



Queensland

Transport and Other Legislation Amendment Act 2011

Act No. 12 of 2011



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Transport and Other Legislation Amendment Act 2011

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Transport and Other Legislation Amendment Act 2011

Act No. 12 of 2011

An Act to amend the Adult Proof of Age Card Act 2008, Building Act 1975, Criminal Code, Electrical Safety Act 2002, Electricity Act 1994, Environmental Protection Act 1994, Tow Truck Act 1973, Transport Infrastructure Act 1994, Transport Operations (Marine Safety) Act 1994, Transport Operations (Passenger Transport) Act 1994, Transport Operations (Road Use Management) Act 1995, Transport Operations (Road Use Management—Driver Licensing) Regulation 2010, Transport Planning and Coordination Act 1994 and Transport (Rail Safety) Act 2010 for particular purposes

[Assented to 14 April 2011]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Transport and Other Legislation Amendment Act 2011*.

2 Commencement

- (1) The following provisions commence on a day to be fixed by proclamation—
 - part 4
 - section 72
 - sections 100(1) to (10), 101 to 110, 113 and 114
 - part 13.
- (2) The following provisions commence on 1 August 2011—
 - section 77
 - section 89
 - section 90
 - section 91, other than to the extent it inserts sections 190 and 191
 - section 93
 - section 94(3), (4) and (5).
- (3) The following provisions commence on 1 September 2011—
 - section 80
 - sections 82 to 88
 - section 91, to the extent it inserts sections 190 and 191.

Part 2 **Amendment of Adult Proof of Age Card Act 2008**

3 **Act amended**

This part amends the *Adult Proof of Age Card Act 2008*.

4 **Amendment of s 30 (Restricted release of information in APA register)**

(1) Section 30, heading, after 'Restricted'—

insert—

'written'.

(2) Section 30(1) and (2), after 'may release'—

insert—

' , in writing,'.

5 **Insertion of new s 30A**

Part 4—

insert—

'30A **Restricted oral release of information in APA register**

'(1) The chief executive may orally release, to a person, information kept in the APA register about the person's adult proof of age card.

'(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 a person correctly answers a series of questions, or produces a document, for identifying the person.'

[s 6]

Part 3 Amendment of Building Act 1975

6 Act amended

This part amends the *Building Act 1975*.

7 Amendment of s 246W (Definitions for ch 8B)

(1) Section 246W, definitions *road* and *State-controlled road*—
omit.

(2) Section 246W—
insert—

‘road means—

- (a) for a road under the control of a local government—any part of the surface of the road on which motor vehicles ordinarily travel; or
- (b) a local government franchised road within the meaning of the Transport Infrastructure Act.

State-controlled road means—

- (a) a road or land, or part of a road or land, declared under the Transport Infrastructure Act, section 24 to be a State-controlled road; or
- (b) a franchised road within the meaning of the Transport Infrastructure Act.’.

8 Amendment of s 246Z (Designation of transport noise corridor—transport chief executive)

Section 246Z(2)(b), from ‘caused by’—

omit, insert—

‘caused by—

- (i) rolling stock operating on the railway land at the distance has been measured, in a way approved by the chief executive, to be at least 70db(A); or
- (ii) traffic on the State-controlled road at the distance has been measured, in a way approved by the chief executive, to be at least 58db(A).’.

Part 4 Amendment of Criminal Code

9 Code amended

This part amends the Criminal Code.

10 Amendment of s 328A (Dangerous operation of a vehicle)

Section 328A(6), definition *prescribed offence*, paragraph (c), after ‘79(1),’—

insert—

‘(1F),’.

Part 5 Amendment of Electrical Safety Act 2002

11 Act amended

This part amends the *Electrical Safety Act 2002*.

12 Amendment of s 7 (Application of Act to railways)

- (1) Section 7, heading, after ‘railways’—

insert—

[s 13]

‘and light rail’.

- (2) Section 7, after ‘railway’—

insert—

‘or light rail’.

13 Amendment of sch 2 (Dictionary)

- (1) Schedule 2—

insert—

‘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.’.

- (2) Schedule 2, definition, *electricity entity*, paragraph (c), ‘that is exempted by the Electricity Act, section 20Q’—

omit, insert—

‘, or light rail manager for a light rail, that is exempted by the Electricity Act, section 20Q or 20QA,’.

Part 6 Amendment of Electricity Act 1994

14 Act amended

This part amends the *Electricity Act 1994*.

15 Insertion of new s 20QA

After section 20Q—

insert—

‘20QA Exemptions for light rail franchisee and light rail manager

- ‘(1) A light rail franchisee for a light rail franchise agreement, or a light rail manager for a light rail, is exempted from section 88A in relation to the supply of electricity used—
- (a) in connection with the building or use of electrical installations and other works required under a light rail franchise agreement; or
 - (b) for powering rolling stock and railway signals for a light rail.
- ‘(2) In this section—
- light rail franchisee* means a franchisee for a light rail franchise agreement under the *Transport Infrastructure Act 1994*, schedule 6.’

16 Amendment of s 102 (Works on roads)

- (1) Section 102—
- insert—*
- ‘(2A) Subsection (2B) applies if the electricity entity proposes to do a thing mentioned in subsection (1)(a) on a road on which light rail is located.
- ‘(2B) Before giving the written agreement mentioned in subsection (2), the road authority must consult with the light rail operator for the light rail.’
- (2) Section 102(3), after ‘The road authority’—
- insert—*
- ‘or light rail operator for a light rail’.

17 Amendment of s 106 (Public entity may require electricity entity to alter position of works)

- Section 106—
- insert—*

[s 18]

‘(3) In this section—
publicly controlled place does not include a light rail.’.

18 Amendment of s 109 (Works impairing railway signalling or communication lines)

Section 109—

insert—

‘(4) In this section—
railway operator includes the following—
(a) light rail manager for a light rail;
(b) light rail operator for a light rail.’.

19 Amendment of s 110 (Building by railway operator of signalling or communication line likely to be affected by electricity entity’s works etc.)

Section 110—

insert—

‘(3) In this section—
railway operator includes the following—
(a) light rail manager for a light rail;
(b) light rail operator for a light rail.’.

20 Amendment of sch 5 (Dictionary)

Schedule 5—

insert—

‘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.

light rail operator, for a light rail, see the *Transport Infrastructure Act 1994*, schedule 6.’.

Part 7 **Amendment of Environmental Protection Act 1994**

21 **Act amended**

This part amends the *Environmental Protection Act 1994*.

22 **Amendment of sch 1 (Exclusions relating to environmental nuisance or environmental harm)**

Schedule 1, part 1, section 3—

insert—

‘(j) an act done or omission made under an approved compliance management plan under the *Transport Infrastructure Act 1994*, section 477G.’.

Part 8 **Amendment of Tow Truck Act 1973**

23 **Act amended**

This part amends the *Tow Truck Act 1973*.

24 **Amendment of s 19H (Restricted release of information)**

(1) Section 19H, heading, after ‘Restricted’—

insert—

‘**written**’.

[s 25]

- (2) Section 19H(1) and (2), after ‘may release’—
insert—
‘, in writing,’.

25 Insertion of new s 19I

Part 3, division 3—

insert—

‘19I 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’s certificate or assistant’s certificate.
- ‘(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.’.

Part 9 Amendment of Transport Infrastructure Act 1994

26 Act amended

This part amends the *Transport Infrastructure Act 1994*.

27 Amendment of s 30 (Obligations in carrying out of works or operation of roads by the chief executive)

Section 30, ‘price competitive’—

omit, insert—

‘value for money’.

28 Amendment of s 84A (Declaration of land as State toll road corridor land)

Section 84A—

insert—

- ‘(6A) If land has been declared under subsection (1) (the ***original State toll road corridor land***), the area of the original State toll road corridor land may be increased by a subsequent declaration of land under subsection (1) (the ***additional State toll road corridor land***).
- ‘(6B) If a declaration of land under subsection (1) (the ***additional State toll road corridor land declaration***) increases the area of the original State toll road corridor land—
- (a) subsections (4) and (5) do not apply to the additional State toll road corridor land declaration; and
 - (b) for section 84C(5)(d), the terms that apply to the lease of the land to the State are the terms for the lease of the original State toll road corridor land applying immediately before the additional State toll road corridor land declaration is made; and
 - (c) the additional State toll road corridor land declaration must state—
 - (i) the lease reference number for the lease under section 84C(4) of the original State toll corridor land; and
 - (ii) if the additional State toll road corridor land is to be added to a lease under section 84C(6) or (6A) of the original State toll road corridor land—the dealing number for the lease.

Note—

For the effect of a declaration of additional State toll road corridor land on leases, see sections 84C and 84CA.’.

[s 29]

29 Amendment of s 84C (Effect on land of State toll road corridor land declaration)

Section 84C—

insert—

‘(10A) If the Minister makes an additional State toll road corridor land declaration, this section is subject to section 84CA.’

30 Insertion of new s 84CA

After section 84C—

insert—

‘84CA Effect of additional State toll road corridor land declaration on leases

- ‘(1) This section applies if the Minister makes an additional State toll road corridor land declaration.
- ‘(2) For applying section 84C to the additional State toll road corridor land, the following apply—
- (a) despite section 84C(4)—
 - (i) the Minister administering the *Land Act 1994* is taken to have amended the lease of the original State toll road corridor land (the *amended perpetual lease*) under the *Land Act 1994*, section 360A, to include the additional State toll road corridor land; and
 - (ii) the chief executive must lodge with the registrar of titles the documents that the registrar considers necessary to evidence the amended perpetual lease in the leasehold land register;
 - (b) a reference in section 84C(5) to the lease is taken to be a reference to the amended perpetual lease;
 - (c) a reference in section 84C(5)(c) to the State toll road corridor land includes a reference to the additional State toll road corridor land;

-
- (d) despite section 84C(5)(d), the terms that apply to the amended perpetual lease are the terms mentioned in section 84A(6B)(b);
 - (e) without limiting section 84C(6) or (6A), the additional State toll road corridor land may be added to a lease under the subsection of the original State toll road corridor land.
- ‘(3) If the additional State toll road corridor land is to be added to a sublease—
- (a) the sublease is taken to be amended (the ***amended sublease***) to include the additional State toll road corridor land; and
 - (b) a reference in section 84C(8)(b) to the State toll road corridor land includes a reference to the additional State toll road corridor land.
- ‘(4) If the additional State toll road corridor land is to be added to a sub-sublease, the sub-sublease is taken to be amended (the ***amended sub-sublease***) to include the additional State toll road corridor land.
- ‘(5) Also, if subsection (3) or (4) applies, the following apply—
- (a) the *Land Act 1994*, section 336(3) and (4) do not apply to an amendment of the sublease or sub-sublease to include the additional State toll road corridor land;
 - (b) the chief executive must lodge with the registrar of titles the documents the registrar considers necessary to evidence the amended sublease or amended sub-sublease in the leasehold land register;
 - (c) the amended sublease or amended sub-sublease operates as if it had been originally issued or executed as amended.
- ‘(6) For subsections (2)(a)(ii) and (5)(b), no fee is payable for lodging the documents.
- ‘(7) In this section—

[s 31]

sublease means a lease of original State toll road corridor land under section 84C(6).

sub-sublease means a lease of original State toll road corridor land under section 84C(6A).’.

