



Queensland

Transport Operations (Road Use Management—Driver Licensing) Regulation 2010

Subordinate Legislation 2010 No. 206

made under the

State Penalties Enforcement Act 1999

Transport Operations (Passenger Transport) Act 1994

Transport Operations (Road Use Management) Act 1995

Contents

		Page
Part 1	Preliminary	
1	Short title	11
2	Commencement	11
3	Definitions	11
Part 2	Queensland driver licence is authority to drive	
4	Motorbike licences	11
5	Other types of licences	12
6	Only 1 Queensland driver licence to be held at the same time ..	14
7	Licence must be valid	15
Part 3	Eligibility for Queensland driver licences	
Division 1	Minimum age	
8	Minimum age—class C learner licence	15
9	Minimum age—licence other than class C learner licence	15
Division 2	Testing	
10	Tests	16

Contents

Division 3	Learner licences	
11	Learner licence—class RE	20
12	Learner licence—class HC	20
Division 4	Provisional or probationary licences	
13	Provisional or probationary licence—class RE	21
14	Provisional or probationary licence—class C	25
Division 5	Open licences	
15	Open licence—class RE	28
16	Open licence—class C	32
Division 6	Upgrading licences	
17	Upgrading licence class	35
18	Upgrading class RE licence to class R licence	37
Division 7	Other eligibility criteria	
19	Other provisions about general eligibility	37
Division 8	Special need for licences	
20	Special need—learner or provisional licence	38
21	Special need—HC licence	39
Division 9	Licence applications	
22	Applying for licence	41
23	Deciding application for licence	41
Division 10	Licence duration and conditions	
24	Duration of licence	43
25	Conditions on licence	43
Division 11	Working out period a person has held a licence	
26	Working out period a person has held a licence	43
Part 4	Additional eligibility requirements for class C P1 provisional licences for young drivers	
27	Object of pt 4	44
28	Application of pt 4	44
29	Requirements	44
30	Logbook	45
31	Verification of logbook entries by supervisor etc.	46
32	Approval of completed logbook by chief executive	47
33	Credit for other driving experience	49
34	Exemption from logbook requirements	53

35	Taking of practical driving test to be eligible for class C P1 provisional licence	54
Part 5	Eligibility requirements for motorbike licences for persons with particular physical incapacities	
Division 1	Preliminary	
36	Object of pt 5	56
37	Application of pt 5	56
Division 2	Special need—class RE or R licence	
38	Special need for a class RE or R licence	56
Division 3	Eligibility for motorbike licence	
Subdivision 1	Preliminary	
39	Definition for div 3	59
Subdivision 2	Eligibility for class RE provisional, probationary or open licence	
40	Application of sdiv 2	59
41	P1 provisional or P1 probationary licence—class RE	59
42	P2 provisional or P2 probationary licence—class RE	60
43	P provisional or P probationary licence—class RE	60
44	Open licence—class RE	61
Subdivision 3	Eligibility for class R provisional, probationary or open licence	
45	Application of sdiv 3	61
46	P1 provisional or P1 probationary licence—class R	61
47	P2 provisional or P2 probationary licence—class R	62
48	P provisional or P probationary licence—class R	63
49	Open licence—class R	63
Part 6	Jet’s law: eligibility for licences and reporting of particular medical conditions	
50	Eligibility if mental or physical incapacity likely to adversely affect ability to drive safely	64
51	Responsibility to give notice of mental or physical incapacity likely to adversely affect ability to drive safely	65
Part 7	Renewal of open licences by electronic communication	
52	Definitions for pt 7	66
53	Application of pt 7	67
54	Notice that person may renew licence by electronic communication	67
55	When chief executive may renew licence	67

Contents

56	Renewal of open licence	68
Part 8	Display of plates	
Division 1	L plates	
57	Definition for div 1	68
58	Learner must not ride or drive unless L plates are displayed or fitted in the required way	69
59	Person must not direct a learner unless L plates are displayed or fitted in the required way	69
60	Other persons must not display L plates	70
Division 2	Red P plates and green P plates	
61	Holder of P1 type licence must not ride or drive unless red P plates are displayed or fitted in the required way	70
62	Holder of P2 type licence must not ride or drive unless green P plates are displayed or fitted in the required way	71
63	Other persons must not display P plates	71
Part 9	Other restrictions on driving	
64	Passengers on motorbikes	72
65	Towing vehicles	73
66	Licence holder 75 years or older	73
Part 10	Provisions relating to young drivers and their passengers	
67	Application of pt 10	74
68	Use of mobile phones by particular driver licence holders	74
69	Use of mobile phones by passengers	74
70	High-powered vehicles	75
71	Certificate of exemption—high-powered vehicles	76
72	Late night driving	79
73	Certificate of exemption—late night driving	81
74	Peer passengers	82
Part 11	Demerit points	
Division 1	Allocation	
75	Allocation of demerit points	84
76	Additional demerit points for driver seatbelt offences	85
77	Additional demerit points for motorbike rider helmet offences	86
78	Additional demerit points for driving more than 20km/h over the speed limit	86
Division 2	Suspension	
79	Queensland driver licence holder	87

80	Person subject to section 79E order.	90
81	Person subject to special hardship order	91
82	Non-Queensland driver licence holder	92
83	Former driver licence holder.	94
84	Unlicensed person	94
Part 12	Suspension for driving more than 40km/h over the speed limit	
85	Application of pt 12.	95
86	Queensland driver licence holder.	95
87	Non-Queensland driver licence holder	96
88	Unlicensed person	97
Part 13	Provisions relating to section 79E orders	
Division 1	Preliminary	
89	Purpose of pt 13.	98
90	Definitions for pt 13.	98
Division 2	Application for section 79E order	
91	Persons who are eligible, or not eligible, to apply for order	98
92	Applying for order	101
Division 3	Deciding application for section 79E order	
93	Hearing of application.	102
94	Deciding application	103
95	What order must state	104
Division 4	Variation of section 79E order	
96	Person may apply for order to vary restrictions	105
97	Applying for order	106
98	Hearing of application.	107
99	What order must state	108
Division 5	Driving under section 79E order	
100	Failing to comply with order	108
101	Suspension for allocation of demerit points while order applies.	109
102	Suspension for driving more than 40km/h over the speed limit while order applies	110
Part 14	Special hardship orders	
Division 1	Preliminary	
103	Purpose of pt 14.	111
104	Definitions for pt 14.	111

Contents

Division 2	Court may make special hardship order	
105	Court may authorise particular person whose licence has been suspended to continue to drive	111
Division 3	Application for special hardship order	
106	Persons who are eligible, or not eligible, to apply for order	112
107	Applying for order	113
108	Making of application for order stays suspension.	114
Division 4	Deciding application for special hardship order	
109	Hearing of application.	114
110	Similar applications may be considered together.	115
111	Deciding application	115
112	What order must state	116
113	Effect of court’s decision.	118
Division 5	Obtaining replacement licence	
114	Replacement licence if there is a special hardship order	118
Division 6	Variation of special hardship order	
115	Person may apply for order to vary restrictions	119
116	Applying for order	120
117	Hearing of application.	121
118	What order must state	122
Division 7	Driving under special hardship order	
119	Failing to comply with order	122
120	Suspension for allocation of demerit points—licence subject to good behaviour requirement.	123
121	Suspension for allocation of demerit points—other licence	124
122	Suspension for driving more than 40km/h over the speed limit while order applies	125
Part 15	Amending, surrendering, suspending or cancelling licences	
123	Surrendering licence	126
124	Grounds for amending, suspending or cancelling licences	126
125	Procedure for amending, suspending or cancelling licences	127
126	Immediate amendment or suspension of Queensland driver licence	129
127	Return of licence for amendment	130
Part 16	Recognition of other driver licences	
128	Non-Queensland driver licence	132

129	Defence force licence	134
Part 17	Miscellaneous	
130	Retesting—medical fitness	134
131	Retesting—Act, s 128.	135
132	Reconsideration of decision by chief executive	135
133	Change of name or address	138
134	Holder may apply for replacement licence if incorrect information on licence	139
135	Upgrading to smartcard driver licence	139
136	Smartcard driver licence not received in post	140
137	Replacement licence if licence damaged, lost or stolen	140
138	Notifiable events under other Acts	141
139	Replacement labels	141
140	Replacement driver licence receipt	142
141	Damaging licences	143
142	Dealing with superseded Queensland driver licence or driver licence receipt	143
143	Seizing licences	143
144	Codes on Queensland driver licences	143
145	Deciding whether vehicle is a class HC vehicle—number of trailers	144
146	Queensland driver licence may include information identifying holder of marine licence—Act, s 150A	144
147	Applying to include information on Queensland driver licence identifying holder of marine licence	144
148	Change of information on Queensland driver licence identifying holder of marine licence—change in conditions	145
149	Removal of information on Queensland driver licence identifying holder of marine licence—marine licence cancelled	146
150	Removal of information on Queensland driver licence identifying holder of marine licence—marine licence surrendered	147
151	Licence labels.	147
152	Application for restricted licence—Act, s 81	147
153	Particular licences can not be held simultaneously	148
154	Issue of restricted licences—Act, s 87	148
155	Issue of P2 restricted licences	148
156	Declaration for provisions that are not unlawful discrimination	149
157	Effect of suspension if licence must be held for a period	149

Contents

158	Disqualification from holding Queensland driver licence because of conviction under s 51	149
159	Fees	150
160	Exemption from payment of particular fees	150
161	Partial refund of fees	151
162	Licence granted to interstate licence holder—term and fees	152
Part 18	Repeal	
163	Repeal	152
Part 19	Transitional provisions	
164	Licence codes M and V	153
165	References to repealed regulation	153
Part 20	Amendment of State Penalties Enforcement Regulation 2000	
166	Regulation amended in pt 20	153
167	Amendment of sch 3 (Transport legislation)	153
	‘Transport Operations (Road Use Management—Driver Licensing) Regulation 2010	154
Part 21	Consequential amendments of other regulations	
168	Amendment of other regulations	156
Schedule 1	Fees	157
Schedule 2	Licence codes	159
Schedule 3	Demerit points	162
Part 1	8 demerit point offences	
1	Speeding—more than 40km/h over the speed limit	162
Part 2	6 demerit point offences	
2	Speeding—30–40km/h over the speed limit.	162
Part 3	4 demerit point offences	
3	Speeding—20–30km/h over the speed limit.	162
Part 4	3 demerit point offences	
4	Careless driving	163
5	Contravening condition of exemption under Fatigue Management Regulation	163
6	Contravening high-powered vehicle restriction.	163
7	Contravening late night driving restriction	163
8	Contravening peer passenger restriction	163
9	Contravention about returning or replacing accreditation certificate or exemption notice under Fatigue Management Regulation	163

10	Disobeying emergency traffic sign installed under Act, s 71(1) 164	
11	Disobeying particular red or yellow traffic lights or arrows	164
12	Disobeying stop or give way sign and other particular traffic control devices	164
13	Disobeying traffic lane arrows in roundabout	166
14	Driver failing to ensure passenger complies with particular requirement about wearing seat belt or occupying seating position	166
15	Driving on safety ramp or arrester bed when not permitted	166
16	Driving or parking vehicle on a road in particular circumstances .	166
17	Driving vehicle exceeding carrying capacity	166
18	Driving with person in or on trailer or prohibited part of vehicle . .	167
19	Driving with television receiver or visual display unit visible or likely to distract	167
20	Entering level crossing when train or tram approaching	167
21	Failing to comply with maximum work and minimum rest requirements—critical risk breach	167
22	Failing to comply with requirements about work records	168
23	Failing to give way, other than by disobeying a traffic sign	168
24	Failing to keep clear of police and emergency vehicles	169
25	Failing to keep left or keep off painted island	170
26	Failing to wear helmet, seat belt or restraint	170
27	False representations about accreditation or exemption under Fatigue Management Regulation	170
28	Improper turns	170
29	Particular licence holders using mobile phones	171
30	Speeding—13–20km/h over the speed limit	171
31	Using mobile phones	171
32	Using vehicle not in safe condition	171
33	Vehicle entering bicycle storage area before traffic lights showing a red traffic light	171
Part 5	2 demerit point offences	
34	Driving fatigue regulated heavy vehicle while impaired by fatigue	171
35	Failing to comply with maximum work and minimum rest requirements—severe risk breach	172
36	Failing to display or fit green P plates	172
37	Failing to display or fit L plates	172
38	Failing to display or fit red P plates	172

Contents

39	Failing to give proper change of direction signal	172
40	Failing to keep left	173
41	Failing to use slip lane	173
42	Improper overtaking, passing or driving to the right of centre of road	173
43	Improper passing or overtaking of trams	174
44	Improper turn, other than U-turn	174
45	Increasing speed when being overtaken	174
46	Injurious matter on roads	174
47	Unnecessary noise or smoke from vehicle.	174
Part 6	1 demerit point offences	
48	Dazzling road users	175
49	Failing to comply with condition stated on Queensland driver licence	175
50	Failing to comply with condition of non-Queensland driver licence	175
51	Failing to dip headlights	175
52	Failing to have lights lit	175
53	Failing to produce certificate of exemption for driving high-powered vehicle	175
54	Failing to produce certificate of exemption for late night driving.	175
55	Following too closely	176
56	Improper vehicle equipment, construction or loading.	176
57	Learner driving while not under direction of licensed driver.	176
58	Speeding—less than 13km/h over the speed limit	176
Schedule 4	Prescribed countries	177
Schedule 5	Remote area	179
Schedule 6	Exempted high-powered vehicles	182
Schedule 7	Prescribed motorbikes	183
Schedule 8	Consequential amendments of other regulations	184
	Transport Operations (Passenger Transport) Regulation 2005	184
	Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005	184
Schedule 9	Dictionary	185

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*.

2 Commencement

This regulation commences on 1 September 2010.

3 Definitions

The dictionary in schedule 9 defines particular words used in this regulation.

Part 2 Queensland driver licence is authority to drive

4 Motorbike licences

- (1) The holder of a class RE learner licence is authorised to learn to ride a class RE motorbike.
- (2) The holder of a class RE P1 type, P2 type, P type or open licence is authorised to ride a class RE motorbike.
- (3) The holder of a class RE provisional, probationary or open licence is authorised to learn to ride a class R motorbike, if the holder has held a class RE provisional, probationary or open licence for at least 1 year.
- (4) Subsection (3) does not apply to a person authorised to continue to drive motor vehicles under a relevant order.
- (5) The holder of a class RE learner, provisional, probationary or open licence is authorised to learn to ride a class R motorbike

[s 5]

if, while riding the motorbike, the person carries a certificate issued to the holder under section 38(8).

- (6) The holder of a class R P1 type, P2 type, P type or open licence is authorised to ride a class R motorbike.
- (7) However, a holder who is authorised to learn to ride a motorbike under this section or section 128(10) or 131(2) must not ride the motorbike on a road unless—
 - (a) the holder is driving under the direction of a person, whether or not the person is a passenger on the motorbike; and
 - (b) the person—
 - (i) holds an O type licence for the class of motorbike that the holder is riding; and
 - (ii) has held an O type licence for the class of motorbike that the holder is riding for at least 1 year; and
 - (c) if the person is a passenger on the motorbike—the person is in a sidecar attached to the motorbike.

Maximum penalty—20 penalty units.

- (8) A person must not direct the driving of a motorbike on a road by a holder who is authorised to learn to ride a motorbike under this section or section 128(10) or 131(2) unless the person—
 - (a) holds an O type licence for the class of motorbike the holder is riding; and
 - (b) has held an O type licence for the class of motorbike the holder is riding for at least 1 year.

Maximum penalty—60 penalty units.

5 Other types of licences

- (1) The holder of a class C learner licence is authorised to learn to drive a class C vehicle.

-
- (2) The holder of a class C P1 type, P2 type, P type or open licence is authorised—
 - (a) to drive a class C vehicle; and
 - (b) to learn to drive a class LR, MR, HR or UD vehicle.
 - (3) The holder of a class LR P1 type, P2 type, P type or open licence is authorised—
 - (a) to drive a class LR vehicle; and
 - (b) to learn to drive a class MR, HR or UD vehicle.
 - (4) The holder of a class MR P1 type, P2 type, P type or open licence is authorised—
 - (a) to drive a class MR vehicle; and
 - (b) to learn to drive a class HR, HC or UD vehicle.
 - (5) The holder of a class HR P1 type, P2 type, P type or open licence is authorised—
 - (a) to drive a class HR vehicle; and
 - (b) to learn to drive a class HC, MC or UD vehicle.
 - (6) The holder of a class HC learner licence is authorised to learn to drive a class HC vehicle.
 - (7) The holder of a class HC P1 type, P2 type, P type or open licence is authorised—
 - (a) to drive a class HC vehicle; and
 - (b) to learn to drive a class MC or UD vehicle.
 - (8) The holder of a class MC P1 type, P2 type, P type or open licence is authorised—
 - (a) to drive a class MC vehicle; and
 - (b) to learn to drive a class UD vehicle.
 - (9) However, subsections (2)(b), (3)(b), (4)(b), (5)(b), (7)(b) and (8)(b) do not apply to a person authorised to continue to drive motor vehicles under a relevant order.
 - (10) The holder of a class UD P1 type, P2 type, P type or open licence is authorised to drive a class UD vehicle.

[s 6]

- (11) If this section authorises the holder of a licence to drive a class of motor vehicle, the holder is authorised to learn to drive the class of vehicle with either an automatic or manual transmission or with a synchromesh gearbox.
- (12) However, a holder who is authorised to learn to drive a vehicle under this section or section 128(10) or 131(2) must not drive the vehicle on a road unless—
- (a) the holder is driving under the direction of a person who—
 - (i) holds an O type licence for the class of vehicle that the holder is driving; and
 - (ii) has held an O type licence for the class of vehicle that the holder is driving for at least 1 year; and
 - (b) if the vehicle is a vehicle with passenger seating capacity—the person sits next to the holder.

Maximum penalty—20 penalty units.

- (13) A person must not direct the driving of a vehicle on a road by a holder who is authorised to learn to drive a vehicle under this section or section 128(10) or 131(2) unless—
- (a) the person—
 - (i) holds an O type licence for the class of vehicle the holder is driving; and
 - (ii) has held an O type licence for the class of vehicle the holder is driving for at least 1 year; and
 - (b) if the vehicle is a vehicle with passenger seating capacity—the person sits next to the holder.

Maximum penalty—60 penalty units.

6 Only 1 Queensland driver licence to be held at the same time

- (1) A person must not hold a Queensland driver licence other than under the person's name.

Maximum penalty—40 penalty units.

- (2) A person must not hold more than 1 Queensland driver licence of a particular type at the same time.

Maximum penalty—40 penalty units.

- (3) Subsection (2) does not apply to a learner licence.

7 Licence must be valid

A reference in this part to a licence is a reference to a valid licence.

Part 3 Eligibility for Queensland driver licences

Division 1 Minimum age

8 Minimum age—class C learner licence

- (1) A person is not eligible for a class C learner licence unless the person is at least 16 years.
- (2) However, subsection (1) does not apply to a class C learner licence if the chief executive is satisfied under section 20 that the person has a special need for the licence.

9 Minimum age—licence other than class C learner licence

- (1) A person is not eligible for a Queensland driver licence, other than a class C learner licence, unless the person is at least 17 years.
- (2) However, subsection (1) does not apply to a class C P1 provisional licence if the chief executive is satisfied under section 20 that the person has a special need for the licence.

[s 10]

- (3) Also, if the chief executive is satisfied under section 38 that the person has a special need for a class RE or R licence—
 - (a) subsection (1) does not apply to a class RE learner licence; and
 - (b) instead the person is not eligible for a class RE learner licence unless the person is at least 16 years and 6 months.

Division 2 Testing

10 Tests

- (1) This section states the tests that a person must pass to be eligible for a Queensland driver licence.
- (2) The person must, if required by the chief executive to take an eyesight test, pass an eyesight test.
- (3) The following persons must pass a road rules test—
 - (a) an applicant for a learner licence;
 - (b) an applicant for a provisional, probationary or open licence who holds a foreign driver licence;
 - (c) an applicant for a provisional or probationary licence who holds a provisional or probationary licence of a different class;
 - (d) an applicant for an open licence who holds an open licence of a different class.
- (4) However, subsection (3) does not apply if the person, within 5 years before applying for the licence—
 - (a) passed a road rules test for the class of licence applied for; or
 - (b) held an Australian driver licence for the class of licence applied for; or
 - (c) for an application for a class RE, R or C licence—held a driver licence, granted under the law of New Zealand or

a country mentioned in schedule 4, that corresponds to a class RE, R or C licence.

