- ‘(3) Unless subsection (4) or (5) applies, the retention period for a digital photo and digitised signature taken under a regulation for verification of a person’s identity as mentioned in section 62(4)(c) is 24 hours after the digital photo and digitised signature are taken.
- ‘(4) Despite subsections (2) and (3), if—
- (a) an investigation as mentioned in section 63B(2) is started before the end of the retention period worked out under subsection (2) or (3) for a digital photo and digitised signature; and
- (b) the chief executive or general manager reasonably requires the digital photo and digitised signature to be kept for a longer period for the investigation or a proceeding resulting from the investigation;
- the retention period for the digital photo and digitised signature is the longer period mentioned in paragraph (b).
- ‘(5) Despite subsections (2) to (4), if a prescribed smartcard Act provides for a shorter retention period for the digital photo and digitised signature than the period worked out under those subsections, the retention period for the photo and signature for this Act is the shorter period.

‘63H Annual report about access to digital photos

- ‘(1) Not later than 4 months after the end of each financial year, the chief executive must prepare and give to the Minister an annual report stating the number of occasions on which access within the meaning of section 63C was allowed under section 63C(3) during the financial year to digital photos kept under this Act.

[s 15]

- ‘(2) The Minister must cause a copy of the report to be laid before the Legislative Assembly within 14 days after the Minister receives it.

‘Division 3B Restricted release of information about marine licences

‘63I Restricted release of information

- ‘(1) The chief executive or general manager may release information kept under this Act about a person’s marine licence 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; or
 - (c) an entity that, under an agreement between the State and other governments, maintains a database containing information about marine licences and marine histories.
- ‘(2) Also, the chief executive may release to an entity information kept under this Act about a person’s marine licence if—
- (a) the person produces the person’s marine licence indicator 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 marine licence indicator.
- ‘(3) Before releasing information to a person or entity under subsection (1)(c), the chief executive or general manager must be satisfied any release of the information by the person or

entity will be limited to circumstances similar to those mentioned in subsection (1).

- ‘(4) Information that may be released under subsection (1) or (2) does not include a digital photo and digitised signature.
- ‘(5) An application mentioned in subsection (1)(a) or (2)(b) may be made by electronic communication.
- ‘(6) This section does not limit section 205B.

Note—

Section 205B deals with the electronic search of information to verify that a person is the holder of a licence under this Act.

- ‘(7) In this section—

marine history, of a person, means the history of the contraventions for which the person has been dealt with under this Act or the *Transport Operations (Marine Pollution) Act 1995*.

16 Replacement of s 205AC (Confidentiality)

Section 205AC—

omit, insert—

‘205AC Confidentiality

- ‘(1) A person must not disclose, record or use information that 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

[s 17]

(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.’.

17 Amendment of schedule (Dictionary)

Schedule—

insert—

‘**digital photo** means a facial image encoded in a digital form.

digitised signature means a person’s signature encoded in a digital form.

electronic communication see the *Electronic Transactions (Queensland) Act 2001*, schedule 2.

emergency contact information, of a holder of a smartcard marine licence indicator, means any or all of the following information—

(a) the name of a person to be contacted if there is a risk to the holder’s life or health;

(b) the following information about a person mentioned in paragraph (a)—

(i) the person’s phone number;

(ii) the person’s address.

holder, of a marine licence indicator, means the person to whom the marine licence indicator has been given under this Act.

marine licence, for part 5, divisions 3A and 3B, means a licence to operate a personal watercraft, or a recreational ship, as its master.

marine licence indicator means a written notice of the granting of a licence to operate a personal watercraft, or a recreational ship, as its master given to the person to whom the licence has been granted.

most recent digital photo, of a person, means the most recent digital photo of the person taken and kept by—

- (a) the chief executive or general manager under this Act; or
- (b) any chief executive under a prescribed smartcard Act.

most recent digitised signature, of a person, means the most recent digitised signature of the person taken and kept by—

- (a) the chief executive under this Act; or
- (b) any chief executive under a prescribed smartcard Act.

personal watercraft means a powered ship that—

- (a) has a fully enclosed hull that does not take on water if capsized; and
- (b) is designed to be operated by a person standing, crouching or kneeling on it or sitting astride it.

prescribed smartcard Act means any of the following Acts—

- (a) the *Adult Proof of Age Card Act 2008*;
- (b) the *Tow Truck Act 1973*;
- (c) the *Transport Operations (Passenger Transport) Act 1994*;
- (d) the *Transport Operations (Road Use Management) Act 1995*.

retention period, for a digital photo and digitised signature, means the retention period worked out under section 63G.

smartcard marine licence indicator means a marine licence indicator in the form provided for under section 62(4)(a).

take, in relation to a digital photo or digitised signature, includes obtain.’