31 Amendment of s 105GA (Declaration)

Section 105GA(1)—

insert—

‘(c) land, or part of land, other than the land mentioned in paragraph (a) or (b), that is—

(i) mentioned in section 105H(1)(a), (b), (c), (d) or (e); and

(ii) the subject of an approved tollway project.’.

32 Amendment of s 105H (Declaration of land as local government tollway corridor land)

(1) Section 105H(1)(b), ‘, other than a State-controlled road’—

omit.

(2) Section 105H(1)(d), after ‘paragraph (b)’—

insert—

‘or (e)’.

(3) Section 105H(1)—

insert—

‘(e) non-freehold land (including a reserve or part of a reserve) under the *Land Act 1994*, other than land mentioned in paragraph (b), on or within which road transport infrastructure or rail transport infrastructure is situated.’.

(4) Section 105H(2)—

omit.

(5) Section 105H(3)—

omit, insert—

‘(3) The Minister may, by gazette notice, declare land mentioned in subsection (1) to be local government tollway corridor land.’.

(6) Section 105H(4)—

omit, insert—

‘(4) In deciding whether to make the declaration under subsection (3), the Minister must have regard to—

(a) whether the local government has complied with any conditions to which, under this Act, the approved tollway project or the declaration of a local government tollway is subject; and

(b) another matter the Minister considers relevant to the declaration under subsection (3).’.

(7) Section 105H(6), (7) and (9), ‘(2) or’—

omit.

(8) Section 105H—

insert—

‘(10) If land has been declared under subsection (3) (the ***original local government tollway corridor land***), the area of the original local government tollway corridor land may be increased by a subsequent declaration of land under subsection (3) (the ***additional local government tollway corridor land***).

‘(11) If a declaration of land under subsection (3) (the ***additional local government tollway corridor land declaration***) increases the area of the original local government tollway corridor land—

(a) subsections (7) and (8) do not apply to the additional local government tollway corridor land declaration; and

(b) for section 105J(5)(d), the terms that apply to the lease of the land to the State are the terms for the lease of the original local government tollway corridor land

[s 33]

- applying immediately before the additional local government tollway corridor land declaration is made; and
- (c) the additional local government tollway corridor land declaration must state—
- (i) the lease reference number for the lease under section 105J(4) of the original local government tollway corridor land; and
 - (ii) the dealing number for the lease of the original local government tollway corridor land under section 105J(6); and
 - (iii) if the additional local government tollway corridor land is to be added to a lease under section 105J(9) or (10) of the original local government tollway corridor land—the dealing number for the lease.

Note—

For the effect of a declaration of additional local government tollway corridor land on leases see sections 105J and 105JAA.’.

33 Amendment of s 105I (Local government tollway corridor land on rail corridor land)

Section 105I(3), (4) and (8), ‘(2) or’—

omit.

34 Amendment of s 105J (Effect on land of local government tollway corridor land declaration)

Section 105J—

insert—

- ‘(13A) If the Minister makes an additional local government tollway corridor land declaration, this section is subject to section 105JAA.’.

35 Insertion of new s 105JAA

After section 105J—

insert—

‘105JAA Effect of additional local government tollway corridor land declaration on leases

- ‘(1) This section applies if the Minister makes an additional local government tollway corridor land declaration.
- ‘(2) For applying section 105J to the additional local government tollway corridor land, the following apply—
 - (a) despite section 105J(4)—
 - (i) the Minister administering the *Land Act 1994* is taken to have amended the lease of the original local government tollway corridor land (the *amended perpetual lease*) under the *Land Act 1994*, section 360A, to include the additional local government tollway corridor land; and
 - (ii) the chief executive must lodge with the registrar of titles the documents that the registrar considers necessary to evidence the amended perpetual lease in the leasehold land register;
 - (b) a reference in section 105J(5) to the lease is taken to be a reference to the amended perpetual lease;
 - (c) a reference in section 105J(5)(c) to the local government tollway corridor land includes a reference to the additional local government tollway corridor land;
 - (d) despite section 105J(5)(d), the terms that apply to the amended perpetual lease are the terms mentioned in section 105H(11)(b);
 - (e) despite section 105J(6), the sublease is taken to be amended (the *amended sublease*) to include the additional local government tollway corridor land;
 - (f) despite section 105J(8)(a), the terms of the amended sublease are the same as the terms of the sublease

[s 35]

- immediately before the additional local government tollway corridor land declaration is made;
- (g) a reference in section 105J(8)(b) to the land includes a reference to the additional local government tollway corridor land;
 - (h) without limiting section 105J(9) and (10), the additional local government tollway corridor land may be added to a lease under the subsection of the original local government tollway corridor land;
 - (i) the *Land Act 1994*, section 336(3) and (4) do not apply to an amendment of the sublease to include the additional local government tollway corridor land;
 - (j) the chief executive must lodge in the leasehold land register the documents the registrar of titles considers necessary to give effect to the amended sublease;
 - (k) the amended sublease operates as if it had been originally issued or executed as amended.
- ‘(3) If the additional local government tollway corridor land is to be added to a sub-sublease—
- (a) the sub-sublease is taken to be amended (the ***amended sub-sublease***) to include the additional local government tollway corridor land; and
 - (b) the *Land Act 1994*, section 336(3) and (4) do not apply to an amendment of the sub-sublease to include the additional local government tollway corridor land; and
 - (c) the chief executive must lodge with the registrar of titles the documents the registrar considers necessary to evidence the amended sub-sublease in the leasehold land register; and
 - (d) the amended sub-sublease operates as if it had been originally issued or executed as amended.
- ‘(4) For subsections (2)(a)(ii) and (j) and (3)(c), no fee is payable for lodging the documents.
- ‘(5) In this section—

sublease means the lease of the original local government tollway corridor land under section 105J(6).

sub-sublease means a lease of original local government tollway corridor land under section 105J(9) or (10).’.

36 Amendment of s 106 (Ways of achieving objectives)

Section 106(b)—

insert—

‘(iii) allow rail transport infrastructure to be constructed and maintained in an effective and efficient way; and

(iv) otherwise allow rail transport infrastructure to be managed and operated in an effective and efficient way; and’.

37 Amendment of s 108 (Purpose of pt 2)

Section 108(a), ‘railway authorisation’—

omit, insert—

‘railway or the chief executive authorisation’.

38 Amendment of s 109 (Definitions for pt 2)

(1) Section 109, definition *authority*—

omit.

(2) Section 109—

insert—

‘*authority* means—

(a) if the chief executive is the relevant person—the authority to enter land under section 109A; or

[s 39]

- (b) if an investigator is the relevant person—a rail feasibility investigator’s authority.’.

relevant person means the chief executive or an investigator.’.

39 Insertion of new s 109A

After section 109—

insert—

‘109A Chief executive may enter land to investigate potential rail corridor

- ‘(1) The chief executive, or someone authorised in writing by the chief executive, may—
- (a) enter and re-enter any land for the purpose of investigating the land’s potential and suitability as a rail corridor; and
- (b) to the extent reasonably necessary or convenient for that purpose—
- (i) do anything on the land; or
- (ii) bring anything onto the land; or
- (iii) temporarily leave machinery, equipment or other items on the land.

Examples of things the chief executive may do on the land—

- conduct surveys and take soil samples
- clear vegetation, or otherwise disturb the land, to the extent reasonably necessary
- construct temporary access tracks using the land or using materials brought onto the land

- ‘(2) Before land is entered for the first time under subsection (1), the chief executive must give a written notice to the owner or occupier of the land.

- ‘(3) The notice must state—

- (a) the chief executive, or someone authorised in writing by the chief executive, intends to investigate the land; and

- (b) a general outline of the things intended to be done on the land, including, for example, the construction of any temporary access track; and
 - (c) the approximate period during which the land is to be entered under subsection (1); and
 - (d) the entry is not an indication of a commitment or approval by the State, the chief executive or any other person in relation to any proposal, and in particular, does not commit the State to acquiring any land as a rail corridor.
- ‘(4) The chief executive may enter the land only if—
- (a) the owner or occupier of the land gives written consent to the entry; or
 - (b) at least 7 days have passed since the notice was given.
- ‘(5) In this section—
- land* does not include a part of a place where a person resides.’.

40 Amendment of s 115 (Investigator to issue associated person with identification)

- (1) Section 115, heading, ‘Investigator’—
omit, insert—
‘Relevant person’.
- (2) Section 115(1), (3) and (6), ‘an investigator’—
omit, insert—
‘a relevant person’.
- (3) Section 115(1), ‘the investigator’s’—
omit, insert—
‘the relevant person’s’.
- (4) Section 115(1), (2) and (3), ‘the investigator’—
omit, insert—

[s 41]

‘the relevant person’.

(5) Section 115—

insert—

‘(7) If the request under subsection (4) is made of the chief executive, the chief executive must immediately state the chief executive’s name and state the chief executive is authorised to investigate the land under section 109A.

‘(8) If the chief executive (the *official*), or someone authorised in writing by the chief executive (also the *official*), investigates land under section 109A and the owner or occupier of the land is not present, before leaving the land, the official must leave a notice in a conspicuous position and in a reasonably secure way stating the following—

(a) the official’s name and business address or telephone number;

(b) the action taken by the official under section 109A;

(c) when the action was taken.