- (5) Also, subsection (3) does not apply if—
- (a) the person—
 - (i) holds an Australian driver licence; and
 - (ii) applies for another class of licence; and
 - (b) the road rules test the person passed for the licence already held is the same road rules test the person would be required to pass for the class of licence applied for.
- (6) The following persons must pass a practical driving test in the class of vehicle that is authorised to be driven under the licence—
- (a) an applicant for a class of provisional, probationary or open licence who holds a learner licence of that class;
 - (b) an applicant for a provisional, probationary or open licence who holds a foreign driver licence;
 - (c) an applicant for a provisional or probationary licence who holds a provisional or probationary licence of a different class;
 - (d) an applicant for an open licence who holds an open licence of a different class.

Example for this paragraph—

A person who holds an open class C licence who is applying for an open class LR licence must pass a practical driving test in a class LR type vehicle.

- (7) However, subsection (6) does not apply if—
- (a) for a class UD licence for a vehicle in relation to which a WHS certificate is issued—the person holds the certificate; or
 - (b) for a class MC licence—
 - (i) the person has successfully completed a training course, in driving a class MC vehicle, approved by the chief executive; or

[s 10]

- (ii) the person produces a declaration, in the approved form, confirming the person's ability to drive a B-double or road train; or
- (c) for a class LR, MR or HR licence—the person is a police officer and the person gives the chief executive a notice signed by the commissioner stating the person has the ability to drive the class of vehicle that is authorised to be driven under the licence; or
- (d) for any licence—
 - (i) the person has, at some time, passed a practical driving test to obtain an Australian driver licence of a class that corresponds to the class of licence applied for; and
 - (ii) the person either—
 - (A) holds an Australian driver licence, other than a learner licence, of a class that corresponds to the class of licence applied for; or
 - (B) has, within 5 years before applying for the licence, held an Australian driver licence or foreign driver licence, other than a learner licence, of a class that corresponds to the class of licence applied for; or
- (e) for any licence—the person has, within 5 years before applying for the licence, passed a practical driving test for an Australian driver licence of a class that corresponds to the class of licence applied for; or
- (f) for a class RE licence—the person holds a competency declaration for a class RE motorbike; or
- (g) for a class R licence—
 - (i) the person holds a competency declaration for a class R motorbike; or
 - (ii) the person has passed a practical driving test for an Australian driver licence of a class that corresponds to a class RE licence on—

-
- (A) if the test was conducted before 1 July 2009—a motorbike that is the same as a prescribed motorbike; or
 - (B) if the test was conducted on or after 1 July 2009—a prescribed motorbike; or
- (iii) the person holds a competency declaration for a class RE motorbike for which Q-Ride training was completed on—
- (A) if the training was completed before 1 July 2009—a motorbike that is the same as a prescribed motorbike; or
 - (B) if the training was completed on or after 1 July 2009—a prescribed motorbike.
- (8) However, subsection (6)(b) does not apply to a person if the person holds or has, within 5 years before applying for the licence, held—
- (a) a driver licence, other than a driver licence that corresponds to a learner licence, granted under the law of New Zealand; or
 - (b) for an application for a class RE, R or C licence—a driver licence, other than a driver licence that corresponds to a learner licence, granted under the law of a country mentioned in schedule 4, that corresponds to a class RE, R or C licence.
- (9) A person who holds a P1 type licence that authorises the person to drive a class C vehicle must pass a hazard perception test before applying for any of the following types of licences—
- (a) a P2 provisional licence;
 - (b) a P2 probationary licence;
 - (c) an open licence.
- (10) Subsection (9) does not apply if the person has, at some time, passed a hazard perception test.
- (11) In this section—

[s 11]

P1 type licence includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

Division 3 **Learner licences**

11 Learner licence—class RE

- (1) A person is not eligible for a class RE learner licence unless—
- (a) the person has held a P1 type, P2 type, P type or O type licence of another class for at least 1 year during the 5 years before applying for the class RE learner licence; or
 - (b) the person—
 - (i) holds a driver licence granted outside Queensland before 1 July 2007 that corresponds to a class RE learner licence; and
 - (ii) applies for the class RE learner licence before 1 July 2010.

- (2) In this section—

P1 type licence includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

P2 type licence includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

P type licence includes a driver licence granted outside Queensland that corresponds to a P type licence.

12 Learner licence—class HC

A person is not eligible for a class HC learner licence unless—

- (a) the person holds a class C provisional, probationary or open licence; and
- (b) the chief executive is satisfied under section 21 that the person has a special need for a class HC licence.

Division 4 Provisional or probationary licences

13 Provisional or probationary licence—class RE

- (1) A person is not eligible for a class RE P1 provisional licence or P1 probationary licence unless—
- (a) the person—
 - (i) is at least 17 years but under 25 years at the time of applying for the licence; and
 - (ii) holds—
 - (A) a class RE learner licence; or
 - (B) a driver licence granted outside Queensland before 1 July 2007 that corresponds to a class RE learner licence; and
 - (iii) either—
 - (A) has held a licence mentioned in subparagraph (ii)(A) or (B) for at least 6 months during the 2 years before applying for the licence; or
 - (B) holds a competency declaration for a class RE motorbike; or
 - (b) the person has, within 5 years before applying for the licence, held a class RE P1 type licence.
- (2) A person is not eligible for a class RE P2 provisional licence or P2 probationary licence unless—
- (a) the person—
 - (i) was granted a class RE P1 type licence when the person was under 24 years; and
 - (ii) holds a class RE P1 type licence; and
 - (iii) has held a class RE P1 type licence for at least 1 year; or
 - (b) the person—

[s 13]

- (i) is at least 25 years at the time of applying for the licence; and
- (ii) holds—
 - (A) a class RE learner licence; or
 - (B) a driver licence granted outside Queensland before 1 July 2007 that corresponds to a class RE learner licence; and
- (iii) either—
 - (A) has held a licence mentioned in subparagraph (ii)(A) or (B) for at least 6 months during the 2 years before applying for the licence; or
 - (B) holds a competency declaration for a class RE motorbike; or
- (c) the person—
 - (i) holds a P2 provisional licence or P2 probationary licence of another class; and
 - (ii) holds a class RE learner licence; and
 - (iii) either—
 - (A) has held a licence mentioned in subparagraph (ii) for at least 6 months during the 2 years before applying for the licence; or
 - (B) holds a competency declaration for a class RE motorbike; or
- (d) the person—
 - (i) holds a driver licence granted outside Queensland that corresponds to a class RE learner licence; and
 - (ii) either—
 - (A) has held a licence mentioned in subparagraph (i) for at least 6 months during

-
- the 2 years before applying for the licence;
or
- (B) holds a competency declaration for a class RE motorbike; and
- (iii) has, within 5 years before applying for the licence, held for at least 1 year—
- (A) a provisional, probationary or restricted licence of another class; or
- (B) a driver licence granted outside Queensland that corresponds to a provisional, probationary or restricted licence of another class; or
- (e) the person has, within 5 years before applying for the licence, held a class RE P2 type licence.
- (3) A person is not eligible for a class RE P provisional licence or P probationary licence unless—
- (a) the person—
- (i) holds a class RE learner licence; and
- (ii) holds a P type licence of another class; and
- (iii) either—
- (A) has held a class RE learner licence for at least 6 months during the 2 years before applying for the licence; or
- (B) holds a competency declaration for a class RE motorbike; or
- (b) the person—
- (i) holds a driver licence granted outside Queensland that corresponds to a class RE learner licence; and
- (ii) holds a P type licence of another class; and
- (iii) either—
- (A) has held a licence mentioned in subparagraph (i) for at least 6 months during

[s 13]

- the 2 years before applying for the licence;
or
- (B) holds a competency declaration for a class RE motorbike; and
- (iv) for a person who holds a driver licence mentioned in subparagraph (i) that was granted after 30 June 2007—has held the licence mentioned in subparagraph (ii) for at least 1 year during the 5 years before applying for the licence; or
- (c) the person has, within 5 years before applying for the licence, held—
 - (i) a class RE P type licence; or
 - (ii) a class RE O type licence that has been cancelled.
- (4) However, the following eligibility requirements under this section do not apply to a person whom the chief executive is satisfied under section 20 is a person who has a special need for a class RE provisional licence—
 - (a) for a class RE P1 provisional licence under subsection (1)(a)—the requirement mentioned in subsection (1)(a)(iii);
 - (b) for a class RE P2 provisional licence under subsection (2)(b)—the requirement mentioned in subsection (2)(b)(iii);
 - (c) for a class RE P2 provisional licence under subsection (2)(c)—the requirement mentioned in subsection (2)(c)(iii);
 - (d) for a class RE P2 provisional licence under subsection (2)(d)—the requirement mentioned in subsection (2)(d)(ii);
 - (e) for a class RE P provisional licence under subsection (3)(a)—the requirement mentioned in subsection (3)(a)(iii);

- (f) for a class RE P provisional licence under subsection (3)(b)—the requirement mentioned in subsection (3)(b)(iii).

Note—

See also part 5 (Eligibility requirements for motorbike licences for persons with particular physical incapacities).

- (5) In this section—

P1 type licence includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

P2 type licence includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

P type licence includes a driver licence granted outside Queensland that corresponds to a P type licence.

14 Provisional or probationary licence—class C

- (1) A person is not eligible for a class C P1 provisional licence or P1 probationary licence unless—
- (a) the person—
- (i) is at least 17 years but under 25 years at the time of applying for the licence; and
 - (ii) holds a class C learner licence; and
 - (iii) has held a class C learner licence for—
 - (A) if the class C learner licence was granted before 1 July 2007 or the person is a person to whom part 4 does not apply—at least 6 months during the 2 years before applying for the licence; or
 - (B) if the class C learner licence was granted after 30 June 2007 and the person satisfies the logbook requirements—at least 1 year during the 3 years before applying for the licence; or

[s 14]

- (C) if the class C learner licence was granted after 30 June 2007 and the person was granted an exemption from the logbook requirements under section 34—at least 2 years during the 3 years before applying for the licence; or
 - (b) the person—
 - (i) holds a class RE or class R P1 type licence; and
 - (ii) holds a class C learner licence; and
 - (iii) has held a class C learner licence for—
 - (A) if the class C learner licence was granted before 1 July 2007—at least 6 months during the 2 years before applying for the licence; or
 - (B) if the class C learner licence was granted after 30 June 2007—at least 1 year during the 3 years before applying for the licence; or
 - (c) the person has, within 5 years before applying for the licence, held a class C P1 type licence.
- (2) A person is not eligible for a class C P2 provisional licence or P2 probationary licence unless—
- (a) the person—
 - (i) was granted a class C P1 type licence when the person was under 24 years; and
 - (ii) holds a class C P1 type licence; and
 - (iii) has held a class C P1 type licence for at least 1 year; or
 - (b) the person—
 - (i) either—
 - (A) is at least 25 years at the time of applying for the licence; or

-
- (B) holds a class RE or class R P2 type licence;
and
 - (ii) holds a class C learner licence; and
 - (iii) has held a class C learner licence for—
 - (A) if the class C learner licence was granted before 1 July 2007—at least 6 months during the 2 years before applying for the licence;
or
 - (B) if the class C learner licence was granted after 30 June 2007—at least 1 year during the 3 years before applying for the licence;
or
 - (c) the person has, within 5 years before applying for the licence, held a class C P2 type licence.
- (3) A person is not eligible for a class C P provisional licence or P probationary licence unless—
- (a) the person—
 - (i) holds a class RE or class R P type licence; and
 - (ii) holds a class C learner licence; and
 - (iii) has held a class C learner licence for—
 - (A) if the class C learner licence was granted before 1 July 2007—at least 6 months during the 2 years before applying for the licence;
or
 - (B) if the class C learner licence was granted after 30 June 2007—at least 1 year during the 3 years before applying for the licence;
or
 - (b) the person has, within 5 years before applying for the licence, held—
 - (i) a class C P type licence; or
 - (ii) a class C O type licence that has been cancelled.

[s 15]

- (4) However, the following eligibility requirements under this section do not apply to a person whom the chief executive is satisfied under section 20 is a person who has a special need for a class C provisional licence—
- (a) for a class C P1 provisional licence under subsection (1)—the requirement mentioned in subsection (1)(a)(iii) or (b)(iii);
 - (b) for a class C P2 provisional licence under subsection (2)(b)—the requirement mentioned in subsection (2)(b)(iii);
 - (c) for a class C P provisional licence under subsection (3)(a)—the requirement mentioned in subsection (3)(a)(iii).
- (5) In this section—

learner licence includes a driver licence granted outside Queensland that corresponds to a learner licence.

P1 type licence includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

P2 type licence includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

P type licence includes a driver licence granted outside Queensland that corresponds to a P type licence.

Division 5 Open licences

15 Open licence—class RE

- (1) A person is not eligible for a class RE open licence unless—
- (a) the person—
 - (i) holds a class RE learner licence; and
 - (ii) either—

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- (A) has held a class RE learner licence for at least 6 months during the 2 years before applying for the licence; or
 - (B) holds a competency declaration for a class RE motorbike; and
 - (iii) holds an O type licence of another class; and
 - (iv) if the O type licence mentioned in subparagraph (iii) was granted outside Queensland—has, in the 5 years before applying for the licence, held a P1 type, P2 type, P type or O type licence for at least 1 year; or
 - (b) the person—
 - (i) holds a class RE P1 type licence; and
 - (ii) was granted the class RE P1 type licence when the person was at least 24 years but under 25 years; and
 - (iii) has held a class RE P1 type licence for at least 1 year; or
 - (c) the person—
 - (i) has, within 5 years before applying for the licence, held a class RE P1 type licence granted to the person when the person was at least 24 years but under 25 years that has been cancelled; and
 - (ii) holds a class RE P1 type licence; and
 - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class RE P1 type licence for at least 1 year; or
 - (d) the person—
 - (i) holds a class RE P2 type licence; and
 - (ii) has held a class RE P2 type licence for at least—
 - (A) if the person was granted a class RE P1 type licence when the person was under 23 years

[s 15]

- and a class RE P2 type licence when the person was under 25 years—2 years; or
- (B) otherwise—1 year; or
- (e) the person—
- (i) has, within 5 years before applying for the licence, held a class RE P2 type licence that has been cancelled; and
- (ii) holds a class RE P2 type licence; and
- (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class RE P2 type licence for at least—
- (A) if the person was granted a class RE P1 type licence when the person was under 23 years and the licence mentioned in subparagraph (i) when the person was under 25 years, and the balance of the 2 year period for holding the licence mentioned in subparagraph (i) that had not expired before the licence was cancelled is more than 1 year—the balance of the 2 year period; or
- (B) otherwise—1 year; or
- (f) the person—
- (i) holds a class RE P type licence; and
- (ii) has held a class RE P type licence for at least the required period for holding the licence; or
- (g) the person—
- (i) has, within 5 years before applying for the licence, held a class RE P type licence that has been cancelled; and
- (ii) holds a class RE P type licence; and
- (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class RE P type licence for at least—

-
- (A) if the person was granted the licence mentioned in subparagraph (i) when the person was under 24 years, and the balance of the required period for holding the licence that had not expired before the licence was cancelled is more than 1 year—the balance of the required period; or
- (B) otherwise—1 year; or
- (h) the person has, within 5 years before applying for the licence, held a class RE O type licence that has not been cancelled; or
- (i) the person—
- (i) has, within 5 years before applying for the licence, held a class RE O type licence that has been cancelled; and
 - (ii) holds a class RE P type licence; and
 - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class RE P type licence for at least 1 year.

Note—

See also part 5 (Eligibility requirements for motorbike licences for persons with particular physical incapacities).

- (2) In this section—

learner licence includes a driver licence granted outside Queensland that corresponds to a learner licence.

P1 type licence includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

P2 type licence includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

P type licence includes a driver licence granted outside Queensland that corresponds to a P type licence.

required period, for holding a driver licence, means a period of—

[s 16]

- (a) if the person was granted the licence when the person was under 23 years—3 years; or
- (b) if the person was granted the licence when the person was at least 23 years but under 24 years—2 years; or
- (c) if the person was granted the licence when the person was at least 24 years—1 year.

16 Open licence—class C

- (1) A person is not eligible for a class C open licence unless—
 - (a) the person—
 - (i) holds a class RE or class R O type licence; and
 - (ii) holds a class C learner licence; and
 - (iii) has held a class C learner licence for—
 - (A) if the class C learner licence was granted before 1 July 2007—at least 6 months during the 2 years before applying for the licence; or
 - (B) if the class C learner licence was granted after 30 June 2007—at least 1 year during the 3 years before applying for the licence; or
 - (b) the person—
 - (i) holds a class C P1 type licence; and
 - (ii) was granted a class C P1 type licence when the person was at least 24 years but under 25 years; and
 - (iii) has held a class C P1 type licence for at least 1 year; or
 - (c) the person—
 - (i) has, within 5 years before applying for the licence, held a class C P1 type licence granted to the person

-
- when the person was at least 24 years but under 25 years that has been cancelled; and
- (ii) holds a class C P1 type licence; and
 - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class C P1 type licence for at least 1 year; or
- (d) the person—
- (i) holds a class C P2 type licence; and
 - (ii) has held a class C P2 type licence for at least—
 - (A) if the person was granted a class C P1 type licence when the person was under 23 years and a class C P2 type licence when the person was under 25 years—2 years; or
 - (B) in any other case—1 year; or
- (e) the person—
- (i) has, within 5 years before applying for the licence, held a class C P2 type licence that has been cancelled; and
 - (ii) holds a class C P2 type licence; and
 - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class C P2 type licence for at least—
 - (A) if the person was granted a class C P1 type licence when the person was under 23 years and the licence mentioned in subparagraph (i) when the person was under 25 years, and the balance of the 2 year period for holding the licence mentioned in subparagraph (i) that had not expired before the licence was cancelled is more than 1 year—the balance of the 2 year period; or
 - (B) otherwise—1 year; or
- (f) the person—

[s 16]

- (i) holds a class C P type licence; and
- (ii) has held a class C P type licence for at least the required period for holding the licence; or
- (g) the person—
 - (i) has, within 5 years before applying for the licence, held a class C P type licence that has been cancelled; and
 - (ii) holds a class C P type licence; and
 - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class C P type licence for at least—
 - (A) if the person was granted the licence mentioned in subparagraph (i) when the person was under 24 years, and the balance of the required period for holding the licence that had not expired before the licence was cancelled is more than 1 year—the balance of the required period; or
 - (B) otherwise—1 year; or
- (h) the person has, within 5 years before applying for the licence, held a class C O type licence that has not been cancelled; or
- (i) the person—
 - (i) has, within 5 years before applying for the licence, held a class C O type licence that has been cancelled; and
 - (ii) holds a class C P type licence; and
 - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class C P type licence for at least 1 year.

(2) In this section—

learner licence includes a driver licence granted outside Queensland that corresponds to a learner licence.

P1 type licence includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

P2 type licence includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

P type licence includes a driver licence granted outside Queensland that corresponds to a P type licence.

required period, for holding a driver licence, means a period of—

- (a) if the person was granted the licence when the person was under 23 years—3 years; or
- (b) if the person was granted the licence when the person was at least 23 years but under 24 years—2 years; or
- (c) if the person was granted the licence when the person was at least 24 years—1 year.

Division 6 Upgrading licences

17 Upgrading licence class

- (1) This section applies to a licence of a class other than class C, RE or R.

Note—

For the upgrading of a class RE licence to a class R licence, see section 18.