21 Insertion of new s 34A

After section 34—

insert—

‘34A Authorised driver must notify damage, loss or theft of driver authorisation

‘(1) If a person’s driver authorisation 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—100 penalty units.

‘(2) In this section—

damaged, in relation to a driver authorisation—

(a) means—

(i) the driver authorisation is damaged to an extent that—

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

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

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

(b) includes destroyed.’.

22 Insertion of new ch 4, pts 2 and 3

Chapter 4, after section 35—

insert—

Example—

If the shelf life has been extended previously under subsection (4) for 2 months, the next extension under the subsection must not be for more than 4 months.

‘(6) In this section—

shelf life, of a digital photo and digitised signature, means 10 years after the photo and signature are taken.

‘35B Using digital photo and digitised signature

‘(1) The chief executive may, with a person’s consent, use the person’s most recent digital photo and digitised signature for any of the following purposes—

- (a) to help identify the person for deciding whether or not to grant an application for a driver authorisation;
- (b) to reproduce the person’s digital photo and digitised signature on a driver authorisation;
- (c) to verify the person’s identity for security purposes relating to the driver authorisation.

Example of security purposes—

the obtaining or resetting of a PIN for the driver authorisation

‘(2) The chief executive may use a person’s most recent digital photo and digitised signature to help in an investigation of, or proceeding for, an offence that—

- (a) happens—
 - (i) in making the application for which the person’s digital photo and digitised signature are taken under section 35A(1); or
 - (ii) during the retention period for the digital photo and digitised signature; and
- (b) involves a person obtaining or attempting to obtain any of the following by a false statement, misrepresentation or any other dishonest way—

[s 22]

- (i) a driver authorisation or its renewal;
- (ii) a PIN or other security for a driver authorisation.

‘35C Restricted access to a digital photo

- ‘(1) The chief executive may allow a person to access a digital photo kept by the chief executive under this Act if each of the following applies—
- (a) the person’s facial image is encoded on the digital photo;
 - (b) the person applies to the chief executive, in the approved form, for the access;
 - (c) the person establishes, to the chief executive’s reasonable satisfaction, the person’s connection to the digital photo by other evidence of his or her identity, or by facial recognition technology.

Example of other evidence for paragraph (c)—

a valid Australian passport

- ‘(2) An application mentioned in subsection (1)(b) may be made by electronic communication.
- ‘(3) The chief executive must allow a police officer to access a digital photo kept by the chief executive under this Act if either of the following applies—
- (a) the access is for exercising a power in relation to this Act or the Criminal Code, section 328A;

Note—

The Criminal Code, section 328A creates offences for the dangerous operation of a vehicle.

- (b) the access is authorised under the *Police Powers and Responsibilities Act 2000*.
- ‘(4) In this section—
- access**, a digital photo, means obtain a copy of the digital photo, including by electronic communication.

‘35D Deleting digital photo and digital signature from register or similar record

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

‘35E Restricted access to information stored electronically on a smartcard driver authorisation

- ‘(1) A person must not access information stored electronically on a smartcard driver authorisation unless the person is—
- (a) the holder of the driver authorisation; or
 - (b) a person who has the holder’s consent to access the information; or
 - (c) an authorised person, including a police officer, and the access is for exercising a power under this Act; or
 - (d) a police officer who is authorised under the *Police Powers and Responsibilities Act 2000* to access the information.

Maximum penalty—20 penalty units.

- ‘(2) In this section—
- access*, in relation to information stored electronically on a smartcard driver authorisation, means view or take a copy of the information.
- smartcard driver authorisation* means a driver authorisation in the form provided for under section 29(3).

‘35F Retention period for digital photo and digitised signature

- ‘(1) Subject to subsections (2) to (5), the retention period for a digital photo and digitised signature is 30 years after the day on which the digital photo and digitised signature are taken under this Act or a prescribed smartcard Act.