‘(9) In this section—

‘*associated person*, if the chief executive intends to investigate land under section 109A, includes a person authorised by the chief executive under section 109A.’.

41 Amendment of s 116 (Pretending to be an investigator etc.)

Section 116—

insert—

‘(c) to be the chief executive investigating land under section 109A; or

(d) to be a person authorised by the chief executive under section 109A.’.

42 Amendment of s 117 (Investigator to take care in acting under authority)

- (1) Section 117, heading, ‘Investigator’—
omit, insert—
‘Relevant person’.
- (2) Section 117, ‘An investigator’—
omit, insert—
‘A relevant person’.
- (3) Section 117(c), ‘investigator’s’—
omit, insert—
‘relevant person’s’.

43 Amendment of s 118 (Compensation payable by investigator)

- (1) Section 118, heading, ‘investigator’—
omit, insert—
‘relevant person’.
- (2) Section 118(1), ‘an investigator’—
omit, insert—
‘the relevant person’.
- (3) Section 118(1) and (2)(b), ‘the investigator’—
omit, insert—
‘the relevant person’.
- (4) Section 118(1)(a), ‘investigator’s’—
omit, insert—
‘the relevant person’s’.
- (5) Section 118—
insert—

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‘(5) In this section—

associated person, if the chief executive intends to investigate land under section 109A, includes a person authorised by the chief executive under section 109A.’

44 Amendment of s 169 (Closing railway crossings)

Section 169(3)—

omit.

45 Amendment of s 247 (Chief executive taken to be owner of rail corridor land and non-rail corridor land for particular circumstances under Planning Act)

Section 247—

insert—

‘(1A) Also, this section applies if, under the Planning Act, section 264, an application in relation to land that is rail corridor land or non-rail corridor land is required to be supported by evidence under section 264.’.

46 Amendment of s 249 (Railways on particular roads)

(1) Section 249(6), definition *relevant person*—

insert—

‘(e) for a local government road—the local government.’.

(2) Section 249(6), definition *relevant road*—

insert—

‘(e) a local government road.’.

47 Amendment of s 255 (Interfering with railway)

(1) Section 255(1), ‘must not interfere with a railway unless’—

omit, insert—

‘in or on a railway corridor must not interfere with a railway under the control of a railway manager unless’.

- (2) Section 255(1)(a), ‘railway’s manager’—

omit, insert—

‘railway manager’s’.

- (3) Section 255(1)—

insert—

‘(c) the interference is otherwise approved, authorised or permitted under this Act or another Act.’.

- (4) Section 255—

insert—

- ‘(6) In this section—

interfere with, a railway, means—

- (a) carry out works in or on a railway corridor; or
- (b) otherwise interfere with the railway or its operation.

railway corridor means—

- (a) land subleased to a railway manager under section 240; or
- (b) commercial corridor land; or
- (c) future railway land under the control of a railway manager; or
- (d) land described in schedule 4; or

Note—

See section 241 (Railway tunnel easements).

- (e) a railway crossing.’.

48 Amendment of s 260 (Works for existing railways)

- (1) Section 260(4)—

insert—

[s 49]

‘(c) construct or maintain works for a change of use of the neighbouring land by its owner or occupier.’.

(2) Section 260(13)—

insert—

‘**change of use**, of the neighbouring land, means a change of the use (the **new use**) of the land, if the new use would result in works that would have been required to be carried out under this section in relation to the previous use of the land being insufficient for the convenient new use of the land.’.

49 Amendment of s 262 (Application of Land Act 1994)

(1) Section 262, ‘land, non-rail corridor land or a lease granted under the lease’—

omit, insert—

‘land or non-rail corridor land, or a lease granted under the lease, or a concurrent sublease’.

(2) Section 262—

insert—

‘(2) In this section—

concurrent sublease means concurrent sublease granted under section 477C(1) of all or part of land relating to a declared project mentioned in the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*, section 5(1)(c) or (d).’.

50 Amendment of s 303AB (Licence in relation to busway land or busway transport infrastructure)

(1) Section 303AB—

insert—

‘(3A) If a licence granted under subsection (1) in relation to busway land is cancelled or surrendered, the registrar of titles must

record the cancellation or surrender against the land in the appropriate register.’.

(2) Section 303AB(8)—

omit, insert—

‘(8) To remove any doubt, it is declared that the *Land Act 1994* does not apply to the grant of a licence under this section.

‘(9) In this section—

busway land includes private agreement land or State land—

- (a) on which busway transport infrastructure is, or is proposed to be, situated; or
- (b) required for the construction of busway transport infrastructure works.

private agreement land means land—

- (a) held by a person other than the State; and
- (b) that is the subject of an agreement—
 - (i) in relation to busway transport infrastructure between the person and the State; and
 - (ii) providing for the granting of a licence under this section.’.

51 Insertion of new s 303AC

After section 303AB—

insert—

‘303AC Compensation for licence granted under s 303AB

- ‘(1) This section applies if the chief executive grants a licence for a purpose under section 303AB (a ***relevant activity***) in relation to busway land under that section or busway transport infrastructure.
- ‘(2) An owner or occupier of the land or infrastructure may claim compensation from the chief executive for loss or damage

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caused by a relevant activity, including by the taking or consumption of materials.

- ‘(3) However, compensation is payable only if written notice of the claim or proposed claim is given to the chief executive—
- (a) after the loss or damage happens, but within 1 year after the relevant activity ends; or
 - (b) at a later time allowed by the chief executive.
- ‘(4) In the absence of agreement between the owner or occupier and the chief executive about the payment of compensation, payment of compensation may be claimed and ordered in a proceeding brought in the Land Court.
- ‘(5) The Land Court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- ‘(6) Compensation paid under this section for loss or damage caused to land must not be more than the compensation that would have been awarded if the land had been acquired under the *Acquisition of Land Act 1967*.’.

52 Amendment of s 308 (Powers of chief executive for busway transport infrastructure works contracts etc.)

Section 308(7), ‘price competitive’—

omit, insert—

‘value for money’.

53 Amendment of s 316 (Definition for div 4)

- (1) Section 316, definition *busway land*, from ‘land—’ to ‘on which’—

omit, insert—

‘land that is State land, or private agreement land, on which’.

- (2) Section 316—

insert—

‘(2) In this section—

private agreement land means land—

- (a) held by a person other than the State; and
- (b) that is subject to an agreement for public utility plant on the land, between the person and the State.’

54 Amendment of s 352 (Definition for pt 3)

Section 352, definition *road*, paragraph (b), after ‘road’—

insert—

‘or local government road’.

55 Amendment of s 354 (Effect on land of light rail declaration)

Section 354(5)—

omit, insert—

‘(5) The Minister administering the *Land Act 1994*—

- (a) is taken to have leased the light rail land to the State under the *Land Act 1994*, section 17(2) when the declaration is made; and
- (b) must lodge a document evidencing the lease in the leasehold land register.’

56 Amendment of s 355A (Licence in relation to light rail land or infrastructure)

(1) Section 355A—

insert—

‘(3A) If a licence granted under subsection (1) in relation to light rail land is cancelled or surrendered, the registrar of titles must record the cancellation or surrender against the land in the appropriate register.’

(2) Section 355A(8)—

[s 57]

omit, insert—

‘(8) To remove any doubt, it is declared that the *Land Act 1994* does not apply to the grant of a licence under this section.

‘(9) In this section—

light rail land includes private agreement land or State land—

- (a) on which light rail transport infrastructure is, or is proposed to be, situated; or
- (b) required for the construction of light rail transport infrastructure works.

private agreement land means land—

- (a) held by a person other than the State; and
- (b) that is the subject of an agreement—
 - (i) in relation to light rail transport infrastructure between the person and the State; and
 - (ii) providing for the grant of a licence under this section.’.

57 Insertion of new s 355B

After section 355A—

insert—

‘355B Compensation for licence granted under s 355A

‘(1) This section applies if the chief executive grants a licence for a purpose under section 355A (a ***relevant activity***) in relation to light rail land under that section or light rail transport infrastructure.

‘(2) An owner or occupier of the land or infrastructure may claim compensation from the chief executive for loss or damage caused by a relevant activity, including by the taking or consumption of materials.

‘(3) However, compensation is payable only if written notice of the claim or proposed claim is given to the chief executive—

-
- (a) after the loss or damage happens, but within 1 year after the relevant activity ends; or
 - (b) at a later time allowed by the chief executive.
- ‘(4) In the absence of agreement between the owner or occupier and the chief executive about the payment of compensation, payment of compensation may be claimed and ordered in a proceeding brought in the Land Court.
- ‘(5) The Land Court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- ‘(6) Compensation paid under this section for loss or damage caused to land must not be more than the compensation that would have been awarded if the land had been acquired under the *Acquisition of Land Act 1967*.’.

58 Amendment of s 358 (Permitted construction by local government of roads over or under light rail land)

Section 358(7)—

omit.

59 Amendment of s 360A (Powers of chief executive for light rail transport infrastructure works contracts etc.)

Section 360A(7), ‘price competitive’—

omit, insert—

‘value for money’.

60 Amendment of s 364 (Definitions for div 3)

- (1) Section 364, definition *light rail land*, from ‘land—’ to ‘on which’—

omit, insert—

‘land that is State land, or private agreement land, on which’.

- (2) Section 364—

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insert—

‘(2) In this section—

private agreement land means land—

- (a) held by a person other than the State; and
- (b) that is subject to an agreement, in relation to public utility plant, between the person and the State.’

61 Omission of ch 10, pt 4, div 4A, sdiv 3 (Interface management)

Chapter 10, part 4, division 4A, subdivision 3—

omit.

62 Amendment of s 377R (Limited compensation for easements etc. or damage relating to overhead wiring for a light rail)

Section 377R(9), definition *light rail overhead wiring damage*, ‘damage caused by the construction of’—

omit, insert—

‘physical damage caused by the construction of, or affixation of attachments for,’.

63 Insertion of new ch 15A

After section 475ZE—

insert—

‘Chapter 15A Transport interface management

‘475ZF Purpose of ch 15A

‘The purpose of this chapter is to provide for a regime for dealing with transport interface issues in transport interface management areas.