- (2) A person is not eligible for the licence unless—
 - (a) for a class LR or MR licence—
 - (i) the person holds a class C licence of the same type; and
 - (ii) the person has held a class C licence for at least 1 year; or
 - (b) for a class HR licence—
 - (i) the person—

[s 17]

- (A) holds a class C licence of the same type; and
 - (B) has held a class C licence for at least 2 years; or
 - (ii) the person—
 - (A) holds a class LR or MR licence of the same type; and
 - (B) has held a class LR or MR licence for at least 1 year; or
 - (c) for a class HC licence—
 - (i) the person—
 - (A) holds a class C licence of the same type; and
 - (B) has held a class C licence for at least 1 year; and
 - (C) has a special need for the class HC licence; or
 - (ii) the person—
 - (A) holds a class MR or HR licence of the same type; and
 - (B) has held a class MR or HR licence for at least 1 year; or
 - (d) for a class MC licence—
 - (i) the person holds a class HR or HC licence of the same type; and
 - (ii) the person has held a class HR or HC licence for at least 1 year; or
 - (e) for a class UD licence—the person holds a class C, LR, MR or HR licence of the same type.
- (3) For working out, for subsection (2), the period a person has held a licence, the period is taken to include the total of any periods, within the previous 5 years, that the person has held a valid licence of the same class.

(4) In this section—

licence means—

- (a) a provisional, probationary or open licence; or
- (b) a driver licence granted outside Queensland that corresponds to a licence mentioned in paragraph (a).

18 Upgrading class RE licence to class R licence

(1) A person is not eligible for a class R licence unless the person—

- (a) holds a class RE licence of the same type; and
- (b) has held a class RE licence for at least 1 year.

(2) For working out, for subsection (1), the period the person has held a class RE licence, the period is taken to include the total of any periods, within the previous 5 years, that the person has held a valid class RE licence.

(3) In this section—

licence means—

- (a) a provisional, probationary or open licence; or
- (b) a driver licence granted outside Queensland that corresponds to a licence mentioned in paragraph (a).

Division 7 Other eligibility criteria

19 Other provisions about general eligibility

(1) A person is not eligible for the grant or renewal of a Queensland driver licence if—

- (a) the person is prohibited from obtaining a licence under section 127(6) of the Act; or
- (b) the person does not reside in Queensland; or

[s 20]

- (c) the person is the holder of a non-Queensland driver licence, unless the person gives the chief executive—
 - (i) the driver licence; and
 - (ii) a written notice of surrender of the driver licence addressed to the person who granted it; or
 - (d) the authority to drive on a Queensland road under the person's non-Queensland driver licence is suspended under section 82(4) or 87(1)(a); or
 - (e) the person is not eligible to hold a Queensland driver licence under section 83, 84, 87(1)(c) or 88(1)(a).
- (2) Subsection (1)(c) does not apply to a person if the chief executive is satisfied it would be unreasonable for it to apply to the person.

Example—

The chief executive may not require a person to surrender a foreign driver licence that forms part of the person's identity documents for the foreign country.

Division 8 Special need for licences

20 Special need—learner or provisional licence

- (1) This section does not apply to a class RE learner licence.
- (2) A person has a special need for a learner or provisional licence if—
 - (a) the person needs to drive a motor vehicle—
 - (i) to, or from, the person's place of employment; or
 - (ii) in the course of the person's employment; or
 - (iii) to, or from, an educational institution that the person attends; or
 - (iv) to get medical treatment for the person or a member of the person's family; and

-
- (b) there is no other transport reasonably available to the person; and
 - (c) a refusal to grant the licence would cause severe hardship.
- (3) A person claiming a special need must apply to the chief executive in the approved form.
- (4) The approved form must be accompanied by a signed statement supporting the application from—
- (a) for an application under subsection (2)(a)(i) or (ii)—the person’s employer; or
 - (b) for an application under subsection (2)(a)(iii)—the person in charge of the educational institution; or
 - (c) for an application under subsection (2)(a)(iv)—a doctor.
- (5) In deciding whether to approve the application, the chief executive must consider—
- (a) the times of day when the person must travel; and
 - (b) how often the person must travel; and
 - (c) the distance the person must travel; and
 - (d) the person’s traffic history.

21 Special need—HC licence

- (1) A person has a special need for a class HC licence if the person—
- (a) resides in a remote area; and
 - (b) needs to drive a class HC vehicle in the course of the person’s employment; and
 - (c) can not obtain a class LR or MR licence because the person does not have access to a type LR or MR vehicle to learn to drive that type of vehicle.
- (2) A person claiming a special need must apply to the chief executive in the approved form.

[s 21]

- (3) The approved form must be accompanied by a signed statement from the person's employer that supports the person's claim.
- (4) In deciding whether to approve the application, the chief executive must consider the person's traffic history.
- (5) If the chief executive decides to approve the application, the chief executive must grant a class HC learner licence to the person.
- (6) For subsection (1)(a), a **remote area** is an area of a shire or city—
 - (a) declared as a local government area under the repealed *Local Government Act 1993* as in force immediately before the changeover day; and
 - (b) mentioned in schedule 5.

Notes—

- 1 Under the repealed *Local Government Act 1993* as in force immediately before the changeover day, shires and cities were described in the repealed *Local Government (Areas) Regulation 2005*, schedule 1 as in force immediately before the changeover day.
- 2 Each map mentioned in the repealed *Local Government (Areas) Regulation 2005*, schedule 1 as in force immediately before the changeover day can be—
 - (a) accessed by members of the public, free of charge, on the department's website; or
 - (b) purchased from any office of the department in which the *Survey and Mapping Infrastructure Act 2003* is administered.

Editor's note—

At the commencement of this subsection, the department's website was <www.tmr.qld.gov.au>.

- (7) In this section—

changeover day means 15 March 2008.

Note—

15 March 2008 is the changeover day declared under the repealed *Local Government Act 1993*, section 159YE(2) for all new, adjusted and

continuing local government areas listed in schedule 1A of that Act. See the notice published in the gazette on 23 November 2007 at page 1680.

Division 9 Licence applications

22 Applying for licence

- (1) A person may apply to the chief executive, in the approved form, for the grant or renewal of a Queensland driver licence.
- (2) If the chief executive reasonably believes further information or documents are required to make a decision about the application, the chief executive may give a written notice to the person requesting the person, within a stated period of at least 28 days, to give further information or documents relevant to the application.
- (3) If the person does not comply with a notice given under subsection (2), the chief executive may declare, by further written notice given to the person, that the application is taken to be withdrawn on the day stated in the notice.

23 Deciding application for licence

- (1) Subject to section 22(3), the chief executive must consider an application for a Queensland driver licence and either—
 - (a) grant or renew the licence; or
 - (b) refuse to grant or renew the licence.

Note—

See also the Act, section 91A(5) (which deals with obtaining digital photos and digitised signatures) for when the chief executive must refuse to consider an application.

- (2) The chief executive must not grant or renew the licence if—
 - (a) the applicant is not eligible for that type or class of licence; or
 - (b) the chief executive is not satisfied with the applicant's identification for the licence.

[s 23]

- (3) If the chief executive decides to grant or renew the licence, the chief executive must promptly—
- (a) for the grant or renewal of a driver licence that is a smartcard driver licence—issue a driver licence receipt to the applicant; or
- Note—*
- A driver licence receipt confirms that the person mentioned on it is authorised to drive a stated class of vehicle until the receipt is superseded by the issue of a licence—see the Act, schedule 4 (Dictionary), definition *driver licence receipt*.
- (b) for the grant of a driver licence that is not a smartcard driver licence—give the licence to the applicant; or
 - (c) for the renewal of a driver licence that is not a smartcard driver licence—give a renewal of licence label to the applicant.
- (4) If the chief executive decides to refuse to grant or renew the licence, the chief executive must promptly give the applicant a written notice stating—
- (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) that the applicant may either—
 - (i) apply for a reconsideration of the decision under section 132; or
 - (ii) apply to QCAT for a review of the decision under section 131(1AA) of the Act; and
 - (d) that, if the applicant applies for a reconsideration of the decision under section 132, the applicant is also able, under section 131(1AA) of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (5) However, if the reason for the decision was that the applicant failed a road rules test or practical driving test, the chief executive may give an oral notice instead of a written notice unless the applicant asks for a written notice.

Division 10 Licence duration and conditions

24 Duration of licence

The chief executive may—

- (a) grant a class HC learner licence for a period of up to 15 months; or
- (b) grant or renew another Queensland driver licence for a period of up to 10 years.

25 Conditions on licence

- (1) The chief executive may grant a Queensland driver licence with stated conditions.
- (2) The licensee must comply with a condition stated on the licence.

Maximum penalty—20 penalty units.

Division 11 Working out period a person has held a licence

26 Working out period a person has held a licence

Subject to sections 17(3) and 18(2), for working out the period a person has held a particular class or type of licence for this regulation, the period is taken to include the total of any periods the person has held a valid licence of that class or type.

[s 27]

Part 4 **Additional eligibility requirements for class C P1 provisional licences for young drivers**

27 **Object of pt 4**

The object of this part is to state the eligibility requirements for young drivers for class C P1 provisional licences that are in addition to the eligibility requirements stated in part 3.

28 **Application of pt 4**

- (1) This part applies to a person (a *young driver*) who—
 - (a) is under 25 years; and
 - (b) holds a class C learner licence granted or renewed after 30 June 2007; and
 - (c) does not hold a class RE or class R P1 type, P2 type, P type or O type licence.

- (2) In this section—

learner licence includes a driver licence granted outside Queensland that corresponds to a learner licence.

P1 type licence includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

P2 type licence includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

P type licence includes a driver licence granted outside Queensland that corresponds to a P type licence.

29 **Requirements**

- (1) A young driver is not eligible for a class C P1 provisional licence unless—

-
- (a) the young driver records in a logbook the details of 100 hours of supervised driving in a car on a road in Australia by the young driver during the 3 year period before the young driver makes an application under section 32; and
 - (b) at least 10 hours of the supervised driving mentioned in paragraph (a) is at night; and
 - (c) the details recorded in the logbook are verified by a supervisor as required under section 31(1); and
 - (d) the chief executive approves the young driver's completed logbook under section 32.
- (2) For subsection (1)(a), a young driver may record up to 10 hours of supervised driving in a car on a road in Australia by the young driver at the ratio of 1:3 if the supervisor is a driver trainer.

Example—

A young driver may record 10 hours of supervised driving in a car on a road in Australia as 30 hours in the logbook if the supervisor is a driver trainer.

- (3) The requirement mentioned in subsection (1)(b) does not apply if the young driver has given notice to the chief executive under section 51 about a mental or physical incapacity that is likely to adversely affect the young driver's ability to drive safely at night.
- (4) This section applies subject to sections 33 and 34.
- (5) In this section—

driver trainer includes a person accredited (however described) under a corresponding law to the provisions of the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005* about accreditation of driver trainers.

30 Logbook

- (1) The chief executive must make 1 logbook that is bound and in paper form available for use by a young driver—

[s 31]

- (a) when the chief executive grants the young driver a class C learner licence; and
 - (b) when the chief executive renews the young driver's class C learner licence.
- (2) No fee is payable for a logbook made available under subsection (1).
- (3) Also, the chief executive may make a logbook that is bound and in paper form available for use by any person, whether or not the person is a young driver, if the chief executive considers it appropriate to do so.
- (4) A logbook made available under subsection (1) or (3) remains the property of the State even if a fee is paid for making it available for use.
- (5) If a young driver's logbook is not a logbook made available under subsection (1) or (3), the logbook becomes the property of the State when it is given to the chief executive as a completed logbook for approval under section 32.

31 Verification of logbook entries by supervisor etc.

- (1) A young driver must ensure the supervisor of the young driver for a driving session—
 - (a) checks the correctness of the details recorded in the young driver's logbook (the *logbook entry*) for the driving session; and
 - (b) verifies the logbook entry for the driving session in the required way.
- (2) A supervisor for a young driver's driving session must not verify, in the required way, a logbook entry for the driving session if the supervisor knows the entry is false or misleading in a material particular.

Maximum penalty—60 penalty units.
- (3) In a proceeding for an offence against subsection (2), it is enough to state the verified entry was 'false or misleading' to the supervisor's knowledge, without specifying which.

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- (4) A person must not verify, in the required way, an entry for details recorded in a logbook unless the person is the young driver's supervisor for a driving session and the entry is about the driving session.

Maximum penalty—60 penalty units.

- (5) In this section—

required way, for verifying a logbook entry for a driving session, means—

- (a) for a logbook entry in paper form—by signing the entry; or
- (b) for a logbook entry in an electronic system—by using a method that identifies the person verifying the entry and indicates that person's approval of the entry.

32 Approval of completed logbook by chief executive

- (1) A young driver may apply to the chief executive for approval of the young driver's completed logbook.
- (2) A logbook is a completed logbook only if—
- (a) the young driver has completed and signed the declaration about the contents of the logbook that forms part of the logbook; and
- (b) all of the pages of the logbook are bound together; and
- (c) for a logbook in which details have been wholly or partly recorded and verified, as required under section 31(1), by using an electronic system—a hard copy of each page in which details are recorded and verified electronically is included in the pages that are bound together under paragraph (b).
- (3) The chief executive may approve the logbook only if the chief executive is satisfied—
- (a) that the requirements under section 29(1)(a) to (c) have been satisfied by the young driver; and

[s 32]

- (b) the supervised driving required under section 29(1)(a) in relation to the young driver happened during the 3 years before the application is made.
- (4) After receiving the application, the chief executive must do 1 of the following—
 - (a) approve the logbook;
 - (b) decide not to approve the logbook;
 - (c) if the chief executive reasonably believes further information or documents are required to make a decision about the application—give a written notice to the young driver requesting the young driver, within a stated period of at least 28 days, to give to the chief executive further information or documents relevant to the application.
- (5) If the young driver does not comply with a notice given under subsection (4)(c), the chief executive may declare, by further written notice given to the young driver, that the application is taken to be withdrawn on the day stated in the notice.
- (6) After receiving the further information or documents requested under the notice given under subsection (4)(c), the chief executive must decide to approve or not to approve the logbook.
- (7) If the chief executive decides to approve the logbook as mentioned in subsection (4)(a) or (6), the chief executive must give the young driver a written notice stating the decision.
- (8) If the chief executive decides not to approve the logbook as mentioned in subsection (4)(b) or (6), the chief executive must give the young driver a written notice stating—
 - (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) that the young driver may apply for a reconsideration of the decision under section 132; and

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- (d) that the young driver is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration; and
 - (e) if the chief executive believes the logbook is false or misleading in a material particular—the reasons for which the chief executive believes the logbook is false or misleading in a material particular.
- (9) The chief executive is taken to have approved the logbook in relation to which the application is made, other than an application taken to be withdrawn under subsection (5), if the chief executive does not decide the application by the later of the following—
- (a) if further information or documents are requested by a notice given under subsection (4)(c)—the day that is 28 days after the day the chief executive receives the information or documents;
 - (b) otherwise—the day that is 28 days after the day the chief executive receives the application.

33 Credit for other driving experience

- (1) Subsection (2) applies to—
- (a) a young driver who held a class C learner licence granted before 1 July 2007; or
 - (b) a young driver who holds or has held an interstate licence that corresponds to a class C learner licence; or
 - (c) a young driver who holds or has held a driver licence granted under the law of New Zealand, that corresponds to a class C learner licence.
- (2) The young driver may apply, in the approved form, to the chief executive for credit for up to 100 hours of supervised driving in a car on a road in Australia or New Zealand completed by the young driver within 3 years before applying for credit.

[s 33]

- (3) Subsection (4) applies to a young driver who holds or has held a driver licence, that corresponds to a class C learner licence, granted under the law of a country mentioned in schedule 4.
- (4) The young driver may apply, in the approved form, to the chief executive for credit for up to 50 hours of supervised driving in a car on a road in a country mentioned in schedule 4, that the young driver completed within 3 years before applying for credit.
- (5) The application may include a request for credit for up to 10 hours of supervised driving in a car on a road, in the country for which the application is made, at the ratio of 1:3 if the supervisor was a driver trainer.

Example—

A young driver may request that 10 hours of supervised driving in a car on a road, in the country for which the application is made, be credited as 30 hours of supervised driving if the supervisor was a driver trainer.

- (6) The application must be accompanied by—
 - (a) any application made by the young driver under section 32 for approval of a completed logbook; and
 - (b) documentary evidence of the hours of supervised driving for which the young driver is applying for credit.

Examples of documentary evidence—

- a document that records information similar to the information required to be recorded in a logbook
 - receipts or correspondence from a driver trainer or driver training school
- (7) After receiving the application, the chief executive must do 1 of the following—
 - (a) grant the application, in whole or in part;
 - (b) decide not to grant the application;
 - (c) if the chief executive reasonably believes further information or documents are required to make a decision about the application—give a written notice to the young driver requesting the young driver, within a stated period of at least 28 days, to give to the chief

executive further information or documents relevant to the application.

- (8) If the young driver does not comply with a notice given under subsection (7)(c), the chief executive may declare, by further written notice given to the young driver, that the application is taken to be withdrawn on a day stated in the notice.
- (9) After receiving the further information or documents requested under the notice given under subsection (7)(c), the chief executive must decide to grant or not grant the application.
- (10) If the chief executive decides to grant the application as mentioned in subsection (7)(a) or (9), in whole or in part, the chief executive must give the young driver a written notice stating—
 - (a) the number of hours of supervised driving for which the young driver is granted credit for the purpose of satisfying the requirement under section 29(1)(a); and
 - (b) the number of hours of supervised driving at night for which the young driver is granted credit for the purpose of satisfying the requirement under section 29(1)(b).
- (11) Despite section 29(1)(a), the total number of hours of supervised driving in a car on a road in Australia, the details of which the young driver must record in a logbook to be eligible for a class C P1 provisional licence, is 100 hours less the number of hours of supervised driving for which the young driver has been given notice under subsection (10).

Example—

A young driver mentioned in subsection (1) may be granted credit for 100 hours of supervised driving, in which case the young driver need not satisfy the logbook requirements.

- (12) Despite section 29(1)(b), the total number of hours of supervised driving in a car on a road in Australia at night, the details of which the young driver must record in a logbook to be eligible for a class C P1 provisional licence, is 10 hours less the number of hours of supervised driving at night for

[s 33]

which the young driver has been given notice under subsection (10).

- (13) If the chief executive decides not to grant any part of the application as mentioned in subsection (7)(b) or (9), the chief executive must give the young driver a written notice stating—
- (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) that the young driver may apply for a reconsideration of the decision under section 132; and
 - (d) that the young driver is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration; and
 - (e) if the chief executive believes a document provided by the young driver to the chief executive is false or misleading in a material particular—the reasons for which the chief executive believes the document is false or misleading in a material particular.
- (14) The chief executive is taken to have granted the application, other than an application taken to be withdrawn under subsection (8), if the chief executive does not decide the application by the later of the following—
- (a) if further information or documents are requested by a notice given under subsection (7)(c)—the day that is 28 days after the day the chief executive receives the information or documents;
 - (b) otherwise—the day that is 28 days after the day the chief executive receives the application.
- (15) In this section—
- driver trainer*** includes a person accredited (however described) under—
- (a) a corresponding law to the provisions of the *Transport Operations (Road Use Management—Accreditation and*

Other Provisions) Regulation 2005 about accreditation of driver trainers; or

- (b) the law of a foreign country that provides for accrediting persons as trainers of drivers.

the application means an application under subsection (2) or (4).

34 Exemption from logbook requirements

- (1) A young driver may apply, in the approved form, to the chief executive for an exemption from the logbook requirements if either or both of the following is not reasonably available to the young driver to satisfy the requirement mentioned in section 29(1)(a)—

- (a) a car to drive on a road in Australia;
- (b) a person to be a supervisor of the young driver.

- (2) Also, a young driver may apply, in the approved form, to the chief executive for an exemption from the logbook requirements because—

- (a) the young driver lives in an area with a limited road network; and

Example of an area with a limited road network—

an island with a single road around the island

- (b) there is no significant benefit for the young driver to satisfy the logbook requirements by driving a car on the road network; and

- (c) there is no reasonable likelihood of the young driver moving from the area or having an opportunity to drive a car in an area with a diverse road network.

- (3) The chief executive must deal with the application in a timely way and grant or not grant the application.

- (4) If the chief executive reasonably believes further information or documents are required to make a decision about the application, the chief executive may give a written notice to

[s 35]

the young driver requesting the young driver, within a stated period of at least 28 days, to give further information or documents relevant to the application.

