

Queensland



Subordinate Legislation 1994 No. 139

Traffic Act 1949

**TRAFFIC AMENDMENT REGULATION (No. 1)
1994**

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Short title

1. This regulation may be cited as the *Traffic Amendment Regulation (No. 1) 1994*.

Commencement

2. This regulation commences on 9 May 1994.

Regulation amended

3. This regulation amends the *Traffic Regulation 1962*.

Amendment of s 4 (Interpretation)

4.(1) Section 4, heading—

omit, insert—

‘Definitions’.

(2) Section 4—

insert—

‘**“doctor”** includes a person registered under a law corresponding to the *Medical Act 1939*;’.

Replacement of s 104 (Fitness of applicant to be determined)

5. Section 104—

omit, insert—

‘Determining applicant’s fitness to hold licence

‘**104.(1)** This section applies when a superintendent receives an application for the issue or renewal of a licence.

‘**(2)** To decide whether the applicant is an appropriate person to hold the licence, the superintendent may—

- (a) make an inquiry about the applicant’s appropriateness to hold the licence; or

- (b) for a driver's licence—
- (i) require the applicant to be tested under section 55A of the Act or section 107; or
 - (ii) require the applicant to produce a certificate from a doctor stating the applicant is medically fit to hold a licence for the class of motor vehicle applied for.’.

Amendment of s 106 (Age of driver)

6.(1) Section 106, heading—

omit, insert—

‘Restrictions on issue of driver’s licences’.

(2) Section 106(4), heading—

omit.

(3) Section 106(4)(c)—

omit, insert—

‘(c) who is not a permanent resident of Queensland; or’.

(4) Section 106(6)—

omit, insert—

‘**(6)** The requirements of subsection (4) also apply to the renewal of a driver’s licence.’.

Amendment of s 108C (Licence cancellation periods)

7. Section 108C(a), (b), (c)(i), (d)(i) and (e)(i), ‘or 134A’—

omit.

Omission of s 112 (Retesting driver)

8. Section 112—

omit.

Amendment of s 115 (Signature by licensee on licence)

9. Section 115(3)—

omit.

Replacement of s 116 (Conditions of licence)

10. Section 116—

omit, insert—

‘Conditions of licences

‘**116.(1)** A superintendent may grant a licence with conditions stated on the licence.

‘**(2)** The licensee must comply with the conditions of the licence while acting under the authority of the licence.

Maximum penalty—20 penalty units.

‘**(3)** However, if a condition of a driver’s licence is a requirement to carry a medical certificate, the licensee does not commit an offence under subsection (2) if the person produces the certificate within 48 hours to the officer in charge of a police station reasonably specified by the officer.’.

Replacement of s 117 (Aids to eyesight and hearing)

11. Section 117—

omit, insert—

‘Amendment of conditions

‘**117.(1)** In this section—

“amendment” of conditions on a licence includes the imposition of conditions on a licence that was unconditional before amendment.

‘**(2)** If a superintendent considers the conditions on a licence should be amended, the superintendent must give the licensee a written notice (the **“show cause notice”**) that—

- (a) states the way the conditions are proposed to be amended; and
- (b) states the reasons for the amendment; and

- (c) outlines the facts and circumstances forming the basis for the reasons; and
- (d) invites the licensee to show cause, within a specified time, why the conditions should not be amended.

‘(3) The time specified in subsection (2)(d) must be at least 28 days.

‘(4) The superintendent may, before or after the end of the specified time, extend the time within which the licensee must show cause.

‘(5) The superintendent may amend the conditions if, after considering any representations made within the time specified or allowed, the superintendent still believes the conditions should be amended—

- (a) in the way mentioned in the show cause notice; or
- (b) in another way, having regard to the representations.

‘(6) If the superintendent decides to amend the conditions, the superintendent must give the licensee a written notice stating—

- (a) the way in which the conditions have been amended; and
- (b) that the licensee may appeal against the decision under section 134C within the time specified in the section.

‘(7) Subsections (2) to (6) do not apply if the conditions of a licence are to be amended only—

- (a) by omitting a condition; or
- (b) for a formal or clerical reason; or
- (c) in another way that does not adversely affect the licensee’s interests.

‘(8) The superintendent may make an amendment of a type mentioned in subsection (7) by written notice given to the licensee.

‘(9) An amendment takes effect on the later of the following—

- (a) the day the notice is given to the licensee; or
- (b) the day specified in the notice.

‘Return of licence for alteration

‘**117AA.(1)** A superintendent may, by written notice, require the licensee to return the licence (in a way, and within a time, specified) to enable the conditions stated on the licence to be amended.

‘(2) The time specified must be at least 14 days.

‘(3) A licensee must comply with a notice under subsection (1), unless the person has a reasonable excuse not to comply with it.

Maximum penalty—20 penalty units.

‘(4) The licence conditions as amended under section 117 take effect from the appropriate day under section 117(9), even if the licensee does not return the licence for alteration.’

Amendment of s 127 (Reconsideration of decision by district superintendent of traffic)

12. Section 127—

omit.

Replacement of ss 134 and 134A

13. Sections 134 and 134A—

omit, insert—

‘Grounds for suspension or cancellation

‘**134.(1)** Each of the following is a ground for the suspension or cancellation of a licence—

- (a) for a driver’s licence or pilot vehicle driver’s licence—
 - (i) the licensee has a mental or physical incapacity that is likely to adversely affect the licensee’s ability to drive a class of motor vehicle for which the licensee is licensed to drive; or
 - (ii) having regard to the licensee’s traffic history, it is not desirable that the licensee be licensed to drive a motor vehicle;
- (b) the licence was obtained on the basis of incorrect or misleading

information;

- (c) the licensee has contravened a condition of the licence;
- (d) the licensee is not, or is no longer, an appropriate person to hold the licence.