‘475ZG Definitions for ch 15A

‘In this chapter—

transport interface means an interface between—

- (a) a transport interface object; and
- (b) either or both of the following—
 - (i) a thing (including a building, another structure or road) that is in the immediate vicinity of, or otherwise affects or is affected by, the transport interface object;
 - (ii) a place (including a building, another structure or road) at, on or in which an activity that affects or is affected by the transport interface object is carried out.

transport interface agreement see section 475ZH.

transport interface issue means an issue that arises because of a transport interface.

Examples of issues that may be transport interface issues—

- access to a thing located partly on land owned or occupied by someone else
- access to a thing that can only be accessed for a particular purpose (for example, maintenance) by entering land owned or occupied by someone else
- shared responsibility for safety and maintenance of shared facilities

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- disruption of, or delays in, carrying out activities at a place caused by the presence of a thing, or carrying out of activities, at an adjacent or nearby place

transport interface management area means land or part of land declared as a transport interface management area under section 475ZI.

transport interface object means any of the following—

- (a) a busway;
- (b) busway land and other land that is State land on which busway transport infrastructure is situated;
- (c) busway transport infrastructure;
- (d) busway transport infrastructure works;
- (e) light rail;
- (f) light rail land and other land that is State land on which light rail transport infrastructure is situated;
- (g) light rail transport infrastructure;
- (h) light rail transport infrastructure works.

‘475ZH Meaning and scope of *transport interface agreement*

- ‘(1) A ***transport interface agreement*** is an agreement that provides for the following—
- (a) identifying transport interface issues for the transport interface covered by the agreement;
 - (b) measures for managing the identified transport interface issues, and implementing the measures;
 - (c) the evaluation, testing and, if necessary, revision of the measures mentioned in paragraph (b);
 - (d) the roles and responsibilities of each party to the agreement in relation to the measures mentioned in paragraph (b);
 - (e) the procedures by which each party will monitor compliance with the obligations under the agreement;

-
- (f) a process for keeping the agreement under review and how any review will be conducted and implemented;
 - (g) enforcing rights or obligations under the agreement, including, for example, a dispute resolution process.
- ‘(2) A transport interface agreement—
- (a) may provide for a matter by applying, adopting or incorporating a matter contained in another document (with or without modification); and
 - (b) may consist of 2 or more documents.
- ‘(3) A transport interface agreement must be consistent with—
- (a) the objectives of this Act mentioned in section 2; and
 - (b) the objectives of other transport laws.

‘475ZI Declaration of transport interface management area

- ‘(1) The chief executive may, by gazette notice, declare land or part of land to be a transport interface management area if—
- (a) there is a transport interface on the land or part; and
 - (b) the chief executive reasonably believes—
 - (i) the transport interface creates or is likely to create transport interface issues; and
 - (ii) transport interface arrangements should be in place to deal with the transport interface issues or potential transport interface issues.
- ‘(2) Before making the declaration, the chief executive must—
- (a) give the persons the chief executive considers may be affected by the declaration written notice of the chief executive’s proposal to make the declaration; and

Example of a person who may be affected by the declaration—

a person who owns, manages, controls or is otherwise responsible for a thing or place in relation to which the transport interface issues or potential transport interface issues exist

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- (b) give the persons a reasonable opportunity to make submissions to the chief executive in relation to the proposed declaration; and
 - (c) have regard to any submissions made by the persons.
- ‘(3) Land declared to be a transport interface management area must be—
- (a) identified specifically in the gazette notice; or
 - (b) identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available for perusal at an office of the department mentioned in the gazette notice.
- ‘(4) The identification of land declared to be a transport interface management area may, but need not, be by reference to strata occupied by the land.
- ‘(5) In this section—
- transport interface arrangements* means—
- (a) transport interface agreements; or
 - (b) arrangements under section 475ZL.

‘475ZJ Particular persons may enter into transport interface agreement

- ‘(1) This section applies if—
- (a) there is a transport interface; and
 - (b) a person (*first person*) owns, manages, controls or is otherwise responsible for a transport interface object the subject of the transport interface; and
- Examples of a person for paragraph (b)—*
- the chief executive, light rail franchisee, light rail manager
 - (c) another person (*second person*) owns, manages, controls or is otherwise responsible for a relevant thing or place in relation to the transport interface; and

Examples of persons for paragraph (c)—

owner or occupier, a local government, chief executive, public utility plant provider

(d) the transport interface is in a transport interface management area.

‘(2) The first person and second person may enter into a transport interface agreement for the transport interface.

‘(3) In this section—

relevant thing or place, in relation to a transport interface, means a thing or place mentioned in section 475ZG, definition *transport interface*, paragraph (b)(i) or (ii).

‘475ZK Failure to enter into transport interface agreement

‘(1) This section applies if the chief executive is satisfied—

(a) that, under section 475ZJ, a person is seeking to enter into a transport interface agreement with another person and the agreement has not been entered into because the other person—

(i) is unreasonably refusing or failing to enter into a transport interface agreement with the person; or

(ii) is unreasonably delaying the negotiation of a transport interface agreement with the person; or

(b) that—

(i) section 475ZJ applies in relation to persons for a transport interface in a transport interface management area; and

(ii) the persons have not made a reasonable attempt to enter into a transport interface agreement for the interface; and

(iii) it has been at least 60 days after the declaration of the transport interface management area.

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- ‘(2) The chief executive may give the persons mentioned in subsection (1)(a) or (b) a written notice (a *preliminary notice*) that—
- (a) states the chief executive’s powers under this chapter, including that the chief executive may give a direction under section 475ZL at any time after a stated date that is at least 28 days after the preliminary notice is given; and
 - (b) includes copies of this section and section 475ZL; and
 - (c) identifies the transport interface issues that the chief executive reasonably considers should be dealt with by a transport interface agreement between the persons.
- ‘(3) The preliminary notice may contain suggested terms for inclusion in a transport interface agreement to deal with the transport interface issues mentioned in subsection (2)(c).
- ‘(4) The chief executive may, by written notice, ask a person to whom a preliminary notice was given for information the chief executive reasonably requires for giving a direction under section 475ZL.
- ‘(5) A person to whom a written notice is given under subsection (4) must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—60 penalty units.

‘475ZL Direction about arrangement that is to apply

- ‘(1) This section applies if—
- (a) the chief executive gives persons a preliminary notice under section 475ZK; and
 - (b) the persons have not entered into a transport interface agreement to deal with the transport interface issues identified in the preliminary notice by the date stated in the preliminary notice.
- ‘(2) The chief executive may—

-
- (a) decide the arrangements that are to apply in relation to the transport interface issues identified in the preliminary notice; and
 - (b) direct the persons to implement the arrangements by a stated date.
- ‘(3) A direction under subsection (2)(b) may be given at any time after a day that is at least 28 days after the preliminary notice is given.
- ‘(4) A direction given under subsection (2)(b) must be written and state the following—
- (a) the arrangements decided by the chief executive that are to apply in relation to the transport interface issues identified in the preliminary notice;
 - (b) the date by which the arrangements must be implemented.
- ‘(5) A person to whom a direction is given under subsection (2)(b) must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—200 penalty units.

‘475ZM Guidelines about transport interfaces etc.

- ‘(1) The chief executive may make guidelines about the following—
- (a) how persons may identify transport interface issues that may affect them;
 - (b) measures that may be implemented to deal with particular transport interface issues;
 - (c) standard terms that may be included in transport interface agreements.
- ‘(2) The chief executive must—
- (a) publish the guidelines, and the provisions of any document applied, adopted or incorporated by the guidelines, on the department’s website; and

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Editor's note—

On the day of the commencement of this section the guidelines, and the provisions of any document applied, adopted or incorporated by the guidelines, are available on the department's website at <www.tmr.qld.gov.au>.

- (b) make copies of the guidelines, and the provisions of any document applied, adopted or incorporated by the guidelines, available for inspection—
 - (i) without charge; and
 - (ii) during normal business hours; and
 - (iii) at the places the chief executive considers appropriate.'.

64 Amendment of s 477C (Concurrent subleases for declared projects)

After section 477C(1)—

insert—

'Note—

See section 262 for the application of particular provisions of the *Land Act 1994* to a concurrent sublease granted under this section of all or part of land relating to a declared project mentioned in the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*, section 5(1)(c) or (d).'

65 Insertion of new ss 477F and 477G

After section 477E—

insert—

'477F Watercourse crossings

- '(1) Subject to this or another Act, the chief executive may—
 - (a) survey and resurvey a watercourse crossing; and
 - (b) construct, augment, improve, maintain, operate and replace a watercourse crossing; and
 - (c) name and number a watercourse crossing.

‘(2) In this section—

transport infrastructure includes active transport infrastructure within the meaning of the *Transport Planning and Coordination Act 1994*, section 8A(3).

watercourse means land that is the property of the State under the *Land Act 1994*, section 9 or 13A(1) or (2).

Editor’s note—

Land Act 1994, sections 9 (Land adjacent to tidal boundary or right line tidal boundary owned by State) and 13A (Land adjacent to non-tidal boundary (watercourse) or non-tidal boundary (lake) owned by State)

watercourse crossing—

- (a) means transport infrastructure that is, or is proposed to be, situated over, under, on or in a watercourse; but
- (b) does not include river crossings under the *City of Brisbane Act 2010*, section 77.

‘477G Chief executive may approve compliance management plan

‘(1) This section applies if the chief executive grants, or proposes to grant, a licence to a person (the *relevant person*).

‘(2) The chief executive may ask, or give consent to, the relevant person to submit a plan (a *compliance management plan*) addressing 1 or more compliance matters for the licence.

‘(3) If subsection (2) applies, the relevant person may submit to the chief executive a compliance management plan for the compliance matter.

‘(4) A compliance management plan may apply, adopt or incorporate another plan or a part of another plan.