- (5) If the young driver does not comply with a notice given under subsection (4), the chief executive may declare, by further written notice given to the young driver, that the application is taken to be withdrawn on a day stated in the notice.
- (6) In deciding whether to grant the application, the chief executive must also consider the young driver's traffic history.
- (7) If the chief executive decides to grant the application, the chief executive must give the young driver a written notice stating the decision.
- (8) If the chief executive decides not to grant the application, the chief executive must give the young driver a written notice stating—
 - (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) that the young driver may apply for a reconsideration of the decision under section 132; and
 - (d) that the young driver is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (9) In this section—

the application means an application under subsection (1) or (2).

35 Taking of practical driving test to be eligible for class C P1 provisional licence

- (1) A young driver may only take a practical driving test under section 10(6) to be eligible for a class C P1 provisional licence within 3 years after—
 - (a) satisfying the logbook requirements; or

- (b) being granted an exemption from the logbook requirements under section 34.
- (2) However, the young driver must not take a practical driving test under section 10(6) to be eligible for a class C P1 provisional licence within 6 weeks after satisfying the logbook requirements if at any time—
- (a) either—
 - (i) the chief executive decided not to approve a completed logbook of the young driver under section 32 because the chief executive believes that the logbook was false or misleading in a material particular; or
 - (ii) the chief executive decided not to approve in whole or in part an application of the young driver under section 33 because the chief executive believes a document given under that section by the young driver to the chief executive was false or misleading in a material particular; and
 - (b) the decision mentioned in paragraph (a)(i) or (ii) has not been set aside by the chief executive under section 132 or by QCAT or a court.
- (3) Subsection (2) does not apply if the young driver is convicted of an offence under section 53 of the Act in relation to the giving to the chief executive of—
- (a) a completed logbook under section 32; or
 - (b) a document under section 33.

Part 5 **Eligibility requirements for motorbike licences for persons with particular physical incapacities**

Division 1 **Preliminary**

36 **Object of pt 5**

The object of this part is to state, for persons with particular physical incapacities, eligibility requirements that apply instead of particular eligibility requirements stated in part 3 for obtaining a class RE or R licence.

37 **Application of pt 5**

This part does not apply to a person authorised to continue to drive motor vehicles under a relevant order.

Division 2 **Special need—class RE or R licence**

38 **Special need for a class RE or R licence**

(1) A person has a *special need for a class RE or R licence* if, because of a permanent physical incapacity, the only type of motorbike the person is able to ride is 1 or both of the following—

- (a) a 2-wheeled motorbike with a sidecar attached to it;
- (b) a 3-wheeled motorbike.

Note—

- 1 A 2-wheeled motorbike may be a class RE or class R motorbike.
- 2 A 3-wheeled motorbike may be a class RE or class R motorbike.

(2) A person claiming a special need for a class RE or R licence must apply to the chief executive in the approved form.

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- (3) The approved form must be accompanied by a signed statement from a doctor supporting the person's claim that, because of a permanent physical incapacity, the only type of motorbike the person is able to ride is 1 or both of the following—
 - (a) a 2-wheeled motorbike with a sidecar attached to it;
 - (b) a 3-wheeled motorbike.
 - (4) If the application relates to a special need for a class R licence, the chief executive may approve the application only if the person has held a P1 type, P2 type, P type or O type licence of any class within 5 years before the day of the application.
 - (5) The chief executive must deal with the application in a timely way and approve or not approve the application.
 - (6) In deciding whether to approve the application, the chief executive must also consider the person's traffic history.
 - (7) If the chief executive decides to approve the application—
 - (a) for a class RE learner licence—the eligibility requirements stated in section 11 do not apply to the person; and
Note—
Under section 9(3), the person must be at least 16 years and 6 months.
 - (b) for a class RE provisional or probationary licence—the eligibility requirements mentioned in section 13(1) to (3) do not apply to the person and instead the eligibility requirements mentioned in section 41, 42 or 43 apply; and
 - (c) for a class RE open licence—the eligibility requirements mentioned in section 15 do not apply to the person and instead the eligibility requirements mentioned in section 44 apply; and
 - (d) for a class R provisional, probationary or open licence—the eligibility requirements mentioned in section 18 do not apply to the person and instead the

eligibility requirements mentioned in division 3, subdivision 3 apply.

- (8) If the chief executive decides to approve the application and the application relates to a special need for a class R licence, the chief executive must give the person a certificate in the approved form authorising the person to learn to ride a class R motorbike under a class RE learner, provisional, probationary or open licence.

Note—

Under section 4(5), the holder of a class RE learner, provisional, probationary or open licence is authorised to learn to ride a class R motorbike if the person carries the certificate while riding the motorbike.

- (9) If the chief executive decides not to approve the application, the chief executive must give the person a written notice stating—
- (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) that the person may apply for a reconsideration of the decision under section 132; and
 - (d) that the person is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.

- (10) In this section—

P1 type licence includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

P2 type licence includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

P type licence includes a driver licence granted outside Queensland that corresponds to a P type licence.

Division 3 Eligibility for motorbike licence

Subdivision 1 Preliminary

39 Definition for div 3

In this division—

learner licence includes a driver licence granted outside Queensland that corresponds to a learner licence.

Subdivision 2 Eligibility for class RE provisional, probationary or open licence

40 Application of sdiv 2

This subdivision applies to the grant of a class RE provisional, probationary or open licence to a person whom the chief executive is satisfied under section 38 is a person who has a special need for the licence.

Note—

See section 38(7).

41 P1 provisional or P1 probationary licence—class RE

The person is not eligible for a class RE P1 provisional licence or P1 probationary licence unless—

(a) the person holds a class RE learner licence and has held a class RE learner licence for at least 6 months during the 2 years before applying for the licence; and

(b) the person—

(i) is at least 17 years but under 25 years at the time of applying for the licence; or

(ii) holds—

- (A) a P1 provisional or P1 probationary licence of another class; or
- (B) a driver licence granted outside Queensland that corresponds to a P1 provisional or P1 probationary licence of another class.

42 P2 provisional or P2 probationary licence—class RE

- (1) The person is not eligible for a class RE P2 provisional licence or P2 probationary licence unless—
 - (a) the person holds a class RE learner licence and has held a class RE learner licence for at least 6 months during the 2 years before applying for the licence; and
 - (b) the person—
 - (i) is at least 25 years at the time of applying for the licence; or
 - (ii) has, within 5 years before applying for the licence, held a P2 type licence of another class.

- (2) In this section—

P2 type licence includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

43 P provisional or P probationary licence—class RE

- (1) The person is not eligible for a class RE P provisional licence or P probationary licence unless—
 - (a) the person holds a class RE learner licence and has held a class RE learner licence for at least 6 months during the 2 years before applying for the licence; and
 - (b) the person has, within 5 years before applying for the licence, held—
 - (i) a P type licence of another class; or
 - (ii) an O type licence of another class that has been cancelled.

(2) In this section—

P type licence includes a driver licence granted outside Queensland that corresponds to a P type licence.

44 Open licence—class RE

The person is not eligible for a class RE open licence unless—

- (a) the person holds a class RE learner licence and has held a class RE learner licence for at least 6 months during the 2 years before applying for the licence; and
- (b) the person has, within 5 years before applying for the licence, held an O type licence that authorises the person to drive a class C vehicle that has not been cancelled.

Subdivision 3 Eligibility for class R provisional, probationary or open licence

45 Application of sdiv 3

This subdivision applies to the grant of a class R provisional, probationary or open licence to a person whom the chief executive is satisfied under section 38 is a person who has a special need for the licence.

Note—

See section 38(7).

46 P1 provisional or P1 probationary licence—class R

- (1) The person is not eligible for a class R P1 provisional licence or P1 probationary licence unless the chief executive has given the person a certificate under section 38(8) and—
 - (a) the person—
 - (i) has, within 5 years before applying for the licence, held a P1 type licence that authorises the person to drive a class C vehicle; and

- (ii) holds a class RE learner licence and has held a class RE learner licence for at least 6 months during the 2 years before applying for the licence; or
- (b) the person—
 - (i) holds a class RE P1 provisional or P1 probationary licence; or
 - (ii) holds a driver licence granted outside Queensland that corresponds to a class RE P1 provisional or P1 probationary licence.
- (2) In this section—

P1 type licence includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

47 P2 provisional or P2 probationary licence—class R

- (1) The person is not eligible for a class R P2 provisional licence or P2 probationary licence unless the chief executive has given the person a certificate under section 38(8) and—
 - (a) the person—
 - (i) has, within 5 years before applying for the licence, held a P2 type licence that authorises the person to drive a class C vehicle; and
 - (ii) holds a class RE learner licence and has held a class RE learner licence for at least 6 months during the 2 years before applying for the licence; or
 - (b) the person—
 - (i) holds a class RE P2 provisional or P2 probationary licence; or
 - (ii) holds a driver licence granted outside Queensland that corresponds to a class RE P2 provisional or P2 probationary licence.
- (2) In this section—

P2 type licence includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

48 P provisional or P probationary licence—class R

(1) The person is not eligible for a class R P provisional licence or P probationary licence unless the chief executive has given the person a certificate under section 38(8) and—

(a) the person—

(i) has, within 5 years before applying for the licence, held—

(A) a P type licence that authorises the person to drive a class C vehicle; or

(B) an O type licence that authorises the person to drive a class C vehicle that has been cancelled; and

(ii) holds a class RE learner licence and has held a class RE learner licence for at least 6 months during the 2 years before applying for the licence; or

(b) the person—

(i) holds a class RE P provisional or P probationary licence; or

(ii) holds a driver licence granted outside Queensland that corresponds to a class RE P provisional or P probationary licence.

(2) In this section—

P type licence includes a driver licence granted outside Queensland that corresponds to a P type licence.

49 Open licence—class R

The person is not eligible for a class R open licence unless the chief executive has given the person a certificate under section 38(8) and—

[s 50]

- (a) the person—
 - (i) has, within 5 years before applying for the licence, held an O type licence that authorises the person to drive a class C vehicle that has not been cancelled; and
 - (ii) holds a class RE learner licence and has held a class RE learner licence for at least 6 months during the 2 years before applying for the licence; or
- (b) the person holds a class RE O type licence.

Part 6

Jet's law: eligibility for licences and reporting of particular medical conditions

50 Eligibility if mental or physical incapacity likely to adversely affect ability to drive safely

- (1) A person is not eligible for the grant or renewal of a Queensland driver licence if the chief executive reasonably believes the person has a mental or physical incapacity that is likely to adversely affect the person's ability to drive safely.
- (2) However, the person is eligible for the grant or renewal of a Queensland driver licence if the chief executive reasonably believes that, by stating conditions on the licence, the person's incapacity is not likely to adversely affect the person's ability to drive safely.

Example—

A person with unstable night time vision has a certificate from a doctor stating the person can drive safely only during daylight. The chief executive may reasonably believe that by imposing a condition, for example, that the person may only drive during daylight, the person's incapacity is not likely to adversely affect the person's ability to drive safely.

- (3) For this section, the chief executive may require the person to give the chief executive a certificate, in the approved form, from a stated type of health professional—
 - (a) stating the person does not have a mental or physical incapacity likely to affect the person's ability to drive safely; or
 - (b) providing information about the person's mental or physical incapacity that may allow the chief executive to form a belief as mentioned in subsection (2).

51 Responsibility to give notice of mental or physical incapacity likely to adversely affect ability to drive safely

- (1) At the time of applying for the grant or renewal of a Queensland driver licence, the applicant must give notice in the approved form to the chief executive about any mental or physical incapacity that is likely to adversely affect the applicant's ability to drive safely.

Maximum penalty—60 penalty units.

- (2) The holder of a Queensland driver licence must give notice in the approved form to the chief executive about either of the following that is likely to adversely affect the holder's ability to drive safely, if either happens after the grant or renewal of the licence—
 - (a) any permanent or long term mental or physical incapacity;
 - (b) any permanent or long term increase in, or other aggravation of, a mental or physical incapacity, if notice in the approved form has previously been given to the chief executive about the incapacity.

Maximum penalty—60 penalty units.

- (3) It is a defence to the prosecution of a person for an offence against this section if the person establishes that, at the time of the offence, the person was unaware that—
 - (a) he or she had a mental or physical incapacity; or

[s 52]

- (b) the incapacity was likely to adversely affect the person’s ability to drive safely.
- (4) Also, it is a defence to the prosecution of a person for an offence against subsection (2)(b) if the person establishes that, at the time of the offence, the person was unaware that—
- (a) the incapacity had increased or otherwise been aggravated; or
 - (b) the increase in, or other aggravation of, the incapacity was likely to adversely affect the person’s ability to drive safely.

Part 7 **Renewal of open licences by electronic communication**

52 **Definitions for pt 7**

In this part—

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

open licence includes a recently expired smartcard driver licence.

recently expired smartcard driver licence means a smartcard driver licence that—

- (a) is an open licence; and
- (b) has been expired for no more than 28 days.

renew, an open licence, includes, for an open licence that is a recently expired smartcard driver licence, issue a further smartcard driver licence.

53 Application of pt 7

This part applies in relation to a person who is the holder of a valid open licence if—

- (a) the person is not required to give the chief executive a current medical certificate about the person's medical fitness to continue to hold a Queensland driver licence; and
- (b) the person is otherwise eligible for the renewal of the open licence.

54 Notice that person may renew licence by electronic communication

The chief executive may give the person a written notice stating that the person may apply to the chief executive for the renewal of the person's open licence by electronic communication.

55 When chief executive may renew licence

- (1) This section applies if a person to whom a notice is given under section 54 applies to the chief executive for the renewal of the person's open licence by electronic communication.
- (2) The chief executive may renew the person's licence if, at the time the person applies for the renewal—
 - (a) the person is the holder of a valid open licence; and
 - (b) the person is not required to give the chief executive a current medical certificate about the person's medical fitness to continue to hold a Queensland driver licence; and
 - (c) the person's name is the same as the name shown on the person's licence; and
 - (d) the person is otherwise eligible for the renewal of the licence; and

[s 56]

- (e) for a smartcard driver licence, the shelf life of the person's most recent digital photo and digitised signature, or the most recent extension of the shelf life under section 91AA of the Act has not ended, and will not end before the period of the licence applied for ends.

56 Renewal of open licence

- (1) This section applies if the chief executive renews a person's open licence under section 55.
- (2) The chief executive must—
 - (a) for a smartcard driver licence—electronically issue a driver licence receipt to the person; or
 - (b) for a driver licence that is not a smartcard driver licence—issue a renewal of licence label to the person.
- (3) On receipt of a renewal of licence label, the person must promptly attach the label to the back of the licence, in the space provided for change of details labels.

Maximum penalty—20 penalty units.

Part 8 Display of plates

Division 1 L plates

57 Definition for div 1

In this part—

learner means a person who is authorised to learn to ride or drive a motor vehicle under section 4, 5, 128(10) or 131(2).

58 Learner must not ride or drive unless L plates are displayed or fitted in the required way

A learner must not ride or drive a motor vehicle, on a road, that the learner is authorised to learn to ride or drive unless—

- (a) if the motor vehicle is a motorbike—an L plate is displayed at the rear of the motorbike so the L character on the L plate is visible from 20m away at any point within an arc of 45 degrees from the surface of the L plate above or to either side of the motorbike; or
- (b) otherwise—L plates are fitted to the front and rear of the motor vehicle so the L character on each of the L plates is visible from 20m away at any point within an arc of 45 degrees from the surface of each of the L plates above or to either side of the motor vehicle.

Maximum penalty—20 penalty units.

59 Person must not direct a learner unless L plates are displayed or fitted in the required way

- (1) This section does not apply to a driver trainer who is giving pre-licence driver training in relation to a vehicle provided by the driver trainer.
- (2) A person to whom section 4(8) or 5(13) applies must not direct a learner who is riding or driving a motor vehicle, on a road, that the learner is authorised to learn to ride or drive unless—
 - (a) if the motor vehicle is a motorbike—an L plate is displayed at the rear of the motorbike so the L character on the L plate is visible from 20m away at any point within an arc of 45 degrees from the surface of the L plate above or to either side of the motorbike; or
 - (b) otherwise—L plates are fitted to the front and rear of the motor vehicle so the L character on each of the L plates is visible from 20m away at any point within an arc of

[s 60]

45 degrees from the surface of each of the L plates above or to either side of the motor vehicle.

Maximum penalty—20 penalty units.

60 Other persons must not display L plates

A person must not display an L plate while riding or driving a motor vehicle on a road unless the person—

- (a) holds a licence that authorises the person to learn to drive or ride the motor vehicle; or
- (b) is a driver trainer.

Maximum penalty—20 penalty units.

Division 2 Red P plates and green P plates

61 Holder of P1 type licence must not ride or drive unless red P plates are displayed or fitted in the required way

- (1) This section applies to a person who holds a P1 type licence.
- (2) The person must not ride a motorbike or drive a car, on a road, that the person is authorised to ride or drive unless—
 - (a) for a motorbike—a red P plate is displayed at the rear of the motorbike so the P character on the P plate is visible from 20m away at any point within an arc of 45 degrees from the surface of the P plate above or to either side of the motorbike; or
 - (b) for a car—red P plates are fitted to the front and rear of the car so the P character on each of the P plates is visible from 20m away at any point within an arc of 45 degrees from the surface of each of the P plates above or to either side of the car.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply to either of the following riding a motorbike or driving a car in the course of his or her duty—

- (a) an exempted police driver;
- (b) an emergency service worker.

62 Holder of P2 type licence must not ride or drive unless green P plates are displayed or fitted in the required way

- (1) This section applies to a person who holds a P2 type licence.
- (2) The person must not ride a motorbike or drive a car, on a road, that the person is authorised to ride or drive unless—
 - (a) for a motorbike—a green P plate is displayed at the rear of the motorbike so the P character on the P plate is visible from 20m away at any point within an arc of 45 degrees from the surface of the P plate above or to either side of the motorbike; or
 - (b) for a car—green P plates are fitted to the front and rear of the car so the P character on each of the P plates is visible from 20m away at any point within an arc of 45 degrees from the surface of each of the P plates above or to either side of the car.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply to either of the following riding a motorbike or driving a car in the course of his or her duty—
 - (a) an exempted police driver;
 - (b) an emergency service worker.

63 Other persons must not display P plates

- (1) A person must not display a red P plate while riding or driving a motor vehicle on a road unless—
 - (a) the person holds a P1 type licence that authorises the person to ride a class RE or class R motor vehicle and the motor vehicle is a motorbike; or
 - (b) the person holds a P1 type licence that authorises the person to drive a class C motor vehicle and the motor vehicle is a car.

[s 64]

Maximum penalty—20 penalty units.

- (2) A person must not display a green P plate while riding or driving a motor vehicle on a road unless—
 - (a) the person holds a P2 type licence that authorises the person to ride a class RE or class R motor vehicle and the motor vehicle is a motorbike; or
 - (b) the person holds a P2 type licence that authorises the person to drive a class C motor vehicle and the motor vehicle is a car.

Maximum penalty—20 penalty units.

Part 9 Other restrictions on driving

64 Passengers on motorbikes

- (1) A person must not ride, on a road, a class RE motorbike with a passenger unless the person—
 - (a) holds a class RE or R P1 type, P2 type, P type or open licence; and
 - (b) has held a class RE or R P1 type, P2 type, P type or open licence for at least 1 year.

Maximum penalty—20 penalty units.

- (2) A person must not ride, on a road, a class R motorbike with a passenger unless the person—
 - (a) holds a class R P1 type, P2 type, P type or open licence; and
 - (b) has held a class R P1 type, P2 type, P type or open licence for at least 1 year.

Maximum penalty—20 penalty units.

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- (3) This section does not prevent a person riding a motorbike with a passenger on a road if the person is learning to ride and riding as required by section 4(7).

65 Towing vehicles

- (1) A person must not occupy the driver's seating position of a class of motor vehicle being towed on a road by another vehicle unless the person holds a P1 type, P2 type, P type or open licence for that class of vehicle.

Maximum penalty—20 penalty units.

- (2) A person must not drive a motor vehicle towing a motor vehicle unless another person holding a P1 type, P2 type, P type or open licence authorising the other person to drive the towed vehicle is in control of the towed vehicle for the purposes of the towing.

Maximum penalty—20 penalty units.

66 Licence holder 75 years or older

- (1) The holder of a Queensland driver licence who is 75 years or older must not drive a motor vehicle, on a road, unless the holder is—

- (a) carrying a current medical certificate in the approved form; and
(b) driving the vehicle in accordance with the certificate.