[s 22]

- ‘(2) Unless subsection (4) or (5) applies, the retention period for a digital photo and digitised signature taken under section 35A(1), if the driver authorisation mentioned in that subsection was not granted or renewed, is—
- (a) 6 months after the day on which the digital photo and digitised signature are taken; or
 - (b) the period decided by the chief executive;
- whichever is the shorter period.
- ‘(3) Unless subsection (4) or (5) applies, the retention period for a digital photo and digitised signature taken under a regulation for verification of a person’s identity as mentioned in section 29(3)(c) is 24 hours after the digital photo and digitised signature are taken.
- ‘(4) Despite subsections (2) and (3), if—
- (a) an investigation as mentioned in section 35B(2) is started before the end of the retention period worked out under subsection (2) or (3) for a digital photo and digitised signature; and
 - (b) the chief executive reasonably requires the digital photo and digitised signature to be kept for a longer period for the investigation or a proceeding resulting from the investigation;
- the retention period for the digital photo and digitised signature is the longer period mentioned in paragraph (b).
- ‘(5) Despite subsections (2) to (4), if a prescribed smartcard Act provides for a shorter retention period for the digital photo and digitised signature than the period worked out under those subsections, the retention period for the photo and signature for this Act is the shorter period.

‘35G Annual report about access to digital photos

- ‘(1) Not later than 4 months after the end of each financial year, the chief executive must prepare and give to the Minister an annual report stating the number of occasions on which access

[s 23]

- ‘(3) Information that may be released under subsection (1) or (2) does not include a digital photo and digitised signature.
- ‘(4) An application mentioned in subsection (1)(a) or (2)(b) may be made by electronic communication.’.

23 Amendment of s 148C (Confidentiality)

Section 148C(3)—

insert—

‘**information** includes a digital photo and digitised signature.’.

24 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

‘**digital photo** means a facial image encoded in a digital form.

digitised signature means a person’s signature encoded in a digital form.

electronic communication see the *Electronic Transactions (Queensland) Act 2001*, schedule 2.

most recent digital photo, of a person—

- (a) means the most recent digital photo of the person taken and kept by—
 - (i) the chief executive under this Act; or
 - (ii) any chief executive under a prescribed smartcard Act; and
- (b) includes the most recent digital photo taken and kept under the *Transport Operations (Marine Safety) Act 1994* by the general manager appointed under the *Maritime Safety Queensland Act 2002*.

most recent digitised signature, of a person—

- (a) means the most recent digitised signature of the person taken and kept by—

[s 27]

omit, insert—

‘The chief executive may release information kept under this Act about a person’s prescribed authority or traffic history to—’.

(2) Section 77(2)—

renumber as section 77(3).

(3) Section 77—

insert—

‘(2) Also, the chief executive may release to an entity information kept under this Act about a person’s prescribed authority if—

(a) the person produces the prescribed authority 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 prescribed authority.

‘(4) Information that may be released under subsection (1) or (2) does not include a digital photo and digitised signature.

‘(5) An application mentioned in subsection (1)(a) or (2)(b) may be made by electronic communication.’.

27 Insertion of new s 77A

After section 77—

insert—

‘77A Releasing information about Queensland driver licence or traffic history for research purposes

‘(1) The chief executive may release prescribed information to an entity for road research purposes if—

(a) either—

(i) the entity is conducting the research for the chief executive; or

-
- (ii) the chief executive has, on application by the entity, approved the entity's conduct of the research; and
 - (b) the information proposed to be released does not identify any person to whom it relates.
- '(2) An application mentioned in subsection (1)(a)(ii) must be made in the approved form, and may be made by electronic communication.
- '(3) In this section—
- prescribed information* means the following information recorded in a register kept by the chief executive under this Act—
- (a) information about Queensland driver licences;
 - (b) the traffic history of drivers.'

28 Insertion of new ch 5, pt 3A

Chapter 5—

insert—

'Part 3A **Biometric data and other information relating to prescribed authority holders**

'91A Obtaining digital photo and digitised signature

- '(1) A person who applies for the grant, renewal or replacement of a prescribed authority (the *authority applied for*) must allow the chief executive to take and keep a digital photo and digitised signature of the person.
- '(2) If the person does not comply with subsection (1), the chief executive must refuse to consider the application.
- '(3) Subsection (1) does not apply to the person if—

[s 28]

- (a) as allowed under this Act or a prescribed smartcard Act, the chief executive is keeping the person's most recent digital photo and digitised signature; and
 - (b) the chief executive is satisfied the person's most recent digital photo is still a true likeness of the person; and
 - (c) the shelf life of the person's most recent digital photo and digitised signature, or the most recent extension of the shelf life under subsection (4), has not ended and will not end before the term of the authority applied for ends.
- ‘(4) The chief executive may, for this Act, extend the shelf life of a person's most recent digital photo and digitised signature.
- ‘(5) The period for which the shelf life may be extended under subsection (4) must not result in the shelf life being extended under the subsection for periods totalling more than 6 months.