Example of a plan—

a plan for the construction or scheduling of works

‘(5) The chief executive may approve a compliance management plan for a compliance matter only if the chief executive—

- (a) has consulted the relevant agency; and

[s 65]

- (b) is satisfied the compliance matter is adequately addressed in the compliance management plan.
- ‘(6) If the chief executive approves the compliance management plan, the chief executive must give written notice to the relevant person stating—
- (a) that the plan is approved; and
 - (b) the date the approved compliance management plan takes effect and the date the approved compliance management plan expires; and
 - (c) the compliance matters addressed in the approved compliance management plan (the ***approved compliance matters***).
- ‘(7) If the relevant person complies with the approved compliance management plan, the relevant person is taken to have met the requirements for the approved compliance matters under the relevant laws.
- ‘(8) In this section—
- address***, a compliance matter, means demonstrate how the purpose of the relevant law will be satisfied in relation to the compliance matter.
- approval***, under a relevant law for a compliance matter, includes an authorisation or permit.
- compliance matter***, for a licence, means a matter—
- (a) regulated by an Act; and
 - (b) relating to the construction or establishment of the transport infrastructure under the licence.

Examples—

- the closure of a road, to facilitate construction activities, for which an order may be obtained under the *Transport Operations (Road Use Management) Act 1995* or a local law
- construction activities emitting dust, light, noise or odour, to which standards apply under the *Environmental Protection Act 1994* or a local law

licence means a licence to construct or establish transport infrastructure granted under this Act.

relevant agency, for a compliance matter, means an entity administering a relevant law for the compliance matter.

Examples—

the chief executive of a department or a local government

relevant law, for a compliance matter, means a law—

- (a) under which approval is required for the compliance matter; or
- (b) under which a standard applies for the compliance matter; or
- (c) that provides for a relevant agency for the compliance matter to enforce compliance with the relevant law; or
- (d) that otherwise regulates the compliance matter.’.

66 Insertion of new ch 21, pt 3

Chapter 21—

insert—

‘Part 3 Validation and transitional provisions for Transport and Other Legislation Amendment Act 2011

‘578 Declaration and validation for watercourse crossings

‘It is declared that the chief executive has, and always had, the powers conferred on the chief executive under section 477F.

‘579 Interfering with railway

‘Section 255 as in force on the commencement of this section applies to an approval sought but not finally decided before the commencement.

[s 66]

‘580 Interface management

- ‘(1) A declaration of a light rail interface management area under repealed section 377L that is in effect immediately before the commencement is taken to be a transport interface management area declared under section 475ZI.
- ‘(2) A written notice given under repealed section 377L(2)(a) before the commencement is taken to be a written notice given under 475ZI(2)(a).
- ‘(3) A submission made under repealed section 377L(2)(b) before the commencement is taken to be a submission made under 475ZI(2)(b).
- ‘(4) A light rail interface agreement within the meaning of repealed section 377K that is in force immediately before the commencement is taken to be a transport interface agreement under chapter 15A.
- ‘(5) A preliminary notice given under repealed section 377N(3) before the commencement is taken to be a preliminary notice given under 475ZK(2).
- ‘(6) A written notice given under repealed section 377N(5) before the commencement is taken to be a written notice given under 475ZK(4).
- ‘(7) A direction given under repealed section 377O(2)(b) before the commencement is taken to be a direction given under 475ZL(2)(b).
- ‘(8) A guideline made under repealed section 377P(1) before the commencement is taken to be a guideline made under 475ZM(1).
- ‘(9) In this section—

commencement means commencement of this section.

repealed, in relation to a provision of this Act, means the provision as it was in force from time to time before the commencement.

‘581 Internal review of approvals for interfering with railway

- ‘(1) This section applies to a railway manager’s refusal, on or after the commencement of this section, to approve an interference with a railway under section 255(1)(a).
- ‘(2) For section 485, the refusal is an original decision even if the approval was first sought before the commencement of this section.’.

67 Amendment of sch 3 (Reviews and appeals)

Schedule 3—

insert—

- | | | |
|------------|--|--------|
| ‘255(1)(a) | refusal to approve interference with railway | QCAT |
| 255(2) | imposition of a condition | QCAT’. |

68 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *interfere with a railway*, *light rail interface*, *light rail interface agreement*, *light rail interface issue*, *light rail interface management area* and *relevant person—*
omit.
- (2) Schedule 6—
insert—
‘additional local government tollway corridor land, for chapter 6, part 8, division 3, see section 105H(10).
additional local government tollway corridor land declaration, for chapter 6, part 8, division 3, see section 105H(11).
additional State toll road corridor land, for chapter 6, part 6, division 2, see section 84A(6A).
additional State toll road corridor land declaration, for chapter 6, part 6, division 2, see section 84A(6B).

[s 68]

appropriate register see the *Land Act 1994*, schedule 6.

dealing number, for a lease under section 84C(6) or (6A) or 105J(6), (9) or (10), means a number assigned to the lease by the registrar of titles.

lease reference number, for a lease mentioned in section 84C(4) or 105J(4), means the number for the lease recorded by the registrar of titles in the leasehold land register.

light rail operator, for a light rail, means a person who is accredited, as a rail transport operator in relation to railway operations for light rail, under the Rail Safety Act.

original local government tollway corridor land, for chapter 6, part 8, division 3, see section 105H(10).

original State toll road corridor land, for chapter 6, part 6, division 2, see section 84A(6A).

railway crossing means a level crossing, bridge or another structure used to cross over or under a railway.

relevant person—

- (a) for chapter 7, part 2, see section 109; or
- (b) for chapter 13, see section 438.

State land means any of the following—

- (a) unallocated State land;
- (b) a road, including a State-controlled road and local government road;
- (c) trust land under the *Land Act 1994*;
- (d) lease land under the *Land Act 1994*;
- (e) a watercourse crossing;
- (f) land otherwise held by or vested in the State.

transport interface, for chapter 15A, see section 475ZG.

transport interface agreement, for chapter 15A, see section 475ZG.

transport interface issue, for chapter 15A, see section 475ZG.

transport interface management area, for chapter 15A, see section 475ZG.

transport interface object, for chapter 15A, see section 475ZG.

watercourse crossing see section 477F.

- (3) Schedule 6, definition *light rail land*, paragraph 2(b)—
omit.
- (4) Schedule 6, definition *light rail manager*, after ‘operations’—
insert—
‘, under the Rail Safety Act.’.
- (5) Schedule 6, definition *rolling stock*, ‘and light rail vehicle’—
omit.
- (6) Schedule 6, definition *rolling stock*, ‘or light rail’—
omit.

Part 10 Amendment of Transport Operations (Marine Safety) Act 1994

69 Act amended

This part amends the *Transport Operations (Marine Safety) Act 1994*.

70 Amendment of s 63I (Restricted release of information)

- (1) Section 63I, heading, after ‘Restricted’—
insert—

[s 71]

‘written’.

(2) Section 63I(1) and (2), after ‘may release’—

insert—

‘, in writing,’.

(3) Section 63I(7)—

omit.

71 Insertion of new s 63J

Part 5, division 3B—

insert—

‘63J 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 marine licence or marine history.

‘(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.’.

72 Amendment of s 202E (Other limitations on ordering a restricted licence)

Section 202E(2)(d)(i), ‘79(2)’—

omit, insert—

‘79(1F) or (2)’.

73 Amendment of schedule (Dictionary)

Schedule—

insert—

‘*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*.’.

Part 11 **Amendment of Transport Operations (Passenger Transport) Act 1994**

74 **Act amended**

This part amends the *Transport Operations (Passenger Transport) Act 1994*.

75 **Amendment of s 12 (What is operator accreditation)**

Section 12(2)(a), ‘by a railway operator;’—

omit, insert—

‘by—

- (i) a railway operator; or
- (ii) a light rail operator for a light rail;’.

76 **Amendment of s 24 (What is driver authorisation)**

Section 24(2)(a), ‘by a railway operator;’—

omit, insert—

‘by—

- (i) a railway operator; or
- (ii) a light rail operator for a light rail;’.

[s 77]

77 Amendment of s 28B (Driver authorisation—category B driver disqualifying offences)

(1) Section 28B—

insert—

- ‘(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 CCYPCG Act to the extent that any qualification under the CCYPCG Act applies to the serious offence or disqualifying offence.
- ‘(4A) For subsection (4), the chief executive may give to the children’s commissioner the information, including any written representations mentioned under subsection (3)(c), the chief executive reasonably considers necessary for the children’s commissioner 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, using the online validation service on the website of the children’s commission, that a person is the holder of a current positive notice under the CCYPCG Act.
- ‘(5A) However, if subsection (4B) applies, the children’s commissioner is taken to have advised the chief executive that the children’s commissioner considers that an exceptional case exists.

Editor’s note—

On the commencement of this section, the online validation of a positive notice can be accessed on the children’s commission website at <<https://www.ccypcg.qld.gov.au>>.’.

(2) Section 28B(6), after ‘exclusion action’—

insert—

‘if the children’s commissioner’s advice was requested under subsection (4)’.

(3) Section 28B—

insert—

‘(9) In this section—

children’s commission means the Commission for Children and Young People and Child Guardian under the CCYPCG Act.’.

78 Amendment of s 35H (Restricted release of information)

(1) Section 35H, heading, after ‘Restricted’—

insert—

‘**written**’.

(2) Section 35H(1) and (2), after ‘may release’—

insert—

‘, in writing,’.

79 Insertion of new s 35I

Chapter 4, part 3—

insert—

‘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.

‘(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.’.

80 Insertion of new ch 4A

After chapter 4, part 3—

insert—

[s 80]

‘Chapter 4A Taxi service bailment agreements

‘35J Purpose of ch 4A

‘The purpose of this chapter is to provide minimum requirements for taxi service bailment agreements.

‘35K Application of ch 4A

This chapter does not apply if an authorised driver is employed by an accredited operator.

‘35L What is a *taxi service bailment agreement*

- ‘(1) A *taxi service bailment agreement* is an agreement between an accredited operator and an authorised driver (the *parties*) for the bailment of a taxi for which the accredited operator is responsible that—
- (a) is in writing; and
 - (b) is signed by both parties; and
 - (c) includes the information prescribed under a regulation for the taxi service bailment agreement.
- ‘(2) A taxi service bailment agreement need not be limited to the bailment by an accredited operator of a particular taxi providing a taxi service.