Maximum penalty—20 penalty units.

- (2) Despite subsection (1)(a), if the holder is required by an authorised officer to produce the medical certificate, the holder does not commit an offence if the holder—

- (a) holds the certificate at the time that the requirement is made; and
(b) produces the certificate to a person reasonably nominated by the authorised officer within 48 hours.

[s 67]

Part 10 Provisions relating to young drivers and their passengers

67 Application of pt 10

This part does not apply to either of the following driving a motor vehicle in the course of his or her duty—

- (a) an exempted police driver;
- (b) an emergency service worker.

68 Use of mobile phones by particular driver licence holders

(1) This section applies to a person driving a car on a road—

- (a) who—
 - (i) holds a class C learner licence granted or renewed after 30 June 2007, or a P1 provisional licence; and
 - (ii) is under 25 years; or
- (b) who holds a class C P1 probationary licence or P1 restricted licence because of a young driver disqualification offence.

(2) The person must not use a mobile phone while the car is—

- (a) moving; or
- (b) stationary but not parked.

Maximum penalty—20 penalty units.

69 Use of mobile phones by passengers

(1) This section applies to a passenger in a car driven on a road by a person—

- (a) who holds a class C learner licence or P1 provisional licence and is under 25 years; or

- (b) who holds a class C P1 probationary licence or P1 restricted licence because of a young driver disqualification offence.
- (2) The passenger must not use a mobile phone in loudspeaker mode while the car is—
 - (a) moving; or
 - (b) stationary but not parked.Maximum penalty—20 penalty units.

70 High-powered vehicles

- (1) This section applies to a person who—
 - (a) holds a P1 provisional licence or P2 provisional licence and is under 25 years; or
 - (b) holds a P1 probationary or P1 restricted licence or a P2 probationary or P2 restricted licence because of a young driver disqualification offence.
- (2) The person must not drive a high-powered vehicle on a road unless the person—
 - (a) has a current certificate of exemption for the vehicle, or type of vehicle that includes the vehicle, issued under section 71; and
 - (b) is driving the vehicle in accordance with the certificate.Maximum penalty—20 penalty units.
- (3) Subsection (4) applies if a police officer reasonably suspects a person to whom this section applies is, or has been, driving a high-powered vehicle on a road.
- (4) If asked by the police officer whether the person is allowed to drive a high-powered vehicle, the person must produce for inspection a current certificate of exemption issued to the person under section 71 unless the person has a reasonable excuse for not complying with the request.
Maximum penalty—10 penalty units.

[s 71]

- (5) Without limiting the matters that may be a reasonable excuse for subsection (4), it is a reasonable excuse if the person has not been issued with a certificate of exemption under section 71.

71 Certificate of exemption—high-powered vehicles

- (1) A person mentioned in section 70(1) may apply, in the approved form, to the chief executive for a certificate of exemption about driving a high-powered vehicle on a road.
- (2) The application must be accompanied by a signed statement supporting the application from—
 - (a) for matters in relation to subsection (4)(a)(i)(A) or (B)—the person’s employer; or
 - (b) for matters in relation to subsection (4)(a)(i)(C)—the person in charge of the educational institution; or
 - (c) for matters in relation to subsection (4)(a)(i)(D)—a doctor; or
 - (d) for matters in relation to subsection (4)(a)(ii)(B) or (C)—the immediate family member.
- (3) The chief executive must deal with the application in a timely way and must decide to either grant or refuse to grant the application.
- (4) The chief executive may grant the application only if the chief executive is satisfied that—
 - (a) either—
 - (i) the person needs to drive the high-powered vehicle—
 - (A) to, or from, the person’s place of employment; or
 - (B) in the course of the person’s employment; or
 - (C) to, or from, an educational institution the person attends; or

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- (D) to get medical treatment for the person or a member of the person's family; or
 - (ii) the only car reasonably available to be driven by the person is a high-powered vehicle—
 - (A) that was owned by the person on 30 June 2007 and has been owned by the person since that day, including the day of the application; or
 - (B) that is owned or leased by an immediate family member of the person; or
 - (C) that an immediate family member of the person possesses under an employment or salary package of the immediate family member; and
 - (b) there is no other transport reasonably available to the person; and
 - (c) a refusal to issue the certificate of exemption would cause severe hardship.
 - (5) In deciding whether to grant the application, the chief executive must also consider the person's traffic history.
 - (6) If the chief executive decides to grant the application, the chief executive must issue a certificate of exemption to the person about the person driving a high-powered vehicle on a road.
 - (7) A certificate of exemption issued under subsection (6)—
 - (a) must be in the approved form; and
 - (b) may apply to the following—
 - (i) a particular high-powered vehicle;
 - (ii) a type of high-powered vehicle; and
 - (c) may state conditions in relation to—
 - (i) the time of use of a particular high-powered vehicle or type of high-powered vehicle; and

[s 71]

- (ii) the days of use of a particular high-powered vehicle or type of high-powered vehicle; and
 - (iii) the purpose for which a particular high-powered vehicle or type of high-powered vehicle may be driven.
- (8) If the chief executive decides not to grant the application, the chief executive must give the person a written notice stating—
 - (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) that the person may apply for a reconsideration of the decision under section 132; and
 - (d) that the person is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (9) In this section—
 - approved carer***, of a person, means—
 - (a) if the person is a child—a person who is an approved foster carer or approved kinship carer for the child; or
 - (b) if the person is an adult—a person who was an approved foster carer or approved kinship carer for the adult when the adult was a child, and with whom the adult lives.
 - grandparent***, of a person, means a parent of—
 - (a) a parent of the person; or
 - (b) a step-parent of the person.
 - immediate family member***, of a person, means—
 - (a) the person’s spouse; or
 - (b) a parent or step-parent of the person; or
 - (c) a grandparent, or spouse of a grandparent, of the person; or
 - (d) an approved carer or guardian of the person.

72 Late night driving

- (1) This section applies to—
 - (a) a person who satisfies the following requirements—
 - (i) either—
 - (A) the person, after being given a notice to choose, agrees under section 79(3)(b) to be of good behaviour while driving for a year; or
 - (B) the person's driver licence is suspended under section 79(5) or (9) or 86;
 - (ii) the person committed the offence that led to the notice to choose or suspension mentioned in subparagraph (i) after 30 June 2007 and when the person was under 25 years;
 - (iii) at the time of committing the offence, the person—
 - (A) held a P1 type, P2 type or P type licence; or
 - (B) did not hold a valid driver licence and was not eligible for an open licence; or
 - (b) a person who satisfies the following requirements—
 - (i) the person is disqualified from holding or obtaining a Queensland driver licence for an offence committed after 30 June 2007;
 - (ii) the person committed the offence that led to the disqualification when the person was under 25 years;
 - (iii) at the time of committing the offence, the person—
 - (A) held a P1 type, P2 type, P type or open licence; or
 - (B) did not hold a valid driver licence.
- (2) However, this section does not apply to a person whose only valid driver licence is a learner licence.

[s 72]

- (3) The person must not drive a motor vehicle on a road between the hours of 11p.m. on a day and 5a.m. on the next day during the period of 1 year after the relevant day, unless the person—
- (a) has a current certificate of exemption issued under section 73; and
 - (b) is driving in accordance with the certificate.

Maximum penalty—20 penalty units.

- (4) If, during the 1 year period mentioned in subsection (3), the person stops holding a valid driver licence, the 1 year period is extended by the length of the period for which the person does not hold a valid driver licence.
- (5) Subsection (6) applies if a police officer reasonably suspects a person to whom this section applies is, or has been, driving a motor vehicle on a road between the hours of 11p.m. on a day and 5a.m. on the next day during the period of 1 year after the relevant day.
- (6) If asked by the police officer whether the person is allowed to drive a motor vehicle on a road between the hours of 11p.m. on a day and 5a.m. on the next day, the person must produce for inspection a current certificate of exemption issued to the person under section 73 unless the person has a reasonable excuse for not complying with the request.

Maximum penalty—10 penalty units.

- (7) Without limiting the matters that may be a reasonable excuse for subsection (6), it is a reasonable excuse if the person has not been issued with a certificate of exemption under section 73.

- (8) In this section—

relevant day means—

- (a) for a person mentioned in subsection (1)(a) who, after being given a notice to choose, agrees under section 79(3)(b) to be of good behaviour while driving for a year—the sanction day of the person’s driver licence stated in the notice to choose; or

- (b) for a person mentioned in subsection (1)(a) whose driver licence is suspended under section 79(5) or (9) or 86—the day after the last day of the suspension or, if the person’s driver licence expires before the end of the suspension, the day the person is granted a driver licence; or
- (c) for a person mentioned in subsection (1)(b)—the day the person is granted a driver licence other than a learner licence or restricted licence.

73 Certificate of exemption—late night driving

- (1) A person mentioned in section 72(1) may apply, in the approved form, to the chief executive for a certificate of exemption about driving a motor vehicle on a road between the hours of 11p.m. on a day and 5a.m. on the next day during the period mentioned in section 72(3).
- (2) The application must—
 - (a) state the times between the hours of 11p.m. on a day and 5a.m. on the next day for which the application is made; and
 - (b) be accompanied by a signed statement supporting the application from the person’s employer.
- (3) The chief executive must deal with the application in a timely way and must decide to either grant or refuse to grant the application.
- (4) However, the chief executive may grant the application only if the chief executive is satisfied about each of the following—
 - (a) the person needs to drive a motor vehicle on a road at times between the hours of 11p.m. on a day and 5a.m. on the next day—
 - (i) to, or from, the person’s place of employment; or
 - (ii) in the course of the person’s employment;
 - (b) a refusal to issue the certificate of exemption would cause severe hardship.

[s 74]

- (5) In deciding whether to grant the application, the chief executive must also consider the person's traffic history.
- (6) If the chief executive decides to grant the application, the chief executive must issue a certificate of exemption, in the approved form, to the person about allowing the person to drive a motor vehicle on a road between the hours of 11p.m. on a day and 5a.m. on the next day during the period mentioned in section 72(3).
- (7) The certificate of exemption must state the following in relation to the person driving a motor vehicle between the hours of 11p.m. on a day and 5a.m. on the next day—
 - (a) the times for so driving;
 - (b) the days for so driving;
 - (c) the purpose for so driving.
- (8) If the chief executive decides not to grant the application, the chief executive must give the person a written notice stating—
 - (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) that the person may apply for a reconsideration of the decision under section 132; and
 - (d) that the person is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.

74 Peer passengers

- (1) This section applies to a person (the *driver*) who—
 - (a) holds a class C P1 provisional licence and is under 25 years; or
 - (b) holds a class C P1 probationary or P1 restricted licence because of a young driver disqualification offence.
- (2) During the period between 11p.m. on a day and 5a.m. on the next day, the driver must not drive on a road a car carrying more than 1 passenger who—

-
- (a) is under 21 years; and
 - (b) is not a person with whom the driver has an immediate family relationship.

Maximum penalty—20 penalty units.

- (3) For subsection (2)(b), the driver has an immediate family relationship with each immediate family member of the driver.
- (4) In relation to proof of whether an immediate family relationship existed between a passenger and the driver in proceedings for an offence against subsection (2)—
 - (a) a belief of a police officer, on reasonable grounds, that an immediate family relationship between the passenger and driver did not exist is sufficient evidence of that fact; and
 - (b) the driver has the onus of proving the immediate family relationship did exist.
- (5) For subsection (4)(a), the belief mentioned in that subsection may be formed by the police officer after reasonable enquiries made of the driver and passengers when the police officer finds the driver driving the passengers or soon after.
- (6) In this section—

approved carer, of a child, means a person who is an approved foster carer or approved kinship carer for the child.

foster child, of a person, means a child for whom the person is an approved carer.

grandparent, of the driver, means a parent of—

- (a) a parent of the driver; or
- (b) a step-parent of the driver.

immediate family member, of the driver, means—

- (a) the driver's spouse; or
- (b) a child, stepchild, foster child or ward of the driver; or
- (c) a step-parent of the driver; or

[s 75]

- (d) the spouse of a grandparent of the driver; or
- (e) a brother or sister of the driver; or
- (f) a stepbrother or stepsister of the driver; or
- (g) a foster child or ward of a parent or step-parent of the driver; or
- (h) if the driver is a child—
 - (i) an approved carer of the driver; or
 - (ii) a child, stepchild, foster child or ward of an approved carer of the driver; or
- (i) a guardian of the driver; or
- (j) a child, stepchild, foster child or ward of a guardian of the driver.

ward, of a person, means an adult or child for whom the person is a guardian.

Part 11 Demerit points

Division 1 Allocation

75 Allocation of demerit points

- (1) This section applies if—
 - (a) a person has been convicted for a contravention of—
 - (i) a demerit points offence; or
 - (ii) an interstate offence; or

Editor's note—

Convicting is defined in the Act, schedule 4.

- (b) an order has been made against a person under—

-
- (i) the *State Penalties Enforcement Act 1999*, section 38 for a demerit points offence; or
 - (ii) a corresponding law for an interstate offence.
 - (2) The chief executive may record on the person's traffic history—
 - (a) particulars of the offence; and
 - (b) the penalty imposed on the person; and
 - (c) the number of demerit points allocated for the offence under this section or section 76, 77 or 78; and
 - (d) the day the offence was committed.
 - (3) Subject to sections 76, 77 and 78, the number of demerit points to be allocated is the number of points mentioned in schedule 3 for—
 - (a) if the offence is a demerit points offence—the offence; or
 - (b) if the offence is an interstate offence—the offence that corresponds to the interstate offence.
 - (4) Demerit points allocated under subsection (3) are taken to be allocated on the day the offence was committed.
 - (5) To remove any doubt, it is declared that the Criminal Code, section 16, applies to this part.

76 Additional demerit points for driver seatbelt offences

- (1) This section applies to each driver seatbelt offence for which demerit points are recorded on a person's traffic history under section 75.
- (2) Each time further demerit points are recorded on the person's traffic history under section 75 for a later driver seatbelt offence committed within 1 year after the driver seatbelt offence was committed, 3 additional demerit points must be allocated for the later driver seatbelt offence.
- (3) The additional demerit points are taken to be allocated on the day the later driver seatbelt offence was committed.

[s 77]

- (4) In this section—

driver seatbelt offence means an offence against the Queensland Road Rules, section 264(1) or 266(1) committed after 31 October 2004.

77 Additional demerit points for motorbike rider helmet offences

- (1) This section applies to each motorbike rider helmet offence for which demerit points are recorded on a person's traffic history under section 75.
- (2) Each time further demerit points are recorded on the person's traffic history under section 75 for a later motorbike rider helmet offence committed within 1 year after the motorbike rider helmet offence was committed, 3 additional demerit points must be allocated for the later motorbike rider helmet offence.
- (3) The additional demerit points are taken to be allocated on the day the later motorbike rider helmet offence was committed.
- (4) In this section—

motorbike rider helmet offence means an offence against the Queensland Road Rules, section 270(1)(a) or (b) committed after 31 October 2004.

78 Additional demerit points for driving more than 20km/h over the speed limit

- (1) This section applies to each category 1, 2 or 3 speeding offence committed after 12 April 2006, for which demerit points are recorded on a person's traffic history under section 75.
- (2) Each time further demerit points are recorded on the person's traffic history under section 75 for a later category 1, 2 or 3 speeding offence committed within 1 year after the category 1, 2 or 3 speeding offence was committed, the following additional demerit points must be allocated for the later category 1, 2 or 3 speeding offence—

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- (a) for a later category 1 speeding offence—4 demerit points;
 - (b) for a later category 2 speeding offence—6 demerit points;
 - (c) for a later category 3 speeding offence—8 demerit points.
- (3) The additional demerit points are taken to be allocated on the day the later category 1, 2 or 3 speeding offence was committed.
- (4) In this section—

category 1 speeding offence means an offence for a contravention of the Queensland Road Rules, section 20 by driving more than 20km/h, but not more than 30km/h, over the speed limit.

category 2 speeding offence means an offence for a contravention of the Queensland Road Rules, section 20 by driving more than 30km/h, but not more than 40km/h, over the speed limit.

category 3 speeding offence means an offence for a contravention of the Queensland Road Rules, section 20 by driving more than 40km/h over the speed limit.

Division 2 Suspension

79 Queensland driver licence holder

- (1) This section applies—
- (a) if—
 - (i) 4 or more demerit points are recorded on a person's traffic history; and
 - (ii) the demerit points were allocated in a continuous 1 year period while the person did not hold a driver licence; and

[s 79]

- (iii) the person holds a Queensland driver licence; or
 - (b) if—
 - (i) 4 or more demerit points are recorded on a person’s traffic history; and
 - (ii) the demerit points were allocated in a continuous 1 year period; and
 - (iii) during any part of the period the person held a learner, P1 type, P2 type or P type licence, or a driver licence granted outside Queensland that corresponds to a learner, P1 type, P2 type or P type licence, but did not hold an O type licence; and
 - (iv) the person holds a Queensland driver licence; or
 - (c) if—
 - (i) 12 or more demerit points are recorded on a person’s traffic history; and
 - (ii) the demerit points were allocated in a continuous 3 year period, and during any part of the period the person held a Queensland driver licence; and
 - (iii) the person holds an open licence.
- (2) However, this section does not apply if section 80, 81, 101, 120 or 121 applies.
- (3) The chief executive must give the person a written notice (a ***notice to choose***) requiring the person, within a stated time of at least 21 days, to choose between—
 - (a) having the person’s licence suspended for the requisite suspension period; or
 - (b) agreeing to be of good behaviour while driving for a year.
- (4) A person is of good behaviour while driving for a year, if no more than 1 demerit point is allocated to the person’s traffic history during the year.
- (5) If, within the stated time, the person—

- (a) notifies the chief executive that the person chooses for subsection (3)(a) to apply; or
- (b) does not notify the chief executive of the person's choice under subsection (3)(a) or (b);

the person's licence is suspended for the requisite suspension period starting on the sanction day.

Editor's note—

See section 127(4) of the Act for the effect of a suspension of licence.

- (6) If—
 - (a) within the stated time, the person notifies the chief executive that the person chooses for subsection (3)(b) to apply; and
 - (b) 2 or more demerit points are allocated to the person's traffic history during the year starting on the sanction day;

the chief executive must give the person a written notice stating that the person's licence is suspended for double the requisite suspension period starting on the day after the day stated in the notice.

- (7) The day stated must be at least 21 days after the day of the notice.
- (8) If the licence is an open or provisional licence, the notice must also inform the person that the person may be eligible to apply for a special hardship order under part 14 in relation to the suspension.

Note—

Section 108 provides for the stay of the suspension of a person's open or provisional licence if the person makes an application for a special hardship order.

- (9) The person's licence is suspended for double the requisite suspension period starting on—
 - (a) the day after the day stated in the notice; or
 - (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated

[s 80]

in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

Note—

Section 113 provides for the ending of the suspension of a person's open or provisional licence under subsection (9) if a court makes a special hardship order in relation to the person.

80 Person subject to section 79E order

- (1) This section applies to a person who holds an open licence if—
 - (a) the person commits a demerit points offence or interstate offence when there is no section 79E order in relation to the person; and
 - (b) a section 79E order is subsequently made in relation to the person; and
 - (c) while the person is authorised to continue to drive motor vehicles under the section 79E order, 1 of the following happens—
 - (i) the person is convicted of the demerit points offence or interstate offence;
 - (ii) an order is made against the person for the demerit points offence under the *State Penalties Enforcement Act 1999*, section 38;
 - (iii) an order is made against the person for the interstate offence under a corresponding law to the *State Penalties Enforcement Act 1999*, section 38; and
 - (d) because of the conviction or the order mentioned in paragraph (c), demerit points are recorded on the person's traffic history for the demerit points offence or interstate offence; and
 - (e) because of the recording of the demerit points for the demerit points offence or interstate offence, 12 or more demerit points are recorded on the person's traffic

history and the demerit points were allocated in a continuous 3 year period.

- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended for the requisite suspension period starting on the day stated in the notice.
- (3) The day stated must be at least 14 days after the day of the notice.
- (4) The person's Queensland driver licence is suspended for the requisite suspension period starting on the day stated in the notice.