Example—

If the shelf life has been extended previously under subsection (4) for 2 months, the next extension under the subsection must not be for more than 4 months.

- ‘(6) In this section—

grant includes issue.

shelf life, of a digital photo and digitised signature, means 10 years after the photo and signature are taken.

‘91B Using digital photo and digitised signature

- ‘(1) The chief executive may, with a person's consent, use the person's most recent digital photo and digitised signature for any of the following purposes—
- (a) to help identify the person for deciding whether or not to grant an application for a prescribed authority;
 - (b) to reproduce the person's digital photo and digitised signature on a prescribed authority;
 - (c) to verify the person's identity for security purposes relating to the prescribed authority.

Example of security purposes—

the obtaining or resetting of a PIN for the prescribed authority

- (2) The chief executive may use a person's most recent digital photo and digitised signature to help in an investigation of, or proceeding for, an offence that—
- (a) happens—
 - (i) in making the application for which the person's digital photo and digitised signature are taken under section 91A(1); or
 - (ii) during the retention period for the digital photo and digitised signature; and
 - (b) involves a person obtaining or attempting to obtain any of the following by a false statement, misrepresentation or any other dishonest way—
 - (i) a prescribed authority or its renewal;
 - (ii) a PIN or other security for a prescribed authority.

'91C Restricted access to digital photo

- (1) The chief executive may allow a person to access a digital photo kept by the chief executive under this Act if—
- (a) each of the following applies—
 - (i) the person's facial image is encoded on the digital photo;
 - (ii) the person applies to the chief executive, in the approved form, for the access;
 - (iii) the person establishes, to the chief executive's reasonable satisfaction, the person's connection to the digital photo by other evidence of his or her identity, or by facial recognition technology; or

Example of other evidence for subparagraph (iii)—

a valid Australian passport

[s 28]

- (b) the person grants or issues driver licences under a corresponding law to this Act and the access is for granting or issuing a driver licence under the corresponding law.
- ‘(2) An application mentioned in subsection (1)(a)(ii) may be made by electronic communication.
- ‘(3) The chief executive must allow a police officer to access a digital photo kept by the chief executive under this Act if any of the following apply—
- (a) the access is for exercising a power in relation to this Act or the Criminal Code, section 328A;
- Note—*
- The Criminal Code, section 328A creates offences for the dangerous operation of a vehicle.
- (b) the access is for exercising a power in relation to a corresponding law to this Act;
 - (c) the access is authorised under the *Police Powers and Responsibilities Act 2000*.
- ‘(4) In this section—
- access*, a digital photo, means obtain a copy of the digital photo, including by electronic communication.

‘91D Deleting digital photo and digitised signature from register or similar record

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

‘91E Storing emergency contact information electronically on a smartcard driver licence

- ‘(1) An applicant for a smartcard driver licence, or the holder of a smartcard driver licence, may apply to the chief executive, in

the approved form, to have the person's emergency contact information stored electronically on the licence.

- '(2) After receiving the application, the chief executive must electronically store the emergency contact information on the smartcard driver licence.

'91F Restricted access to information stored electronically on a smartcard driver licence

- '(1) A person must not access information stored electronically on a smartcard authority, unless the person is—
- (a) the holder of the smartcard authority; or
 - (b) a person who has the holder's consent to access the information; or
 - (c) subject to subsection (2), an authorised officer, including a police officer, and the access is for exercising a power under this Act; or
 - (d) a police officer who is authorised under the *Police Powers and Responsibilities Act 2000* to access the information.

Maximum penalty—20 penalty units.

- '(2) A person acting under subsection (1)(c) must not access emergency contact information stored electronically on the smartcard driver licence.

Maximum penalty—20 penalty units.

- '(3) In this section—

access, in relation to information stored electronically on a smartcard authority, means view or take a copy of the information.

smartcard authority means a prescribed authority in the form provided for under section 150A(3).