‘35M Accredited operator must ensure taxi service bailment agreement entered into

- ‘(1) This section applies to an accredited operator of a taxi service.
- ‘(2) The accredited operator must not permit an authorised driver to drive a taxi for which the accredited operator is responsible unless the accredited operator has entered into a taxi service

bailment agreement for the bailment of the taxi with the authorised driver.

Maximum penalty—40 penalty units.

‘35N Accredited operator may only enter into taxi service bailment agreement with set pay in arrangement in particular circumstances

- ‘(1) An accredited operator of a taxi service must not enter into a taxi service bailment agreement providing for a set pay in arrangement with an authorised driver unless the authorised driver has held driver authorisation for at least 12 months, consecutively or cumulatively, within the 5 years before the agreement is entered into.

Maximum penalty—40 penalty units.

- ‘(2) In this section—

set pay in amount, for a taxi service bailment agreement for the bailment of a taxi, means a fixed amount for the bailment of the taxi that does not relate to the takings of the authorised driver of the taxi.

set pay in arrangement, for a taxi service bailment agreement between an accredited operator of the taxi service and an authorised driver for the bailment of a taxi, means an arrangement between the accredited operator and authorised driver stating the authorised driver pays the accredited operator a set pay in amount.

‘35O Accredited operator must give authorised driver copy of taxi service bailment agreement

‘An accredited operator who has entered into a taxi service bailment agreement with an authorised driver must give a copy of the taxi service bailment agreement to the authorised driver.

Maximum penalty—20 penalty units.

[s 80]

‘35P Accredited operator must keep a copy of taxi service bailment agreement

‘An accredited operator of a taxi service entering into a taxi service bailment agreement with an authorised driver must, unless the accredited operator has a reasonable excuse, keep a copy of the agreement for—

- (a) the duration of the agreement; and
- (b) 5 years from the day the agreement ends.

Maximum penalty—20 penalty units.

Note—

See the *Electronic Transactions (Queensland) Act 2001*, section 20 about keeping written documents.

‘35Q Authorised driver must not drive taxi unless taxi service bailment agreement entered into

‘An authorised driver must not drive a taxi for an accredited operator unless a taxi service bailment agreement with the accredited operator is entered into.

Maximum penalty—10 penalty units.

‘35R Authorised person may request particular information

- ‘(1) An authorised person may ask an accredited operator to give the authorised person—
 - (a) a copy of a taxi service bailment agreement the accredited operator has entered into with an authorised driver; or
 - (b) if the accredited operator states that an authorised driver is an employee of the accredited operator—a statutory declaration that the authorised driver is an employee of the accredited operator.
- ‘(2) When making a request under subsection (1), the authorised officer must warn the accredited operator it is an offence to

fail to comply with the request, unless the accredited operator has a reasonable excuse.

- ‘(3) An accredited operator must, unless the accredited operator has a reasonable excuse, comply with the request under subsection (1).

Maximum penalty—20 penalty units.

- ‘(4) In this section—

authorised person means an authorised person under section 111(1) or (2)(a).

statutory declaration means a declaration made under the *Oaths Act 1867*.’.

81 Insertion of new s 101A

Chapter 9—

insert—

‘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.’.

82 Amendment of s 129Y (Definitions for pt 4B)

- (1) Section 129Y, heading, ‘Definitions’—

omit, insert—

‘Definition’.

- (2) Section 129Y, definitions *exclusion order, proper officer, public transport network* and *relevant offence*—

omit.

83 Amendment of s 129ZA (Court may make exclusion order)

- (1) Section 129ZA(2)(b)—

[s 84]

omit, insert—

‘(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.’

(2) Section 129ZA(3), from ‘the order—’—

omit, insert—

‘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.’

84 Amendment of s 129ZB (Matters court must consider in deciding whether to make exclusion order)

(1) Section 129ZB(1)—

insert—

‘(aa) whether the person is subject to a civil banning order;’

(2) Section 129ZB(1)(b), ‘would cause substantial’—

omit, insert—

‘is likely to cause undue’.

85 Amendment of s 129ZC (Exclusion order to be explained if person before the court)

Section 129ZC—

insert—

‘(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.’.

86 Amendment of s 129ZD (Amendment or revocation of exclusion order generally)

Section 129ZD(2), ‘6 months’—

omit, insert—

‘3 months’.

87 Amendment of s 129ZG (Offence to contravene exclusion order)

- (1) Section 129ZG(2)(c)(iii), after ‘relates’—

insert—

‘reasonably’.

- (2) Section 129ZG(2)(c), example, after ‘A person to whom an exclusion order’—

insert—

‘applies’.

88 Insertion of new ch 11, pt 4C

Chapter 11—

insert—

[s 88]

‘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
- (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—

- (a) if an interim civil banning order is made—the day on which the interim civil banning order is made; or

[s 88]

- (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);
 - (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 be accompanied by any affidavit the authorised person intends to rely on at the hearing of the application.
- ‘(3) 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.

‘129ZO Making a civil banning order

- ‘(1) The court may make a civil banning order for a respondent if satisfied—
 - (a) within 12 months before the date of the application for the civil banning order—

[s 88]

- (i) the respondent committed a relevant act of violence; or
 - (ii) the respondent has been 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*, part 3; 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;
 - (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).
- '(6) For subsection (7), definition *dealt with*, a reference in the *State Penalties Enforcement Act 1999*, part 3 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*, part 3—
- (a) the respondent has paid the fine for the infringement notice in full;

[s 88]

- (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) the respondent's liability under the infringement notice has otherwise been discharged against the respondent under that Act, other than having been withdrawn under section 28, or cancelled under section 30, 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—
 - (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—
 - (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.

[s 88]

‘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.
- ‘(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 explained

- ‘(1) Subsection (2) applies if a respondent appears before a court hearing an application for a civil banning order or an interim civil banning order for the respondent.
- ‘(2) Before making the order, the court 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.
- ‘(3) Subsection (4) applies if a respondent did not appear before a court when the court made a civil banning order or an interim civil banning order for the respondent.

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- ‘(4) 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.
- ‘(5) The explanation under subsection (2) or (4) must be made in language or in a way likely to be readily understood by the respondent.
- ‘(6) Failure to comply with this section does not affect the validity of the civil banning order.

‘129ZT Civil banning order to be given to interested persons

- ‘(1) The proper officer of the Magistrates Court that makes a civil banning order, or an order varying or revoking a civil banning order, in relation to a respondent 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 respondent; and
 - (ii) the commissioner of the police service, or someone authorised to accept the order on the commissioner’s behalf; and
 - (iii) the chief executive; and
 - (iv) the chief executive officer under the *Transport Operations (TransLink Transit Authority) Act 2008*.
- ‘(2) The written order prepared under subsection (1) must include—
 - (a) the name of the respondent; and
 - (b) the period for which the order applies; and

- (c) the prohibitions or restrictions that the order imposes.
- ‘(3) Failure to comply with this section does not affect the validity of the 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.

‘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

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- (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—

- (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—

- (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

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- (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.

‘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).

‘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.

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- ‘(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.
- ‘(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.
- ‘(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.’.

89 Amendment of s 148 (Inquiries about person’s suitability to hold accreditation or authorisation)

- (1) Section 148(2), after ‘criminal history’—

insert—

‘or whether the person is or has been subject to a relevant order for an offence mentioned in schedule 1A, part 1’.
- (2) Section 148—

insert—
- ‘(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

[s 90]

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 CCYPCG Act—the duration and details of the disqualification order;
- (c) if the person is or has been subject to an offender prohibition order—
 - (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.’.

90 Insertion of new s 148BA

After section 148B—

insert—

‘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).
- ‘(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.’.

91 Insertion of new ch 13, pt 11

Chapter 13—

insert—

[s 91]

‘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.

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.’

92 Amendment of sch 1 (Disqualifying offences—provisions of the Criminal Code)

(1) Schedule 1, part 1, item 19—

omit.

(2) Schedule 1—

insert—

‘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)’.

[s 93]

93 Amendment of sch 1A (Driver disqualification offences)

(1) Schedule 1A, authorising provision, ‘definition *driver disqualifying offence*’—

omit, insert—

‘definitions *category A driver disqualifying offence, category B driver disqualifying offence* and *category C driver disqualifying offence*’.

(2) Schedule 1A, part 1, before division 1—

insert—

‘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 or child abuse photograph)
- 2 section 13 (Possession of prohibited publication)

-
- 3 section 14 (Possession of child abuse publication or child abuse photograph)
 - 4 section 15 (Exhibition or display of prohibited publication or child abuse photograph)
 - 5 section 16 (Leaving prohibited publication or child abuse photograph 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 or child abuse photograph)
 - 10 section 20 (Leaving prohibited publication or child abuse photograph in or on private premises)'.
 - (3) Schedule 1A, part 1, division 1, items 3, 8 and 11—
omit.
 - (4) Schedule 1A, part 1, division 1—
insert—
 - '3 section 213 (Owner etc. permitting abuse of children on premises)
 - 6A section 218 (Procuring sexual acts by coercion etc.), if the offence was committed against a child
 - 8 section 219 (Taking child for immoral purposes)
 - 8A section 221 (Conspiracy to defile), if the offence was committed against a child
 - 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)
 - 11 section 229B (Maintaining a sexual relationship with a child)

[s 93]

- 12A section 229G (Procuring engagement in prostitution), only if an offender was or could have been liable as mentioned in section 229G(2)
- 12B section 229H (Knowingly participating in provision of prostitution), only if an offender was or could have been liable as mentioned in section 229H(2)
- 12C 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)
- 12D section 229L (Permitting young person etc. to be at place used for prostitution)
- 12E section 300 (Unlawful homicide), only if the unlawful killing is murder under section 302 and was committed against a child
- 14 section 350 (Attempt to commit rape), if the offence was committed against a child
- 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’.
- (5) Schedule 1A, part 1—
insert—

‘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
- 3 section 474.19 (Using a carriage service for child pornography material)

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- 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)
 - 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)’.

[s 94]

- (6) Schedule 1A, part 2, entry for the *Drugs Misuse Act 1986*—
omit.
- (7) Schedule 1A, part 3, division 1, item 17—
omit.
- (8) Schedule 1A, part 3—
insert—

**‘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)’.

94 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *authorised person*, *proper officer*, *public transport network* and *relevant offence*, for chapter 11, part 4 and chapter 11, part 4B—
omit.
- (2) Schedule 3—
insert—
‘act of violence, for chapter 11, part 4C, see section 129ZH.
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.