81 Person subject to special hardship order

- (1) This section applies to a person who holds an open or provisional licence if—
 - (a) the person commits a demerit points offence or interstate offence when there is no special hardship order in relation to the person; and
 - (b) a special hardship order is subsequently made in relation to the person; and
 - (c) while the person is authorised to continue to drive motor vehicles under the special hardship order, 1 of the following happens—
 - (i) the person is convicted of the demerit points offence or interstate offence;
 - (ii) an order is made against the person for the demerit points offence under the *State Penalties Enforcement Act 1999*, section 38;
 - (iii) an order is made against the person for the interstate offence under a corresponding law to the *State Penalties Enforcement Act 1999*, section 38; and
 - (d) because of the conviction or the order mentioned in paragraph (c), demerit points are recorded on the

[s 82]

- person's traffic history for the demerit points offence or interstate offence; and
- (e) because of the recording of the demerit points for the demerit points offence or interstate offence, section 79(1)(b) or (c) applies in relation to the person.
- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended for the requisite suspension period, starting on the day stated in the notice.
 - (3) The day stated must be at least 21 days after the day of the notice.
 - (4) The person's Queensland driver licence is suspended for the requisite suspension period starting on—
 - (a) the day stated in the notice; or
 - (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

82 Non-Queensland driver licence holder

- (1) This section applies—
 - (a) if—
 - (i) 4 or more demerit points are recorded on a person's traffic history; and
 - (ii) the demerit points were allocated in a continuous 1 year period while the person did not hold a driver licence; and
 - (iii) the person holds a non-Queensland driver licence;
or
 - (b) if—
 - (i) 4 or more demerit points are recorded on a person's traffic history; and

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- (ii) the demerit points were allocated in a continuous 1 year period, and during any part of the period the person held a learner, P1 type, P2 type or P type licence, but did not hold an O type licence; and
 - (iii) the person holds a non-Queensland driver licence; or
 - (c) if—
 - (i) 12 or more demerit points are recorded on a person’s traffic history; and
 - (ii) the demerit points were allocated in a continuous 3 year period, and during any part of the period the person held a driver licence; and
 - (iii) the person holds a driver licence granted outside Queensland that corresponds to an open licence.
 - (2) The chief executive must give the person a written notice stating that the authority to drive on a Queensland road under the person’s non-Queensland driver licence is suspended for the requisite suspension period starting on the day after the day stated in the notice.
 - (3) The day stated must be at least 21 days after the day of the notice.
 - (4) The person’s authority to drive on a Queensland road under the person’s non-Queensland driver licence is suspended for the requisite suspension period starting on the day after the day stated in the notice.
 - (5) In this section—
 - learner licence* includes a driver licence granted outside Queensland that corresponds to a learner licence.
 - P1 type licence* includes a driver licence granted outside Queensland that corresponds to a P1 type licence.
 - P2 type licence* includes a driver licence granted outside Queensland that corresponds to a P2 type licence.
 - P type licence* includes a driver licence granted outside Queensland that corresponds to a P type licence.

[s 83]

83 Former driver licence holder

- (1) This section applies to a person if section 79 or 82 would apply to the person other than that the person is unlicensed because, since the allocation of demerit points—
 - (a) the person’s driver licence has expired; or
 - (b) the person’s driver licence has been surrendered; or
 - (c) the authority to drive on a Queensland road under the person’s non-Queensland driver licence has been withdrawn under section 128(5).
- (2) The chief executive must give the person a written notice stating that—
 - (a) the person is not eligible to hold a Queensland driver licence during the 3 months starting on the day stated in the notice; and
 - (b) any non-Queensland driver licence held by the person does not authorise the person to drive on a Queensland road during the 3 months starting on the day stated in the notice.
- (3) The day stated must be at least 21 days after the day of the notice.
- (4) The person is not eligible to hold a Queensland driver licence for 3 months starting on the day stated in the notice.
- (5) Any non-Queensland driver licence held by the person does not authorise the person to drive on a Queensland road during the 3 months starting on the day stated in the notice.

84 Unlicensed person

- (1) This section applies if—
 - (a) 4 or more demerit points are recorded on a person’s traffic history; and
 - (b) the demerit points were allocated in a continuous 1 year period while the person did not hold a driver licence; and

- (c) the person does not hold a driver licence.
- (2) The chief executive must give the person a written notice stating that the person is not eligible to hold a Queensland driver licence for 3 months starting on the day stated in the notice.
- (3) The day stated must be at least 14 days after the day of the notice.
- (4) The person is not eligible to hold a Queensland driver licence for 3 months starting on the day stated in the notice.

Part 12 Suspension for driving more than 40km/h over the speed limit

85 Application of pt 12

- (1) This part applies to a person—
 - (a) who has been convicted for a contravention of the Queensland Road Rules, section 20, for driving more than 40km/h over the speed limit; or
Editor's note—
Convicting is defined in the Act, schedule 4.
 - (b) against whom an order has been made under the *State Penalties Enforcement Act 1999*, section 38 for the contravention.
- (2) However, this part does not apply if section 102 or 122 applies to the person.

86 Queensland driver licence holder

- (1) If the person holds a Queensland driver licence, the licence is suspended for 6 months starting on—

[s 87]

- (a) the day stated in a notice given under subsection (2); or
- (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

Note—

Section 113 provides for the ending of the suspension of a person's open or provisional licence under subsection (1) if a court makes a special hardship order in relation to the person.

- (2) The chief executive must give the person a written notice stating—
 - (a) the person's Queensland driver licence is suspended for 6 months starting on a stated day; and
 - (b) if the licence is an open or provisional licence—that the person may be eligible to apply for a special hardship order under part 14 in relation to the suspension.

Note—

Section 108 provides for the stay of the suspension of a person's open or provisional licence if the person makes an application for a special hardship order.

- (3) The day stated must be at least 21 days after the day of the notice.

87 Non-Queensland driver licence holder

- (1) If the person holds a non-Queensland driver licence—
 - (a) the person's authority to drive on a Queensland road under the person's non-Queensland driver licence is suspended for 6 months starting on the day stated in a notice given under subsection (2); and
 - (b) any non-Queensland driver licence held by the person does not authorise the person to drive on a Queensland road during the 6 months; and

- (c) the person is not eligible to hold a Queensland driver licence for the 6 months.
- (2) The chief executive must give the person a written notice stating that—
 - (a) the person’s authority to drive on a Queensland road under the person’s non-Queensland driver licence is suspended for 6 months starting on a stated day; and
 - (b) any non-Queensland driver licence held by the person does not authorise the person to drive on a Queensland road during the 6 months; and
 - (c) the person is not eligible to hold a Queensland driver licence for the 6 months.
- (3) The day stated must be at least 21 days after the day of the notice.

88 Unlicensed person

- (1) If the person does not hold a driver licence—
 - (a) the person is not eligible to hold a Queensland driver licence for 6 months starting on the day stated in the notice given under subsection (2); and
 - (b) any non-Queensland driver licence that may be held by the person does not authorise the person to drive on a Queensland road during the 6 months.
- (2) The chief executive must give the person a written notice stating—
 - (a) the person is not eligible to hold a Queensland driver licence for 6 months starting on a stated day; and
 - (b) any non-Queensland driver licence held by the person does not authorise the person to drive on a Queensland road during the 6 months.

[s 89]

Part 13 **Provisions relating to section 79E orders**

Division 1 **Preliminary**

89 **Purpose of pt 13**

This part provides for matters relating to a section 79E order.

Note—

A section 79E order authorises a person whose Queensland driver licence has been suspended under section 79B(2) of the Act to continue driving motor vehicles under a Queensland driver licence in circumstances stated in the order.

Despite the order, the person can not drive a motor vehicle under a Queensland driver licence until the person obtains a replacement licence under section 79F of the Act.

90 **Definitions for pt 13**

In this part—

relevant charge, for a person's suspended licence, means the charge that resulted in the licence being suspended under section 79B(2) of the Act.

suspended licence, of a person, means the person's Queensland driver licence that has been suspended under section 79B(2) of the Act, because the person has been charged as mentioned in section 79B(1)(a), (b) or (d) of the Act.

Division 2 **Application for section 79E order**

91 **Persons who are eligible, or not eligible, to apply for order**

- (1) A person who has a suspended licence is eligible to apply for a section 79E order if—

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- (a) the suspended licence is an open licence; and
 - (b) the application relates to a licence of the same class as the suspended licence.
- (2) A person who has a suspended licence is not eligible to apply for a section 79E order if—
- (a) at the time of the relevant charge for the suspended licence—
 - (i) the person had been previously charged for an offence under section 79 or 80 of the Act; and
 - (ii) the previous charge had not been dealt with by a court, withdrawn or otherwise discontinued; or
 - (b) the act or omission that resulted in the relevant charge for the suspended licence happened, or is alleged to have happened, in 1 or more of the following circumstances—
 - (i) while the person was engaged in an activity directly connected with the person's means of earning a living;
 - (ii) while the person was driving a motor vehicle the person was not authorised, under an open licence, to drive;
 - (iii) while the person held a restricted licence issued under an order made under section 87 of the Act;
 - (iv) while the person was driving a motor vehicle to which section 79(2B) of the Act applies;
 - (v) during a period for which the person had agreed, under section 79(3)(b), to be of good behaviour while driving;
 - (vi) after the person had been given a notice to choose, but before the person had chosen as mentioned in section 79(3) in relation to the notice; or
 - (c) within 5 years before the relevant charge for the suspended licence—

[s 91]

- (i) a Queensland driver licence held by the person had been suspended or cancelled, or the person had been disqualified from holding or obtaining a Queensland driver licence; or
 - (ii) an authority to drive on Queensland roads under a non-Queensland driver licence previously held by the person had been suspended; or
 - (iii) the person was made ineligible to hold a Queensland driver licence under section 84 or 88; or
 - (iv) the person had been convicted—
 - (A) of an offence against section 79 or 80(11) of the Act; or
 - (B) of an offence against the Criminal Code, section 328A; or
 - (C) outside Queensland of an offence that if committed in Queensland would be an offence against section 79 or 80(11) of the Act.
- (3) In subsection (2)(c)(i), the reference to a suspension, cancellation or disqualification does not include the following—
- (a) a suspension under section 79(9) of the Act;
 - (b) a suspension under section 79B(2) of the Act;
 - (c) a 24 hour suspension under section 80(22AA) of the Act;
 - (d) a suspension or cancellation that has been set aside under section 132(4);
 - (e) a suspension, cancellation or disqualification that has been set aside on a review by QCAT or appeal;
 - (f) a suspension, cancellation or disqualification because of the person’s mental or physical incapacity;

- (g) a suspension under the *State Penalties Enforcement Act 1999*, section 105.

92 Applying for order

- (1) A person may apply for a section 79E order only to a relevant court for the person.
- (2) An application for a section 79E order must be—
 - (a) made within 21 clear days after the applicant’s licence has been suspended under section 79B(2) of the Act; and
 - (b) made in the approved form; and
 - (c) accompanied by the information, or details of the information, the applicant intends to rely on for the application.

Note—

See section 94(2) and (3) for particular evidence the applicant must give to the court.

- (3) Subsection (2)(c) does not prevent the applicant from giving or producing further evidence at the hearing of the application.
- (4) The applicant must give the commissioner a copy of the application, including the information or details mentioned in subsection (2)(c)—
 - (a) if the day of the hearing is within 4 days after the day the application is made—as soon as practicable but before the day of the hearing; or
 - (b) otherwise—as soon as practicable but at least 3 days before the day of the hearing.
- (5) In this section—

relevant court, for a person, means any of the following applying to the person—

- (a) if the relevant charge for the person’s suspended licence was laid in the Brisbane Magistrates Courts District—a

[s 93]

- court in the division of the Brisbane Magistrates Courts District in which the relevant charge for the person's suspended licence was laid;
- (b) if the relevant charge for the person's suspended licence was laid in another Magistrates Courts district—a court in the Magistrates Courts district in which the relevant charge for the person's suspended licence was laid;
 - (c) if the person resides in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the person resides;
 - (d) if the person resides in another Magistrates Courts district—a court in the Magistrates Courts district in which the person resides.

Division 3 Deciding application for section 79E order

93 Hearing of application

- (1) For an application for a section 79E order—
 - (a) the applicant must, if required by the court, attend as a witness; and
 - (b) other persons may be called as witnesses;to give evidence in relation to all matters relevant to the application and may be cross-examined in relation to the evidence.
- (2) The commissioner may—
 - (a) appear and be heard at the hearing of the application; and
 - (b) give or produce evidence at the hearing for or against the making of the order; and
 - (c) examine and cross-examine witnesses called to give evidence at the hearing.

94 Deciding application

- (1) A court may make a section 79E order only if the court is satisfied—
 - (a) the applicant for the order is a fit and proper person to continue to drive, having regard to the applicant’s traffic history, the safety of other road users and the public generally; and
 - (b) that if the order is made, having regard to the applicant’s traffic history, there would not be an unacceptable risk of the applicant committing an offence against section 79 or 80 of the Act; and
 - (c) a refusal to make the order would—
 - (i) cause extreme hardship to the applicant or the applicant’s family by depriving the applicant of the applicant’s means of earning a living; or
 - (ii) cause severe and unusual hardship to the applicant or the applicant’s family, in a way other than by depriving the applicant of the applicant’s means of earning a living; and
 - (d) when the order is made, the applicant holds an open licence that would be valid but for the suspension, under section 79B(2) of the Act, to which the order relates.

Note—

See also section 79E(1) of the Act for requirements about eligibility to apply for a section 79E order and the charges in relation to which a section 79E order may be made.

- (2) For subsection (1)(c)(i), the applicant must give the following to the court—
 - (a) an affidavit made by the applicant outlining how the refusal to make the order would cause extreme hardship to the applicant or the applicant’s family;
 - (b) if the applicant is not self-employed—an affidavit made by the applicant’s employer confirming the applicant would be deprived of the applicant’s means of earning a living if the application is refused.

[s 95]

- (3) For subsection (1)(c)(ii), the applicant must give to the court an affidavit made by the applicant that—
 - (a) outlines how the refusal to make the order would cause severe and unusual hardship to the applicant or the applicant's family; and
 - (b) has attached to it statutory declarations from persons other than the applicant, other documentary evidence, or certified copies of evidence, in support of each matter stated in the affidavit.

95 What order must state

- (1) If a court decides to make a section 79E order in relation to a person, the order must state the following—
 - (a) that the order only applies while the person holds a valid open licence and until the relevant charge for the person's suspended licence in relation to which the order is made is dealt with by a court or is withdrawn or otherwise discontinued;
 - (b) that while the order applies in relation to the person, a Queensland driver licence held by the person is subject to the restrictions stated in the order;
 - (c) that, despite the order, the person is not authorised to drive a motor vehicle under a Queensland driver licence until the person obtains a replacement licence under section 79F of the Act.
- (2) The restrictions stated in the order must include the following—
 - (a) the purpose for which a motor vehicle may be driven under the licence;
 - (b) the class of motor vehicle that may be driven under the licence;
 - (c) the times at which or period of time during which a motor vehicle may be driven under the licence;

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- (d) that a motor vehicle may be driven under the licence only if the person is carrying a copy of the order.
- (3) Also, the restrictions stated in the order may include the following—
- (a) restrictions on where a motor vehicle may be driven under the licence, including, for example, the starting and ending places for journeys under the licence;
- (b) whether or not passengers may be carried in a motor vehicle being driven under the licence and, if they can be carried, the names or other identifying details of the passengers who may be carried;
- (c) any other restriction the court considers appropriate.

Examples of other restrictions for this paragraph—

- that a person wear the person's work uniform at all times while driving under the licence
- that a person carry a logbook containing the details of all driving under the licence that is work-related travel, including, for example, start and end times, destinations and odometer readings

Division 4 Variation of section 79E order

96 Person may apply for order to vary restrictions

- (1) This section applies if—
- (a) a court makes a section 79E order authorising a person to continue to drive motor vehicles under a Queensland driver licence in stated circumstances; and
- (b) the circumstances change.

Example—

A person is authorised under a section 79E order to continue to drive motor vehicles under a Queensland driver licence to and from a stated place of work, and the person's place of work changes.

[s 97]

- (2) On application to a court by the person, the court may, by order (a *section 79E variation order*), vary the restrictions that, under the section 79E order, apply to Queensland driver licences held by the person.
- (3) However, the court may vary the restrictions only if the court—
 - (a) has had regard to the restrictions; and
 - (b) considers the justice of the case requires it to vary the restrictions.

97 Applying for order

- (1) A person may apply for a section 79E variation order only to a relevant court for the person.
- (2) An application for a section 79E variation order must be—
 - (a) made in the approved form; and
 - (b) accompanied by—
 - (i) an affidavit made by the person outlining why the variation mentioned in the application is necessary; and
 - (ii) the information, or details of the information, the applicant intends to rely on for the application.
- (3) Without limiting subsection (2)(b)(ii), if the reason for the application is that the applicant has changed employer, the applicant must give to the court an affidavit made by the applicant's new employer confirming the applicant—
 - (a) is currently employed by the new employer; and
 - (b) would be deprived of the applicant's means of earning a living if the application is refused.
- (4) Subsection (2)(b) does not prevent the applicant from giving or producing further evidence at the hearing of the application.

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- (5) The applicant must give the commissioner a copy of the application, including the affidavits, and the information or details, accompanying the application—
- (a) if the day of the hearing is within 4 days after the day the application is made—as soon as practicable but before the day of the hearing; or
 - (b) otherwise—as soon as practicable but at least 3 days before the day of the hearing.
- (6) In this section—
- relevant court***, for a person in relation to whom a section 79E order applies, means any of the following applying to the person—
- (a) if the relevant charge for the person’s suspended licence in relation to which the order applies was laid in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the relevant charge for the person’s suspended licence in relation to which the order applies was laid;
 - (b) if the relevant charge for the person’s suspended licence in relation to which the order applies was laid in another Magistrates Courts district—a court in the Magistrates Courts district in which the relevant charge for the person’s suspended licence in relation to which the order applies was laid;
 - (c) if the person resides in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the person resides;
 - (d) if the person resides in another Magistrates Courts district—a court in the Magistrates Courts district in which the person resides.

98 Hearing of application

- (1) For an application for a section 79E variation order—

[s 99]

- (a) the applicant must, if required by the court, attend as a witness; and
 - (b) other persons may be called as witnesses;
to give evidence in relation to all matters relevant to the application and may be cross-examined in relation to the evidence.
- (2) The commissioner may—
- (a) appear and be heard at the hearing of the application; and
 - (b) give and produce evidence at the hearing for or against the making of the order; and
 - (c) examine and cross-examine witnesses called to give evidence at the hearing.

99 What order must state

A section 79E variation order must state the new restrictions that are to apply to Queensland driver licences held by the applicant for the remainder of the period for which the section 79E order applies in relation to the applicant.

Division 5 Driving under section 79E order

100 Failing to comply with order

- (1) A person authorised to continue to drive motor vehicles under a section 79E order must comply with the order, including the restrictions stated in the order that apply to Queensland driver licences held by the person, subject to any variation of the restrictions under a section 79E variation order.

Maximum penalty—20 penalty units.

- (2) Subsection (3) applies if—
- (a) a person is convicted of an offence against subsection (1); and

- (b) the relevant charge for the person's suspended licence in relation to which the section 79E order applies has not been dealt with by a court or has not been withdrawn or otherwise discontinued.
- (3) The court must disqualify the person from holding or obtaining a Queensland driver licence until the charge of the offence is dealt with by a court or is withdrawn or otherwise discontinued.

101 Suspension for allocation of demerit points while order applies

- (1) This section applies if—
 - (a) a section 79E order applies in relation to a person who holds a Queensland driver licence; and
 - (b) 4 or more demerit points are allocated to the person's traffic history during any continuous 1 year period while the order applies in relation to the person.
- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended, starting on the day stated in the notice, for the longer of—
 - (a) 3 months; or
 - (b) until the relevant charge for the person's suspended licence in relation to which the section 79E order was made is dealt with by a court or is withdrawn or otherwise discontinued.
- (3) The person's Queensland driver licence is suspended for the longer of the following starting on the day stated in the notice—
 - (a) 3 months;
 - (b) until the relevant charge for the person's suspended licence in relation to which the section 79E order was made is dealt with by a court or is withdrawn or otherwise discontinued.