‘(2) The question whether a person is, or continues to be, an appropriate person is decided in the same way as the question whether the person would be an appropriate person for the grant of the licence.

‘Procedure for suspension or cancellation

‘134A.(1) If a superintendent considers that reasonable grounds exist to suspend or cancel a licence (the “**action**”), the superintendent must give the licensee a written notice (the “**show cause notice**”) that—

- (a) states the action proposed; and
- (b) states the grounds for proposing to take the action; and
- (c) outlines the facts and circumstances forming the basis for the grounds; and
- (d) if the superintendent proposes to suspend the licence—states the proposed suspension period; and
- (e) invites the licensee to show cause, within a specified time, why the action proposed should not be taken.

Examples of paragraph (a)—

The superintendent may propose—

- (a) suspending a licensee’s licence for a period shorter than the remaining term of the licence; or
- (b) cancelling a licensee’s licence and prohibiting the licensee from applying for another licence for a period equal to, or longer than, the remaining term of the cancelled licence; or
- (c) cancelling a licensee’s licence but allowing the licensee to apply immediately for another specified type of licence.

‘(2) The time specified in subsection (1)(e) must be—

- (a) for the ground mentioned in section 134(1)(a)(i)—at least 48 hours; or

(b) otherwise—at least 28 days.

‘(3) The superintendent may, before or after the end of the specified time, extend the time within which the licensee may show cause.

‘(4) The licensee may show cause by personal or written representations.

‘(5) If, after considering any representations made within the time specified or allowed, the superintendent still believes that grounds to take the action exist, the superintendent may—

- (a) if the show cause notice was a notice of intention to suspend the licence for a specified period—suspend the licence for a period not longer than the specified period; or
- (b) if the show cause notice was a notice of intention to cancel the licence—
 - (i) cancel the licence; or
 - (ii) suspend the licence for a period.

‘(6) The superintendent may suspend or cancel a driver’s licence by a suspension or cancellation relating to any or all of the classes of motor vehicle that the licence authorises the licensee to drive.

‘(7) The superintendent must inform the licensee of the decision by written notice.

‘(8) If the superintendent decides to suspend or cancel the licence, the notice must state—

- (a) the reasons for the decision; and
- (b) that the licensee may apply for reconsideration of the decision under section 134C within the time specified in the section.

‘(9) Except for a ground mentioned in section 134(1)(b), the decision takes effect on the later of the following¹—

- (a) the day the notice is given to the licensee; or
- (b) the day specified in the notice.

¹ Section 53(2) of the Act applies for a ground mentioned in section 134(1)(b).

‘Return of suspended or cancelled licence

‘134B.(1) Having suspended or cancelled a person’s licence, the superintendent may give the person a written notice requiring the person to return the licence in a way, and within a time, specified.

‘(2) The time specified must be at least 14 days.

‘(3) The person must comply with the notice, unless the person has a reasonable excuse not to comply with it.

Maximum penalty—20 penalty units.

‘(4) The superintendent must return a suspended licence to the licensee at the end of the suspension period.

‘Reconsideration of decision by chief executive or Commissioner

‘134C.(1) An applicant for a licence may apply in the approved form for the chief executive or Commissioner to reconsider the superintendent’s decision to refuse to grant the licence.

‘(2) A licensee may apply in the approved form for the chief executive or Commissioner to reconsider the superintendent’s decision—

- (a) to refuse to renew a licence; or
- (b) to impose a condition on a licence; or
- (c) to amend a condition on a licence; or
- (d) to suspend or cancel a licence under section 134A.

‘(3) The application must be made within 28 days after the date of the written notice of the decision.

‘(4) The applicant or licensee may offer further information in support of the application.

‘(5) After reconsideration, the chief executive or Commissioner may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision.

‘(6) The chief executive or Commissioner must promptly give the applicant or licensee written notice of the decision.

‘(7) The notice must state that, if the applicant or licensee is dissatisfied with the decision, the applicant or licensee may appeal against the decision under section 57 of the Act.’

Amendment of s 135 (Effect of cancellation or suspension of licence)

14. Section 135(a)(ii)—

omit, insert—

‘(ii) in any other case—on the appropriate day under section 134A(9);’.

Amendment of s 136 (Production and seizure of licence)

15.(1) Section 136, heading—

omit, insert—

‘**Seizure of licences**’.

(2) Section 136(1)—

omit.

(3) Section 136(2), heading—

omit.

Amendment of s 137 (Codes on drivers’ licences)

16. Section 137(1), table, from ‘L Modified’ to ‘certificate required’—

omit, insert—

‘L Controls must be modified

M Current medical certificate must be carried’.

Amendment of s 140 (Traffic offence penalties)

17.(1) Section 140(1A)(c), ‘117(2)’—

omit, insert—

‘116(2)’.

(2) Section 140(1A)(c), '134A'—
omit, insert—
'134B(3)'.

Amendment of s 186 (Applications for pilot vehicle licences)

18. Section 186(2), '127'—
omit, insert—
'134C'.

ENDNOTES

1. Made by the Governor in Council on 5 May 1994.
2. Notified in the Gazette on 6 May 1994.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Transport.