CCYPCG Act means the *Commission for Children and Young People and Child Guardian Act 2000*.

civil banning order, for chapter 11, part 4C, see section 129ZJ(1).

copy, of a taxi service bailment agreement, includes any change of the taxi service bailment agreement.

imprisonment order means an imprisonment order under the CCYPCG Act.

interim civil banning order, for chapter 11, part 4C, see section 129ZP(2).

light rail manager, for a light rail, see the *Transport Infrastructure Act 1994*, schedule 6.

light rail operator, for a light rail, see the *Transport Infrastructure Act 1994*, schedule 6.

proper officer, of a court making a civil banning order or exclusion order, has the meaning given by the *Penalties and Sentences Act 1992*, section 4.

public transport network means the following—

- (a) all general route services;
- (b) all public transport infrastructure associated with a general route service.

relevant offence—

- (a) for chapter 11, part 4—see section 126P; or
- (b) for chapter 11, part 4B or 4C—means an offence against a relevant provision as defined under section 143AHA(3).

relevant order means—

- (a) an imprisonment order; or
- (b) the obligations or an order mentioned in the CCYPCG Act, section 170(b).

respondent, for chapter 11, part 4C, see section 129ZJ(1).’.

- (3) Schedule 3, definition *category A driver disqualifying offence*, from ‘when the person’ to ‘the Criminal Code’—

[s 94]

omit, insert—

‘who is subject to an obligation or order mentioned in the CCYPCG Act, section 170(b), or by a person when the person was at least 17 years and for which an imprisonment order is or was imposed—

(a) an offence against a provision of an Act’.

- (4) Schedule 3, definition *category B driver disqualifying offence*, paragraph (a)(i), ‘*Commission for Children and Young People and Child Guardian Act 2000*’—

omit, insert—

‘CCYPCG Act’.

- (5) Schedule 3, definition *category B driver disqualifying offence*, paragraph (b), ‘person was under 17 years.’—

omit, insert—

‘person was—

- (i) under 17 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 CCYPCG Act, section 170(b); or
- (ii) at least 17 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 CCYPCG Act, section 170(b).’.

- (6) Schedule 3, definition *public transport infrastructure*—

insert—

‘(ca) a light rail;

(cb) a light rail vehicle or other public passenger vehicle being operated by a light rail manager, or light rail operator, for a light rail;

- (cc) a car park under the control of a light rail manager, or light rail operator, for a light rail;
- (cd) facilities for passengers to interchange between light rail and other modes of transport under the control of a light rail manager, or light rail operator, for a light rail;’.

Part 12 Amendment of Transport Operations (Road Use Management) Act 1995

95 Act amended

This part amends the *Transport Operations (Road Use Management) Act 1995*.

96 Amendment of s 31 (Power to stop private vehicles)

Section 31(1), note—

omit.

97 Amendment of s 49 (Power to require documents to be produced)

Section 49(2D), note—

omit.

98 Amendment of s 77 (Restricted release of person’s prescribed authority and traffic history information)

(1) Section 77, heading, after ‘Restricted’—

insert—

‘written’.

(2) Section 77(1) and (2), after ‘may release’—

[s 99]

insert—

‘, in writing.’.

99 Insertion of new s 77AA

After section 77—

insert—

‘77AA 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 prescribed authority or traffic history.
- ‘(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.’.

100 Amendment of s 79 (Vehicle offences involving liquor or other drugs)

- (1) Section 79(1D) and (1E), ‘subsection (2)’—

omit, insert—

‘subsection (1F), (2)’.

- (2) Section 79—

insert—

- ‘(1F) Offence of driving etc. while over middle alcohol limit but not over high alcohol limit

Any person who, while the person is over the middle alcohol limit but is not over the high alcohol limit—

- (a) drives a motor vehicle, tram, train or vessel; or

-
- (b) attempts to put in motion a motor vehicle, tram, train or vessel; or
- (c) is in charge of a motor vehicle, tram, train or vessel; is guilty of an offence and liable to a penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 6 months.’.
- (3) Section 79(2), ‘high’—
omit, insert—
‘middle’.
- (4) Section 79(2F) to (2I) and (4), ‘subsection (2)’—
omit, insert—
‘subsection (1F), (2)’.
- (5) Section 79(4)(b)—
omit, insert—
‘(b) that at the material time the defendant—
- (i) was over the middle alcohol limit; or
 - (ii) was over the general alcohol limit; or
 - (iii) was a person to whom subsection (2A), (2B), (2D), (2J), (2K) or (2L) referred and was over the no alcohol limit;’.
- (6) Section 79(4A), ‘subsection (2)’—
omit, insert—
‘subsection (1F) or (2)’.
- (7) Section 79(6), after ‘(1)(c),’—
insert—
‘(1F)(c),’.
- (8) Section 79(6)(a)(iv)(A) and (B)—
renumber as section 79(6)(a)(iv)(B) and (C).
- (9) Section 79(6)(a)(iv)—

[s 100]

insert—

‘(A) the middle alcohol limit; or’.

(10) Section 79(6)(d) and (9), after ‘subsection (1),’—

insert—

‘(1F),’.

(11) Section 79(9), from ‘until the time’—

omit, insert—

‘until—

(a) the court revokes the order in the interests of justice; or

(b) the time when the charge is heard and decided or otherwise disposed of.’.

(12) Section 79(9A), ‘subject to subsection (10)’—

omit, insert—

‘subject to the following—

(a) subsection (10);

(b) the *Bail Act 1980*, section 20(3AA) to the extent the section provides that the person need not appear personally if the person is represented by the person’s lawyer.’.

(13) Section 79(10), from ‘if it is satisfied’—

omit, insert—

‘if it is satisfied—

(a) on medical or other evidence placed before the court that the person’s failure to appear before it was caused by any medical or other circumstance making the person physically incapable of appearing before the court; or

(b) making the order would not otherwise be in the interests of justice.’.

(14) Section 79, after subsection (10)—

insert—

‘(10AA) A Magistrates Court has and may exercise a discretion to make an order revoking an order made under subsection (9) if it is satisfied revoking the order is in the interests of justice.’

101 Amendment of s 79A (When is a person over the limit)

Section 79A—

insert—

‘(2A) For this Act, a person is over the *middle alcohol limit* if—

- (a) the concentration of alcohol in the person’s blood is, or is more than, 100mg of alcohol in 100mL of blood; or
- (b) the concentration of alcohol in the person’s breath is, or is more than, 0.100g of alcohol in 210L of breath.’

102 Amendment of s 79B (Immediate suspension or disqualification)

Section 79B(1), after paragraph (a)—

insert—

‘(ab) charged under section 79(1F) with an offence; or’.

103 Amendment of s 79E (Court may allow particular person whose licence is suspended under s 79B to drive)

Section 79E(1)(a), after ‘79B(1)(a),’—

insert—

‘(ab),’.

104 Amendment of s 79G (When person is disqualified while section 79E order applies)

Section 79G(3), definition *suspended licence*, after ‘79B(1)(a),’—

insert—

‘(ab),’.

[s 105]

105 Amendment of s 80 (Breath and saliva tests, and analysis and laboratory tests)

- (1) Section 80(2), subsection heading, after ‘breath’—
insert—
‘or saliva’.
- (2) Section 80(2), (15G) and (16F), ‘2 hours’—
omit, insert—
‘3 hours’.
- (3) Section 80(2), after ‘by the person’—
insert—
‘, a specimen of saliva for a saliva test by the person, or both’.
- (4) Section 80(2AA)—
omit.
- (5) Section 80(2B)(a), (2C), (3), (5), (5A), (6)(b) and (8C), ‘, (2AA)’—
omit.
- (6) Section 80(4)—
omit, insert—
‘(4) Time limits for requirement for specimen
‘A requirement must not be made under subsection (2) or (2A) unless it is made as soon as practicable and within 3 hours after the event happens that authorises the police officer to make the requirement under the subsection.’.
- (7) Section 80(8D)(b)—
omit, insert—
‘(b) the requirement is made as soon as practicable and within 3 hours of the event that authorises the police officer to make the authorising requirement.’.
- (8) Section 80(8J), after ‘Operator of’—
insert—

-
- ‘saliva’.
- (9) Section 80(8J), ‘breath analysing instrument or’—
omit.
- (10) Section 80(8J)(b), from ‘the specimen of breath’ to ‘analysis or’—
omit.
- (11) Section 80(10)(a)—
omit, insert—
‘(a) is a person whom a police officer may require under subsection (2) or (2A) to provide a specimen of breath for a breath test or a specimen of saliva for a saliva test; and’.
- (12) Section 80(10E), ‘mentioned in subsection (10)(a)(i)’—
omit, insert—
‘whom a police officer may require under subsection (2) or (2A) to provide a specimen of breath for a breath test’.
- (13) Section 80(10EA), ‘mentioned in subsection (10)(a)(ii)’—
omit, insert—
‘whom a police officer may require under subsection (2) or (2A) to provide a specimen of saliva for a saliva test’.
- (14) Section 80(15), ‘must deliver—’—
omit, insert—
‘must—’.
- (15) Section 80(15)(a)—
omit, insert—
‘(a) either—
(i) if the specimen was analysed by the police officer who made the requisition—retain 1 copy of the certificate; or

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- (ii) otherwise—deliver 1 copy of the certificate to the police officer who made the requisition; and’.
- (16) Section 80(15)(b), ‘the other’—
omit, insert—
‘deliver the other’.
- (17) Section 80(15B), ‘and must deliver’—
omit, insert—
‘and must’.
- (18) Section 80(15B)(g)—
omit, insert—
‘(g) either—
 - (i) if the operator of the breath analysing instrument is the police officer who made the requisition—retain 1 copy of the certificate; or
 - (ii) otherwise—deliver 1 copy of the certificate to the police officer who made the requisition; and’.
- (19) Section 80(15B)(h), ‘the other copy’—
omit, insert—
‘deliver the other copy’.
- (20) Section 80(16F), ‘Two’—
omit, insert—
‘Three’.