[s 102]

- (4) The day stated in the notice must not be less than 14 days after the day of the notice.

102 Suspension for driving more than 40km/h over the speed limit while order applies

- (1) This section applies to a person who is a section 79E driver—
 - (a) who has been convicted for a contravention of the Queensland Road Rules, section 20 for driving a motor vehicle under the licence at more than 40km/h over the speed limit; or
 - (b) against whom an order has been made under the *State Penalties Enforcement Act 1999*, section 38 for the contravention.
- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended, starting on the day stated in the notice, for the longer of—
 - (a) 6 months; or
 - (b) until the relevant charge for the person's suspended licence in relation to which the person is a section 79E driver is dealt with by a court or is withdrawn or otherwise discontinued.
- (3) The person's Queensland driver licence is suspended for the longer of the following starting on the day stated in the notice—
 - (a) 6 months;
 - (b) until the relevant charge for the person's suspended licence in relation to which the person is a section 79E driver is dealt with by a court or is withdrawn or otherwise discontinued.
- (4) The day stated in the notice must not be less than 14 days after the day of the notice.

Part 14 Special hardship orders

Division 1 Preliminary

103 Purpose of pt 14

This part provides for the following—

- (a) the making of a special hardship order in relation to a person whose open or provisional licence has been suspended under a relevant provision;
- (b) other matters relating to a special hardship order mentioned in paragraph (a).

104 Definitions for pt 14

In this part—

relevant provision means section 79(9) or 86(1).

suspended open or provisional licence, of a person, means the person's open or provisional licence that has been suspended under a relevant provision.

Division 2 Court may make special hardship order

105 Court may authorise particular person whose licence has been suspended to continue to drive

- (1) This section applies to a person who—
 - (a) has a suspended open or provisional licence; and
 - (b) is eligible, and applies, for a special hardship order under division 3.
- (2) On application to a court by the person, the court may make a special hardship order authorising the person to continue to

[s 106]

drive motor vehicles under a Queensland driver licence in stated circumstances.

Division 3 Application for special hardship order

106 Persons who are eligible, or not eligible, to apply for order

- (1) A person who has a suspended open or provisional licence is eligible to apply for a special hardship order if the application relates to a licence of the same class as the suspended open or provisional licence.
- (2) A person who has a suspended open or provisional licence is not eligible to apply for a special hardship order if, within 5 years before the licence became a suspended open or provisional licence—
 - (a) a Queensland driver licence held by the person had been suspended or cancelled, or the person had been disqualified from holding or obtaining a Queensland driver licence; or
 - (b) an authority to drive on Queensland roads under a non-Queensland driver licence previously held by the person had been suspended; or
 - (c) the person was made ineligible to hold a Queensland driver licence under section 84 or 88; or
 - (d) the person had been convicted of an offence against the Criminal Code, section 328A.
- (3) In subsection (2)(a), the reference to a suspension, cancellation or disqualification does not include the following—
 - (a) a suspension under section 79(9) of the Act;
 - (b) a suspension under section 79B(2) of the Act;

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- (c) a 24 hour suspension under section 80(22AA) of the Act;
 - (d) a suspension, cancellation or disqualification that was set aside under section 132(4);
 - (e) a suspension, cancellation or disqualification that was set aside on appeal;
 - (f) a suspension, cancellation or disqualification because of the person's mental or physical incapacity;
 - (g) a suspension under the *State Penalties Enforcement Act 1999*, section 105;
 - (h) a suspension or cancellation that was set aside on a review by QCAT.

107 Applying for order

- (1) A person may apply for a special hardship order only to a relevant court for the person.
- (2) An application for a special hardship order must be—
 - (a) made within 21 clear days after the applicant's open or provisional licence was suspended under a relevant provision; and
 - (b) made in the approved form; and
 - (c) accompanied by the information, or details of the information, the applicant intends to rely on for the application.

Note—

See section 111(2) and (3) for particular evidence the applicant must give to the court.

- (3) Subsection (2)(c) does not prevent the applicant from producing further evidence at the hearing of the application.
- (4) The applicant must give the chief executive a copy of the application, including the information or details mentioned in subsection (2)(c)—

[s 108]

- (a) if the day of the hearing is within 8 days after the day the application is made—as soon as practicable but before the day of the hearing; or
 - (b) otherwise—as soon as practicable but at least 7 days before the day of the hearing.
- (5) In this section—
- relevant court*, for a person, means—
- (a) if the person resides in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the person resides; or
 - (b) otherwise—a court in the Magistrates Courts district in which the person resides.

108 Making of application for order stays suspension

The suspension of a person's open or provisional licence is stayed from the day the chief executive receives a copy of the person's application for a special hardship order until the day before the day of the hearing of the application.

Division 4 Deciding application for special hardship order

109 Hearing of application

- (1) For an application for a special hardship order—
 - (a) the applicant must, if required by the court, attend as a witness; and
 - (b) other persons may be called as witnesses;
to give evidence in relation to all matters relevant to the application and may be liable to cross-examination in relation to the evidence.
- (2) The chief executive may—

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- (a) appear and be heard at the hearing of the application; and
 - (b) give and produce evidence at the hearing for or against the making of the order; and
 - (c) examine and cross-examine witnesses called to give evidence at the hearing.

110 Similar applications may be considered together

- (1) This section applies if—
 - (a) a person's open or provisional licence is suspended under both sections 79(9) and 86(1) in relation to the same contravention of the Queensland Road Rules, section 20; and
 - (b) the person makes an application for a special hardship order in relation to both of the suspensions.
- (2) The court may consider both applications together, and must try to ensure both applications are considered together.

111 Deciding application

- (1) A court may make a special hardship order only if the court is satisfied—
 - (a) the applicant for the order is a fit and proper person to continue to drive, having regard to the applicant's traffic history and the safety of other road users and the public generally; and
 - (b) a refusal to make the order would—
 - (i) cause extreme hardship to the applicant or the applicant's family by depriving the applicant of the applicant's means of earning a living; or
 - (ii) cause severe and unusual hardship to the applicant or the applicant's family, other than by depriving the applicant of the applicant's means of earning a living; and

[s 112]

- (c) when the order is made, the applicant holds an open or provisional licence that would be valid but for the suspension, under a relevant provision, to which the order relates.

Note—

See also sections 105 and 106 for requirements about eligibility for a special hardship order and the licence suspensions in relation to which a special hardship order may be made.

- (2) For subsection (1)(b)(i), the applicant must give the following to the court—
 - (a) an affidavit made by the applicant outlining how the refusal to make the order would cause extreme hardship to the applicant or the applicant’s family;
 - (b) if the applicant is not self-employed—an affidavit made by the applicant’s employer confirming the applicant would be deprived of the applicant’s means of earning a living if the application is refused.
- (3) For subsection (1)(b)(ii), the applicant must give the court an affidavit made by the applicant that—
 - (a) outlines how the refusal to make the order would cause severe and unusual hardship to the applicant or the applicant’s family; and
 - (b) has attached to it statutory declarations from persons other than the applicant, other documentary evidence, or certified copies of evidence, in support of each matter stated in the affidavit.

112 What order must state

- (1) If a court decides to make a special hardship order in relation to a person, the order must state the following—
 - (a) that the order only applies—
 - (i) while the person holds a valid open or provisional licence; and
 - (ii) until the end of the order period stated in the order;

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- (b) that, despite the matters mentioned in paragraph (a), if during the order period stated in the order the person is, for any reason, disqualified by a court for a period from holding or obtaining a Queensland driver licence, the order stops applying in relation to the person;
 - (c) that while the order applies in relation to the person, a Queensland driver licence held by the person is subject to the restrictions stated in the order.
- (2) For subsection (1)(a)(ii)—
- (a) the order period stated in the order must be equivalent to the length of the suspension period applicable under the relevant provision under which the person’s licence was suspended; and
 - (b) any part of the suspension period served before the suspension was stayed under section 108 must be disregarded.
- (3) The restrictions stated in the order must include the following—
- (a) the purpose for which a motor vehicle may be driven under the licence;
 - (b) the class of motor vehicle that may be driven under the licence;
 - (c) the times at which or period of time during which a motor vehicle may be driven under the licence;
 - (d) that a motor vehicle may be driven under the licence only if the licence holder is carrying a copy of the order.
- (4) Also, the restrictions stated in the order may include the following—
- (a) restrictions on where a motor vehicle may be driven under the licence, including, for example, the starting and ending places for journeys under the licence;
 - (b) whether or not passengers may be carried in a motor vehicle being driven under the licence, and if they can

[s 113]

be carried, the names or other identifying details of the passengers who may be carried;

- (c) any other restriction the court considers appropriate.

Examples of other restrictions for this paragraph—

- that a person wear the person's work uniform at all times while driving under the licence
- that a person carry a logbook containing the details of all driving under the licence that is work-related travel, including, for example, start and end times, destinations and odometer readings

113 Effect of court's decision

- (1) If a court makes a special hardship order in relation to a person—
- (a) the suspension of the person's open or provisional licence ends when the order is made; and
- (b) while the order applies in relation to the person, the person is authorised to continue to drive under a Queensland driver licence subject to the restrictions stated in the order.
- (2) If a court refuses to make a special hardship order in relation to a person, the suspension of the person's open or provisional licence continues for the period of the licence's suspension under the relevant provision that had not been served before the application for the order was made.

Division 5 Obtaining replacement licence

114 Replacement licence if there is a special hardship order

- (1) This section applies to a person authorised to continue to drive motor vehicles by a special hardship order.
- (2) Unless the person has a reasonable excuse, the person must, in the way required under subsection (3), apply for a licence (a *replacement licence*) that—

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- (a) is of the same type, class or description as the licence suspended under a relevant provision; and
 - (b) includes a code indicating that the holder of the licence is authorised to drive motor vehicles only under a special hardship order.

Maximum penalty—20 penalty units.

- (3) An application under subsection (2) must be—
 - (a) in the approved form; and
 - (b) accompanied by a copy of the order; and
 - (c) made within 14 days after the order is made.
- (4) In deciding the application, the chief executive must—
 - (a) have regard to the special hardship order; and
 - (b) deal with the application as if it were an application for a Queensland driver licence.
- (5) Despite subsection (4)(b), the chief executive may only refuse the application if under an Act—
 - (a) the person's open or provisional licence is suspended or cancelled, or the person is disqualified from holding or obtaining a Queensland driver licence, for a reason other than the reason that resulted in the suspension to which the special hardship order relates; or
 - (b) the person's open or provisional licence would have been suspended or cancelled, or the person would have been disqualified from holding or obtaining a Queensland driver licence, but for the person's open or provisional licence being already suspended under a relevant provision.

Division 6 Variation of special hardship order

115 Person may apply for order to vary restrictions

- (1) This section applies if—

[s 116]

- (a) a court makes a special hardship order authorising a person to continue to drive motor vehicles under a Queensland driver licence in stated circumstances; and
- (b) the circumstances have changed.

Example—

A person is authorised under a special hardship order to continue to drive motor vehicles under a Queensland driver licence to and from a stated place of work, and the person's place of work changes.

- (2) On application to a court by the person, the court may, by order (a *special hardship variation order*), vary the restrictions that, under the special hardship order, apply to Queensland driver licences held by the person.
- (3) However, the court may vary the restrictions only if the court—
 - (a) has had regard to the restrictions; and
 - (b) considers the justice of the case requires it to vary the restrictions.

116 Applying for order

- (1) A person may apply for a special hardship variation order only to a relevant court for the person.
- (2) An application for a special hardship variation order must be—
 - (a) made in the approved form; and
 - (b) accompanied by—
 - (i) an affidavit made by the person outlining why the variation mentioned in the application is necessary; and
 - (ii) the information, or details of the information, the applicant intends to rely on for the application.
- (3) Without limiting subsection (2)(b)(ii), if the reason for the application is that the applicant has changed employer, the

applicant must produce to the court an affidavit made by the applicant's new employer confirming the applicant—

- (a) is currently employed by the new employer; and
 - (b) would be deprived of the applicant's means of earning a living if the application is refused.
- (4) Subsection (2)(b) does not prevent the applicant from producing further evidence at the hearing of the application.
- (5) The applicant must give the chief executive a copy of the application, including the affidavits, and the information or details, accompanying the application—
- (a) if the day of the hearing is within 8 days after the day the application is made—as soon as practicable but before the day of the hearing; or
 - (b) otherwise—as soon as practicable but at least 7 days before the day of the hearing.
- (6) In this section—
- relevant court*, for a person, means—
- (a) if the person resides in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the person resides; or
 - (b) otherwise—a court in the Magistrates Courts district in which the person resides.

117 Hearing of application

- (1) For an application for a special hardship variation order—
- (a) the applicant must, if required by the court, attend as a witness; and
 - (b) other persons may be called as witnesses;
- to give evidence in relation to all matters relevant to the application and may be cross-examined in relation to the evidence.

[s 118]

- (2) The chief executive may—
 - (a) appear and be heard at the hearing of the application; and
 - (b) give and produce evidence at the hearing for or against the making of the order; and
 - (c) examine and cross-examine witnesses called to give evidence at the hearing.

118 What order must state

A special hardship variation order must state the new restrictions that are to apply to Queensland driver licences held by the applicant for the remainder of the period for which the special hardship order applies in relation to the applicant.

Division 7 Driving under special hardship order

119 Failing to comply with order

- (1) A person authorised to continue to drive motor vehicles under a special hardship order must comply with the order, including the restrictions stated in the order that apply to Queensland driver licences held by the person, subject to any variation of the restrictions under a special hardship variation order.

Maximum penalty—20 penalty units.

- (2) If a person is convicted of an offence against subsection (1), the court must disqualify the person from holding or obtaining a Queensland driver licence for the following period—
 - (a) if the person is convicted while the special hardship order applies in relation to the person—the period comprising—
 - (i) the period between the day of the conviction and the end of the order period for the person; and

- (ii) 3 months from the end of the order period for the person;
- (b) if the person is convicted after the special hardship order stops applying to the person—3 months from the day of the conviction.

120 Suspension for allocation of demerit points—licence subject to good behaviour requirement

- (1) This section applies to a person if—
 - (a) for the same contravention of the Queensland Road Rules, section 20—
 - (i) demerit points were recorded on the person’s traffic history resulting in the person being given a notice to choose; and
 - (ii) the person’s Queensland driver licence was suspended under section 86; and
 - (b) for the notice to choose, the person agreed, under section 79(3)(b), to be of good behaviour while driving for a year; and
 - (c) for the suspension under section 86, a special hardship order applies in relation to the person; and
 - (d) the person holds a Queensland driver licence; and
 - (e) 2 or more demerit points are recorded on the person’s traffic history; and
 - (f) the demerit points were allocated during a continuous 1 year period while the special hardship order applied in relation to the person.
- (2) The chief executive must give the person a written notice stating that the person’s Queensland driver licence is suspended for double the order period for the person, starting on the day stated in the notice.
- (3) The day stated in the notice must be at least 21 days after the day of the notice.

[s 121]

- (4) The person's Queensland driver licence is suspended for double the order period for the person, starting on—
 - (a) the day stated in the notice; or
 - (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

121 Suspension for allocation of demerit points—other licence

- (1) This section applies to a person if—
 - (a) a special hardship order applies in relation to the person; and
 - (b) the person holds a Queensland driver licence; and
 - (c) 4 or more demerit points are recorded on the person's traffic history; and
 - (d) the demerit points were allocated during a continuous 1 year period while the order applied in relation to the person.
- (2) However, this section does not apply if section 120 applies to the person.
- (3) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended for double the order period for the person, starting on the day stated in the notice.
- (4) The day stated in the notice must be at least 21 days after the day of the notice.
- (5) The person's Queensland driver licence is suspended for double the order period for the person, starting on—
 - (a) the day stated in the notice; or
 - (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated

in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

122 Suspension for driving more than 40km/h over the speed limit while order applies

- (1) This section applies to a person if—
 - (a) a special hardship order applies in relation to the person; and
 - (b) the person holds a Queensland driver licence; and
 - (c) either—
 - (i) the person is convicted for a contravention of the Queensland Road Rules, section 20 for driving a motor vehicle under the licence at more than 40km/h over the speed limit; or
 - (ii) an order under the *State Penalties Enforcement Act 1999*, section 38 for the contravention is made against the person.
- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended for double the order period for the person, starting on the day stated in the notice.
- (3) The day stated in the notice must be at least 21 days after the day of the notice.
- (4) The person's Queensland driver licence is suspended for double the order period for the person, starting on—
 - (a) the day stated in the notice; or
 - (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

Part 15 **Amending, surrendering, suspending or cancelling licences**

123 **Surrendering licence**

- (1) The holder of a Queensland driver licence may surrender the licence by giving the chief executive written notice.
- (2) If the licence is in the holder's possession, it must be forwarded to the chief executive with the written notice.

124 **Grounds for amending, suspending or cancelling licences**

Each of the following is a ground for amending, suspending or cancelling a Queensland driver licence—

- (a) the licensee has a mental or physical incapacity that is likely to adversely affect the licensee's ability to drive safely;
- (b) the licence was obtained on the basis of information that the licensee knew was false or misleading in a material particular;
- (c) the licensee has contravened a condition of the licence;
- (d) the licensee has been disqualified from holding or obtaining a driver licence in another State or another country;
- (e) the licensee has obtained a non-Queensland driver licence;
- (f) for a class HC learner licence—the licensee no longer has a special need for a class HC licence;
- (g) the licensee no longer resides in Queensland;
- (h) for an open licence renewed under part 7—the licensee was not eligible for the renewal of the licence under that part;

- (i) the person was not eligible for the class or type of licence.

125 Procedure for amending, suspending or cancelling licences

- (1) If the chief executive considers a ground exists to amend, suspend or cancel a person's Queensland driver licence (the *proposed action*), the chief executive may give the person a written notice (the *show cause notice*).
- (2) The show cause notice must—
 - (a) state the proposed action; and
 - (b) state the ground for the proposed action; and
 - (c) outline the facts and circumstances forming the basis for the ground; and
 - (d) if the proposed action is to amend a condition of the licence—state the proposed amendment; and
 - (e) if the proposed action is to suspend the licence—state the proposed suspension period; and
 - (f) invite the person to show cause, within a stated time of at least 28 days, why the proposed action should not be taken.
- (3) The chief executive may, before or after the end of the time stated in the show cause notice, extend the time within which the person may show cause.
- (4) If, after considering any personal or written representations made within the time stated or allowed, the chief executive still considers a ground exists to take the proposed action, the chief executive may—
 - (a) if the proposed action was to amend the licence—
 - (i) amend the licence in the way mentioned in the show cause notice; or
 - (ii) amend the licence in another way having regard to the representations; or

[s 125]

- (b) if the proposed action was to suspend the licence—
 - (i) suspend the licence for a period not longer than the period stated in the show cause notice; or
 - (ii) amend the licence having regard to the representations; or
- (c) if the proposed action was to cancel the licence—
 - (i) cancel the licence; or
 - (ii) suspend the licence for a period; or
 - (iii) amend the licence having regard to the representations.
- (5) The chief executive must give the person written notice of the decision.
- (6) If the chief executive decides to amend, suspend or cancel the licence, the notice must state—
 - (a) the reasons for the decision; and
 - (b) that the person may either—
 - (i) apply for a reconsideration of the decision under section 132; or
 - (ii) apply to QCAT for a review of the decision under section 131(1AA) of the Act; and
 - (c) that the person is also able, under section 131(1AA) of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (7) Other than for a ground mentioned in section 124(b), the decision takes effect on the later of the following—
 - (a) the day the notice under subsection (5) is given to the person;
 - (b) a later day stated in the notice under subsection (5).

Editor's note—

Section 126(2) (Fraud and unlawful possession of licences) of the Act applies for a ground mentioned in section 124(b).

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- (8) Subsections (1) to (6) do not apply if the chief executive proposes to amend the licence only—
- (a) by omitting a condition; or
 - (b) for a formal or clerical reason; or
 - (c) in a way the person has, in the approved form, agreed to; or
 - (d) in another way that does not adversely affect the person's interests.
- (9) The chief executive may amend a licence under subsection (8) by written notice given to the person.
- (10) In this section—
- amend*, a licence, includes impose a condition on a licence that was unconditional before the amendment.