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‘91G Retention period for digital photo and digitised signature

- ‘(1) Subject to subsections (2) to (5), the retention period for a digital photo and digitised signature is 30 years after the day on which the digital photo and digitised signature are taken under this Act or a prescribed smartcard Act.
- ‘(2) Unless subsection (4) or (5) applies, the retention period for a digital photo and digitised signature taken under section 91A(1), if the prescribed authority mentioned in that subsection was not granted or renewed, is—
- (a) 6 months after the day on which the digital photo and digitised signature are taken; or
 - (b) the period decided by the chief executive;
- whichever is the shorter period.
- ‘(3) Unless subsection (4) or (5) applies, the retention period for a digital photo and digitised signature taken under a regulation for verification of a person’s identity as mentioned in section 150A(3)(c) is 24 hours after the digital photo and digitised signature are taken.
- ‘(4) Despite subsections (2) and (3), if—
- (a) an investigation as mentioned in section 91B(2) is started before the end of the retention period worked out under subsection (2) or (3) for a digital photo and digitised signature; and
 - (b) the chief executive reasonably requires the digital photo and digitised signature to be kept for a longer period for the investigation or a proceeding resulting from the investigation;
- the retention period for the digital photo and digitised signature is the longer period mentioned in paragraph (b).
- ‘(5) Despite subsections (2) to (4), if a prescribed smartcard Act provides for a shorter retention period for the digital photo and digitised signature than the period worked out under those subsections, the retention period for the photo and signature for this Act is the shorter period.

‘91H Annual report about access to digital photos

- ‘(1) Not later than 4 months after the end of each financial year, the chief executive must prepare and give to the Minister an annual report stating the number of occasions on which access within the meaning of section 91C was allowed under section 91C(3) during the financial year to digital photos kept under this Act.
- ‘(2) The Minister must cause a copy of the report to be laid before the Legislative Assembly within 14 days after the Minister receives it.’.

29 Amendment of s 143 (Confidentiality)

Section 143(3), definition *information*—

omit, insert—

‘*information* includes—

- (a) a specimen provided by or taken from a person; and
- (b) a digital photo and digitised signature.’.

30 Amendment of s 150A (Regulating form of licence)

Section 150A—

insert—

- ‘(3) Also, without limiting subsection (1), a regulation may provide for the following—
 - (a) a prescribed authority to be in the form of a card or something similar approved by the chief executive and on which information may be stored electronically;
 - (b) a PIN to be used by the holder of a prescribed authority as a security measure to protect information stored electronically on the prescribed authority;
 - (c) verification of a person’s identity for security purposes relating to a prescribed authority, including, for example, by requiring the person to allow the chief

[s 31]

executive to take a digital photo and digitised signature of the person.’.

31 Amendment of sch 4 (Dictionary)

(1) Schedule 4—

insert—

‘digital photo means a facial image encoded in a digital form.

digitised signature means a person’s signature encoded in a digital form.

electronic communication see the *Electronic Transactions (Queensland) Act 2001*, schedule 2.

emergency contact information, of a holder of a smartcard driver licence, means any or all of the following information—

- (a) the name of a person to be contacted if there is a risk to the holder’s life or health;
- (b) the following information about a person mentioned in paragraph (a)—
 - (i) the person’s phone number;
 - (ii) the person’s address.

most recent digital photo, of a person—

- (a) means the most recent digital photo of the person taken and kept by—
 - (i) the chief executive under this Act; or
 - (ii) any chief executive under a prescribed smartcard Act; and
- (b) includes the most recent digital photo taken and kept under the *Transport Operations (Marine Safety) Act 1994* by the general manager appointed under the *Maritime Safety Queensland Act 2002*.

most recent digitised signature, of a person—

- (a) means the most recent digitised signature of the person taken and kept by—
 - (i) the chief executive under this Act; or
 - (ii) any chief executive under a prescribed smartcard Act; and
- (b) includes the most recent digitised signature taken and kept under the *Transport Operations (Marine Safety) Act 1994* by the general manager appointed under the *Maritime Safety Queensland Act 2002*.

prescribed authority means any of the following—

- (a) a Queensland driver licence;
- (b) an accreditation document mentioned in section 21(2) given to a person who is—
 - (i) a pilot vehicle driver or escort vehicle driver; or
 - (ii) a driver trainer, rider trainer or traffic controller as defined under a regulation;

Editor's note—

See the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005*, part 3.

- (c) a bulk driver licence as defined under a regulation.

Editor's note—

See the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998*, schedule 3.

prescribed smartcard Act means any of the following Acts—

- (a) the *Adult Proof of Age Card Act 2008*;
- (b) the *Tow Truck Act 1973*;
- (c) the *Transport Operations (Marine Safety) Act 1994*;
- (d) the *Transport Operations (Passenger Transport) Act 1994*.

[s 31]

retention period, for a digital photo and digitised signature, means the retention period worked out under section 91G.

smartcard driver licence means a Queensland driver licence in the form provided for under section 150A(3).

take, in relation to a digital photo or digitised signature, includes obtain.’.

- (2) Schedule 4, definitions *current driver licence receipt*, *open licence* and *Queensland driver licence*, ‘current’—
omit.

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