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

- Section 81(1) and (2)—
omit, insert—
‘(1) A police officer may serve a notice on a person if—

- (a) the police officer believes on reasonable grounds that the person has committed an offence against—
 - (i) section 79(2), (2A), (2B), (2D), (2K) or (2L); or
 - (ii) section 79(2J) while the person is the holder of a restricted licence; and
- (b) the person has not, within the 5 years before the alleged offence, been convicted of an offence against section 79 or 80(11).’.

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

- (1) Section 86(1)(b), (1F), (1G) and (2), ‘79(2)’—
omit, insert—
‘79(1F), (2)’.
- (2) Section 86(2)(e), after ‘restricted licence’—
insert—
‘, if paragraph (ea) does not apply’.
- (3) Section 86(2)—
insert—
‘(ea) if the person is convicted of an offence in relation to a motor vehicle against section 79(1F)—for a period of not less than 3 months and not more than 12 months from the date of the conviction from holding or obtaining a Queensland driver licence; or’.
- (4) Section 86(2B), (2D), (2F), (3E) and (3F), ‘79(2)’—
omit, insert—
‘79(1F), (2)’.

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

- (1) Section 87(5)(db)(i), ‘79(2)’—

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omit, insert—

‘79(1F) or (2)’.

- (2) Section 87(5B)—

insert—

‘(da) if the disqualification for which the application is made resulted from the applicant’s conviction for an offence against section 79(1F)—a suspension under section 79B resulting from the applicant being charged with the offence; or’.

- (3) Section 87—

insert—

- ‘(5C) For subsection (5)(f), if—

- (a) the disqualification for which the application is made resulted from the applicant’s conviction for an offence against section 79(1F); and
(b) immediately before the disqualification, the applicant’s provisional or open licence was suspended under section 79B(2) as a result of the applicant being charged with the offence;

despite section 127(4), the applicant is the holder of a provisional or open licence immediately before the disqualification.’.

109 Amendment of s 90A (Definitions for ss 90B–90D)

Section 90A, definition *designated offence*, paragraph (a)(i), and definition *drink driving offence*, paragraph (a)(ii), after ‘79(1),’—

insert—

‘(1F),’.

110 Amendment of s 91I (Definitions for pt 3B)

Section 91I, definition *drink driving offence*, paragraph (g),
'79(2)'—

omit, insert—

'79(1F), (2)'.

111 Amendment of s 91Q (Deciding application for interlock exemption)

Section 91Q(3)(a)—

omit, insert—

'(a) that one of the following applies in relation to the applicant's principal place of residence (the *applicant's residence*)—

- (i) the shortest reasonable distance, or shortest reasonable travelling time, using a motor vehicle, between the applicant's residence and the nearest place of business of a prescribed interlock installer (the *nearest place of business*) is greater than the distance or time prescribed under a regulation;
- (ii) the applicant's residence is at a location, prescribed under a regulation, from which the nearest place of business is not reasonably accessible using a motor vehicle; or
- (iii) the applicant's residence is outside both of the following—
 - (A) a radius prescribed under a regulation from the nearest place of business;
 - (B) an area in which a prescribed interlock installer provides or operates a mobile service for the installation of interlocks; or'.

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112 Omission of s 170A (Expiry and amendment of certain provisions)

Section 170A—

omit.

113 Insertion of new ch 7, pt 16

After section 222—

insert—

‘Part 16 Transitional provision for Transport and Other Legislation Amendment Act 2011

‘223 Amendment of Transport Operations (Road Use Management—Driver Licensing) Regulation 2010

‘The amendment of a regulation by the *Transport and Other Legislation Amendment Act 2011* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

114 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘*middle alcohol limit* see section 79A.’.

Part 13 **Amendment of Transport
Operations (Road Use
Management—Driver
Licensing) Regulation 2010**

115 **Regulation amended**

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

116 **Amendment of s 90 (Definitions for pt 13)**

Section 90, definition *suspended licence*, after ‘79B(1)(a),’—
insert—
‘(ab),’.

Part 14 **Amendment of Transport
Planning and Coordination Act
1994**

117 **Act amended**

This part amends the *Transport Planning and Coordination Act 1994*.

118 **Amendment of s 27 (Power of chief executive to lease,
sell or otherwise dispose of land)**

Section 27, heading, after ‘land’—
insert—
‘**for transport purpose**’.

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119 Replacement of s 27A (Power of chief executive to dispose of land subject to easement)

Section 27A—

omit, insert—

‘27A Power of chief executive to dispose of land

- ‘(1) This section applies if—
- (a) land has been acquired under this part, and is no longer required by the chief executive as the constructing authority, under the *Acquisition of Land Act 1967*; and
 - (b) the chief executive intends to offer the land to the former owner.
- ‘(2) Also, this section applies despite the *Acquisition of Land Act 1967*, section 41.
- ‘(3) Subsection (4) applies if the chief executive reasonably believes an easement over all or part of the land is necessary to ensure the structural and operational integrity of transport infrastructure.
- ‘(4) The chief executive must lodge with the registrar of titles the documents that the registrar considers necessary to evidence the easement in favour of the chief executive in the appropriate register.
- ‘(5) The chief executive must, within 7 years after the date of acquisition, give notice of the chief executive’s intention (the *chief executive’s notice*) to offer the land to the former owner.
- ‘(6) The chief executive’s notice must—
- (a) be in writing; and
 - (b) state that—
 - (i) the chief executive intends to sell the land; and
 - (ii) if the chief executive has registered the easement mentioned in subsection (4)—the easement has been registered and the nature and terms of the easement; and

- (iii) the former owner must, within 28 days after the notice is given (the *relevant time*), give written notice to the chief executive (the *former owner's notice*) about whether the former owner is interested in buying the land; and
 - (iv) if the chief executive does not receive the former owner's notice within the relevant time, the formal offer lapses and the chief executive may dispose of the land subject to any easement mentioned in subsection (3).
- '(7) Subsection (8) applies if the chief executive—
 - (a) receives, within the relevant time, the former owner's notice stating the former owner is not interested in buying the land; or
 - (b) does not receive the former owner's notice within the relevant time.
- '(8) The chief executive may, for the State, dispose of the land subject to any easement in favour of the chief executive.
- '(9) Subsection (10) applies if the chief executive receives, within the relevant time, the former owner's notice stating the former owner is interested in buying the land.
- '(10) The chief executive must offer (the *formal offer*) the land, subject to any easement, for sale to the former owner at a price (the *sale price*) decided by the chief executive.
- '(11) The formal offer must be in writing.
- '(12) In deciding the price at the which the land may be sold under subsection (8) or the sale price, the chief executive must take into account—
 - (a) a valuation by a registered valuer; and
 - (b) the policies and systems relating to the management of government assets; and
 - (c) the existence of any easement.
- '(13) A person contracting or otherwise dealing with the chief executive is not concerned to inquire whether the

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requirements of this section have been complied with, and the title of the person to land acquired from the chief executive is not affected by a failure to comply with the requirements.

‘(14) In this section—

former owner see the *Acquisition of Land Act 1967*, section 41(2).

registered valuer means a valuer registered under the *Valuers Registration Act 1992*.’.

Part 15 Amendment of Transport (Rail Safety) Act 2010

120 Act amended

This part amends the *Transport (Rail Safety) Act 2010*.

121 Amendment of s 42 (Exemption may be granted)

Section 42(1) and (3), ‘private isolated’—

omit, insert—

‘low risk’.

122 Amendment of s 43 (Application for exemption)

Section 43(1), ‘private isolated’—

omit, insert—

‘low risk’.

123 Amendment of s 44 (What applicant must demonstrate and conditions that may be imposed)

Section 44(2)(b)(i)—

omit.

124 Insertion of new pt 12A

After section 267—

insert—

‘Part 12A Protection for whistleblowers

‘267A Application of pt 12A

‘This part applies to a person other than a person who makes a disclosure as a public officer under the *Public Interest Disclosure Act 2010*.

‘267B General limitation

- ‘(1) A person (the *disclosing person*) is not civilly or criminally liable for disclosing information to an official about a person’s conduct, whether committed before or after the commencement of this section, that the disclosing person honestly believes, on reasonable grounds, contravenes this Act.
- ‘(2) Without limiting subsection (1)—
- (a) in a proceeding for defamation, the disclosing person has a defence of absolute privilege for publishing the disclosed information; and
 - (b) if the disclosing person would otherwise be required to maintain confidentiality about the disclosed information under an Act, agreement, oath, rule of law or practice, the disclosing person does not—

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- (i) contravene the Act, oath, rule of law or practice by making the disclosure; or
 - (ii) breach the agreement by making the disclosure.
- ‘(3) In this section—
agreement includes a contract or deed.

‘267C Liability for conduct unaffected

- ‘(1) The liability of the disclosing person for his or her own conduct is not affected only because the disclosing person discloses the conduct to an official.
- ‘(2) However, a court may have regard to the disclosure if—
- (a) the disclosing person is prosecuted for an offence involving the conduct; and
 - (b) the disclosing person’s conduct was in compliance with an express instruction of a rail transport operator or someone authorised by a rail transport operator to give the instruction.
- ‘(3) Subsection (2) does not limit the *Penalties and Sentences Act 1992*.’

125 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definition *private isolated railway*—
omit.
- (2) Schedule 3—
insert—
‘disclosing person see section 267B(1).
low risk railway means a railway not connected to or associated with—
- (a) railway tracks, or any other rail infrastructure, of another railway; or
 - (b) a rail or public road crossing.

rail or public road crossing means a part of a public road's road transport infrastructure, as defined under the *Transport Infrastructure Act 1994*, schedule 6, that is—

- (a) a level crossing as defined under the Queensland Road Rules, section 120; or
 - (b) an area where a footpath, as defined under the *Transport Operations (Road Use Management) Act 1995*, schedule 4, crosses a railway at substantially the same level; or
 - (c) an area where a shared path, as defined under the Queensland Road Rules, section 242, crosses a railway at substantially the same level; or
 - (d) a bridge carrying a public road over a railway; or
 - (e) a bridge carrying a railway over a public road; or
 - (f) a lane of a public road on which rolling stock moves alongside road vehicles on the public road.'
- (3) Schedule 3, definition *rail or road crossing*, paragraph (b), after '*Transport*'—
- insert—*
- 'Operations'*.