126 Immediate amendment or suspension of Queensland driver licence

- (1) This section applies if—
- (a) the chief executive is given information by a licence holder, or about a licence holder by a health professional, whether or not the licence holder or health professional uses an approved form to give the information; and
 - (b) because of the information, the chief executive reasonably considers the licence holder may have a permanent or long-term mental or physical incapacity that is likely to adversely affect the licence holder's ability to drive safely; and
 - (c) the chief executive reasonably considers—
 - (i) public safety has been endangered, or is likely to be endangered, because the licence holder's ability to drive safely is likely to be adversely affected; or

[s 127]

- (ii) immediate amendment or suspension of the licence holder's Queensland driver licence is otherwise necessary in the public interest.
- (2) The chief executive may, by written notice to the licence holder, immediately amend or suspend the licence holder's Queensland driver licence.
- (3) The notice under subsection (2) must state—
 - (a) the reasons for the chief executive's decision; and
 - (b) that the licence holder may either—
 - (i) apply for a reconsideration of the decision under section 132; or
 - (ii) apply to QCAT for a review of the decision under section 131(1AA) of the Act; and
 - (c) that the licence holder is also able, under section 131(1AA) of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (4) Within 7 days after giving the licence holder the notice under subsection (2), the chief executive must give the licence holder a show cause notice under section 125(1).
- (5) The amendment or suspension—
 - (a) takes effect immediately when the notice under subsection (2) is given to the licence holder; and
 - (b) continues to operate until the show cause notice given to the licence holder under section 125(1) is finally dealt with.
- (6) In this section—

licence holder means a person who is the holder of a Queensland driver licence.

127 Return of licence for amendment

- (1) The chief executive may give the holder of a Queensland driver licence a written notice requiring the holder to return

the licence, in a stated way and within a stated time of at least 14 days, to enable—

- (a) the conditions stated on the licence to be amended; or
 - (b) information stated on the licence that is incorrect to be amended, if the chief executive reasonably believes the error was caused by the chief executive.
- (2) A notice given under subsection (1)(b) must include a statement identifying the information that is incorrect and the correct information.
- (3) The holder must comply with a notice given under this section, unless the holder has a reasonable excuse.

Example of a reasonable excuse—

The licence has been, or the holder reasonably suspects it has been, destroyed, lost or stolen.

Maximum penalty—20 penalty units.

- (4) If the notice is given under subsection (1)(a)—
- (a) the chief executive must, after receiving the licence, issue to the holder—
 - (i) for a smartcard driver licence—a driver licence receipt stating the conditions as amended; or
 - (ii) for a driver licence that is not a smartcard driver licence—a replacement licence stating the conditions as amended; and
 - (b) the conditions, as amended, take effect from the appropriate day under section 125(7), even if the holder does not return the licence for amendment.
- (5) If the notice is given under subsection (1)(b), the chief executive must, after receiving the licence, issue to the holder—
- (a) for a smartcard driver licence—a driver licence receipt stating the correct information; or

[s 128]

- (b) for a driver licence that is not a smartcard driver licence—a replacement licence stating the correct information.

Part 16 Recognition of other driver licences

128 Non-Queensland driver licence

- (1) A valid non-Queensland driver licence authorises the holder to drive, on a Queensland road, a class of motor vehicle that the holder is authorised to drive under the licence.

- (2) The holder of a non-Queensland driver licence must comply with a condition of the licence.

Maximum penalty—20 penalty units.

- (3) The chief executive may, by written notice to the holder of a non-Queensland driver licence, immediately withdraw the holder's authority under subsection (1) if—

- (a) the chief executive is given information by the holder, or about the holder by a health professional, whether or not the holder or health professional uses an approved form to give the information; and

- (b) because of the information, the chief executive reasonably considers the holder may have a mental or physical incapacity that is likely to adversely affect the holder's ability to drive safely; and

- (c) the chief executive reasonably considers—

- (i) public safety has been endangered, or is likely to be endangered, because the holder's ability to drive safely is likely to be adversely affected; or

- (ii) immediate withdrawal of the authority is otherwise necessary in the public interest.

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- (4) A notice under subsection (3) must state—
 - (a) the reasons for the chief executive’s decision; and
 - (b) the withdrawal takes effect immediately when the notice is given to the holder of the non-Queensland driver licence; and
 - (c) that the holder may apply for a reconsideration of the decision under section 132; and
 - (d) that the holder is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.
 - (5) If the holder takes up residence in Queensland, the authority is withdrawn—
 - (a) for an interstate licence—3 months after the holder takes up residence; or
 - (b) for a foreign licence—
 - (i) if the holder is an Australian citizen—3 months after the holder takes up residence; or
 - (ii) if the holder is not an Australian citizen but is granted a resident visa before taking up residence—3 months after the holder takes up residence; or
 - (iii) if the holder is not an Australian citizen but is granted a resident visa after taking up residence—3 months after the visa is granted.
 - (6) Subsection (5)(a) does not apply to a defence force member, or an eligible family member of the member, who carries a defence force identification while driving.
 - (7) Also, the authority is withdrawn when the holder is granted a Queensland driver licence.
 - (8) Despite subsections (5) and (7), a valid non-Queensland driver licence, granted for a class of motor vehicle, authorises the holder to take a practical driving test in a corresponding class of motor vehicle.

[s 129]

- (9) Subject to section 11, a person who holds or has, within the last 5 years, held a non-Queensland driver licence, granted for a class of motor vehicle, is eligible for a learner licence for a corresponding class of motor vehicle.
- (10) If the holder is granted a learner licence for the corresponding class of motor vehicle, the holder is authorised to learn to drive the corresponding class of motor vehicle.
- (11) In this section—
resident visa means a permanent visa, or a special category visa, under the *Migration Act 1958* (Cwlth).

129 Defence force licence

- (1) A valid defence force licence authorises the holder to drive, on a road, a class of defence force vehicle that the holder is authorised to drive under the licence in the performance of the holder's functions.
- (2) In this section—
defence force vehicle means a motor vehicle owned by, or appropriated to the use of, the Australian Defence Force.

Part 17 Miscellaneous

130 Retesting—medical fitness

- (1) This section applies if the chief executive receives information from a health professional that indicates—
 - (a) the applicant for, or holder of, a Queensland driver licence has a mental or physical incapacity; and
 - (b) the incapacity is likely to adversely affect the person's ability to drive safely.

Example—

The chief executive may receive information from a person's doctor that the person has a physical incapacity that affects the person's balance, which the doctor considers may affect the person's ability to safely ride a motorbike.

- (2) The chief executive may give the person a written notice requiring the person to take a practical driving test in a class of vehicle that is authorised to be driven under the licence.
- (3) The notice must state—
 - (a) the reason why the person is required to take a practical driving test; and
 - (b) the class of vehicle for which the test is to be undertaken; and
 - (c) the day and time for the test, that is at least 7 days after the day of the notice; and
 - (d) the place where the test is to be taken.
- (4) No fee is payable for the test.
- (5) This section does not limit section 125 or 126.

131 Retesting—Act, s 128

- (1) If, under section 128 of the Act, a person is required by a superintendent to take a practical driving test in a class of motor vehicle, the person is eligible for a learner licence for that class.
- (2) If the person is granted a learner licence for that class, the person is authorised to learn to drive the class of motor vehicle.

132 Reconsideration of decision by chief executive

- (1) This section applies if the chief executive—
 - (a) has, under section 23, refused to grant a person—
 - (i) a Queensland driver licence; or

[s 132]

- (ii) a particular class or type of Queensland driver licence; or
 - (b) has, under section 23, refused to renew a person's licence; or
 - (c) has, under section 32, decided not to grant an application for approval of a young driver's completed logbook; or
 - (d) has, under section 33, decided not to grant any part of an application for credit for a number of hours of supervised driving in a car on a road by a young driver; or
 - (e) has, under section 34, decided not to grant a young driver an exemption from the logbook requirements; or
 - (f) has, under section 38, decided not to approve an application under that section; or
 - (g) has, under section 71, decided not to grant a certificate of exemption about a person driving a high-powered vehicle; or
 - (h) has, under section 73, decided not to grant a certificate of exemption about a person driving a motor vehicle between the hours of 11p.m. on a day and 5a.m. on the next day; or
 - (i) has, under section 125, amended, suspended or cancelled a person's licence; or
 - (j) has, under section 126, immediately amended or suspended a person's licence; or
 - (k) has, under section 128(3), immediately withdrawn a person's authority to drive in Queensland; or
 - (l) has, under section 130, required a person to take a practical driving test at a particular time and place.
- (2) The person may apply, in the approved form, to the chief executive to reconsider the original decision.
- (3) The application must be made—

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- (a) for an original decision mentioned in subsection (1)(a) to (k)—within 28 days after—
 - (i) the day the notice of the decision is given to the person; or
 - (ii) if the applicant is given oral notice of the decision and asks for written notice—the day the written notice is given to the applicant; or
 - (b) for an original decision mentioned in subsection (1)(l)—within 7 days after the day the notice of the requirement is given to the person under section 130(2).
- (4) After reconsidering the original decision, the chief executive may—
- (a) confirm the decision; or
 - (b) set aside the decision and substitute another decision.
- (5) The chief executive must give the person a notice stating—
- (a) the reconsidered decision; and
 - (b) that the person may—
 - (i) if the original decision is a decision mentioned in subsection (1)(a), (b), (i) or (j)—under section 131(1AA) of the Act, apply to QCAT—
 - (A) for a review of the reconsidered decision; and
 - (B) unless the original decision is a prescribed licence decision—for a stay of the reconsidered decision; or
 - (ii) if the original decision is a decision mentioned in subsection (1)(c) to (h), (k) or (l)—under section 65A of the Act, apply to QCAT—
 - (A) for a review of the reconsidered decision; and
 - (B) unless the original decision is a prescribed authority decision—for a stay of the reconsidered decision.

[s 133]

- (6) If the original decision is a decision mentioned in subsection (1)(c) to (h), (k) or (l), section 65A of the Act applies to the reconsidered decision as if it were a reviewed decision mentioned in that section.
- (7) To remove any doubt, it is declared that a person may not apply, under subsection (2), to the chief executive to reconsider an original decision mentioned in subsection (1)(a), (b), (i) or (j) if—
 - (a) the person has applied to QCAT under section 131(1AA) of the Act for a review of the decision; and
 - (b) QCAT has decided the application.
- (8) In this section—

original decision means a decision mentioned in any of paragraphs (a) to (l) of subsection (1).

prescribed authority decision means a decision to withdraw a person's authority to drive on a Queensland road under a non-Queensland driver licence if the reason, or 1 of the reasons, for the decision is the person's mental or physical incapacity.

prescribed licence decision means a decision to suspend, cancel or immediately suspend a person's licence if the reason, or 1 of the reasons, for the decision is the person's mental or physical incapacity.

reconsidered decision means the chief executive's decision on the reconsideration of an original decision.

133 Change of name or address

- (1) If the holder of a Queensland driver licence changes the holder's name or address, the holder must notify the chief executive of the change within 14 days of the change.

Maximum penalty—20 penalty units.

- (2) If the chief executive is satisfied the information given by the holder is correct, the chief executive must issue—

-
- (a) for a change of name on a smartcard driver licence—a driver licence receipt stating the holder’s new name; or
 - (b) for a change of name on a driver licence that is not a smartcard driver licence—a replacement licence stating the holder’s new name; or
 - (c) for a change of address—a change of address label.
- (3) On receipt of a change of address label under subsection (2)(c), the holder must promptly attach the label to the back of the licence, in the space provided for change of details labels.

Maximum penalty—20 penalty units.

134 Holder may apply for replacement licence if incorrect information on licence

- (1) This section applies if the holder of a valid Queensland driver licence becomes aware or reasonably suspects the information stated on the licence is incorrect.
- (2) The holder may apply to the chief executive for the issue of a replacement licence.
- (3) The application must be made in the approved form.
- (4) If the chief executive is satisfied the information given by the holder is correct, the chief executive must issue to the applicant—
 - (a) for a smartcard driver licence—a driver licence receipt stating the correct information; or
 - (b) for a driver licence that is not a smartcard driver licence—a replacement licence stating the correct information.

135 Upgrading to smartcard driver licence

- (1) This section applies to the holder of a valid Queensland driver licence that is not a smartcard driver licence.
- (2) The holder may apply to the chief executive to replace the licence with a smartcard driver licence.

[s 136]

- (3) The application must be made in the approved form.
- (4) The chief executive—
 - (a) may replace the licence with a smartcard driver licence for the same period as the unexpired period of the licence; and
 - (b) must issue to the holder a driver licence receipt.

136 Smartcard driver licence not received in post

- (1) This section applies if—
 - (a) the chief executive issues a driver licence receipt to the holder of a Queensland driver licence; and
 - (b) the holder has not received a smartcard driver licence in the post at the address stated in the holder's application for the licence within the time stated by the chief executive when the application was made.
- (2) The holder must promptly notify the chief executive that the holder has not received the smartcard driver licence.
- (3) If the chief executive is satisfied that the holder has not received the smartcard driver licence because it has been lost or stolen, the chief executive must—
 - (a) advise the holder; and
 - (b) waive payment of the fee for a replacement smartcard driver licence under section 137.

137 Replacement licence if licence damaged, lost or stolen

- (1) This section applies if the holder of a valid Queensland driver licence (the *original licence*) becomes aware, or reasonably suspects, the licence has been damaged, lost or stolen.
- (2) The holder must promptly apply to the chief executive for a replacement licence.

Maximum penalty—20 penalty units.

- (3) The application must be made in the approved form.
- (4) If the chief executive is satisfied the original licence has been damaged, lost or stolen, the chief executive must issue to the applicant—
 - (a) for a smartcard driver licence—a driver licence receipt; or
 - (b) for a driver licence that is not a smartcard driver licence—a replacement licence.

138 Notifiable events under other Acts

- (1) This section applies if the holder of a Queensland driver licence—
 - (a) has an obligation under the Act to notify the chief executive of a notifiable event; and
 - (b) has an obligation under a prescribed smartcard Act to notify the chief executive, or the general manager under the *Maritime Safety Queensland Act 2002*, of the same notifiable event; and
 - (c) complies with the obligation under the prescribed smartcard Act.
- (2) The obligation under the Act to notify the chief executive of the notifiable event is taken to have been satisfied if any time allowed to make the notification under the Act has not expired.
- (3) In this section—

notifiable event means a change of name or a change of address.

139 Replacement labels

- (1) This section applies if the holder of a valid Queensland driver licence becomes aware, or reasonably suspects, a renewal of licence label or a change of address label has been damaged, lost or stolen.

[s 140]

- (2) The holder must promptly apply to the chief executive for a replacement label.

Maximum penalty—20 penalty units.

- (3) If the chief executive is satisfied the original label has been damaged, lost or stolen, the chief executive must issue a replacement label to the holder.

- (4) On receipt of a replacement label, the holder must promptly attach the label to the back of the licence, in the space provided for change of details labels.

Maximum penalty—20 penalty units.

- (5) In this section—

change of address label means a label mentioned in section 133(2)(c).

renewal of licence label means a label mentioned in section 56(2)(b).

140 Replacement driver licence receipt

- (1) This section applies if—
- (a) the chief executive issues a driver licence receipt (the *original receipt*) to a person; and
- (b) while the original receipt is in force, it is damaged, lost or stolen.

Note—

A driver licence receipt is superseded by the issue of a licence—see the Act, schedule 4 (Dictionary), definition *driver licence receipt*.

- (2) The person must promptly apply to the chief executive for a replacement driver licence receipt.

Maximum penalty—20 penalty units.

- (3) The application must be in the approved form.

- (4) If the chief executive is satisfied the original receipt has been damaged, lost or stolen, the chief executive must issue to the

person a replacement driver licence receipt.

- (5) This section does not apply if section 137 applies.

141 Damaging licences

A person must not wilfully damage a Queensland driver licence.

Maximum penalty—20 penalty units.

142 Dealing with superseded Queensland driver licence or driver licence receipt

- (1) This section applies if—
- (a) a person has in the person's possession a superseded Queensland driver licence or a superseded driver licence receipt; and
 - (b) the chief executive gives the person a notice requiring the person to destroy the licence or receipt in a stated way.

- (2) The person must comply with the notice.

Maximum penalty—20 penalty units.

143 Seizing licences

- (1) This section applies if—
- (a) a person produces an invalid Queensland driver licence to an authorised officer under section 49 of the Act; or
 - (b) an authorised officer finds an invalid Queensland driver licence.
- (2) The authorised officer may seize the licence.

144 Codes on Queensland driver licences

- (1) A licence type, class or condition may be stated on a Queensland driver licence by a code.

[s 145]

- (2) A code stated on a Queensland driver licence granted after 30 November 1999 indicates the corresponding driver licence type, class or condition mentioned in schedule 2, part 1.

145 Deciding whether vehicle is a class HC vehicle—number of trailers

To decide whether a vehicle is a class HC vehicle—

- (a) a converter dolly, and a semitrailer, when used together, are taken to be 1 trailer; and
- (b) a low loader and low loader dolly, when used together, are taken to be 1 trailer.

146 Queensland driver licence may include information identifying holder of marine licence—Act, s 150A

- (1) A person's Queensland driver licence may, by a marine licence indicator code, identify the person as a person to whom a marine licence has been granted.
- (2) A marine licence indicator code mentioned in schedule 2, part 2 stated on a person's Queensland driver licence identifies the person as a person to whom the corresponding marine licence mentioned in schedule 2, part 2 has been granted.
- (3) A marine licence indicator condition code in schedule 2, part 2 stated on a person's Queensland driver licence indicates whether or not the person's marine licence is subject to a condition.

147 Applying to include information on Queensland driver licence identifying holder of marine licence

- (1) This section applies if—
 - (a) a holder of a Queensland driver licence is a person to whom a marine licence has been granted; and
 - (b) the person's Queensland driver licence does not, by a marine licence indicator code mentioned in section

146(2), identify the person as a person to whom the marine licence has been granted.

- (2) The person may apply to the chief executive, in the approved form, to include the code on the person's Queensland driver licence.
- (3) If the chief executive is satisfied the information given by the person in the approved form under subsection (2) is correct, the chief executive may issue a replacement Queensland driver licence.
- (4) In this section—
Queensland driver licence does not include a smartcard driver licence.

148 Change of information on Queensland driver licence identifying holder of marine licence—change in conditions

- (1) This section applies if—
 - (a) a person's Queensland driver licence has a marine licence indicator code mentioned in section 146(2) stated on it; and
 - (b) the person's marine licence is amended under the *Transport Operations (Marine Safety) Act 1994* to impose or remove a condition on the marine licence; and
 - (c) the person was required under the *Transport Operations (Marine Safety) Regulation 2004*, section 162 to return the person's marine licence indicator to the administering agency.
- (2) After receiving the person's Queensland driver licence, the chief executive must—
 - (a) amend the code on the driver licence; and
 - (b) give the person—
 - (i) for a smartcard driver licence—a driver licence receipt stating the conditions as amended; or

[s 149]

- (ii) for a driver licence that is not a smartcard driver licence—a replacement driver licence stating the conditions as amended.

149 Removal of information on Queensland driver licence identifying holder of marine licence—marine licence cancelled

- (1) This section applies if—
 - (a) a person’s Queensland driver licence has a marine licence indicator code mentioned in section 146(2) stated on it; and
 - (b) the person’s marine licence is cancelled under the *Transport Operations (Marine Safety) Act 1994*; and
 - (c) the person was required under a Marine Safety Act requirement to return the person’s marine licence indicator to the chief executive.
- (2) After receiving the person’s Queensland driver licence, the chief executive must—
 - (a) remove the code from the driver licence; and
 - (b) give the person—
 - (i) for a smartcard driver licence—a driver licence receipt without the code on it; or
 - (ii) for a driver licence that is not a smartcard driver licence—a replacement driver licence without the code on it.
- (3) In this section—

Marine Safety Act requirement means a requirement under—

 - (a) the *Transport Operations (Marine Safety) Act 1994*, section 202C; or
 - (b) the *Transport Operations (Marine Safety) Regulation 2004*, section 168.

150 Removal of information on Queensland driver licence identifying holder of marine licence—marine licence surrendered

- (1) This section applies if—
 - (a) a person's Queensland driver licence has a code mentioned in section 146(2) stated on it; and
 - (b) the person's marine licence is surrendered under the *Transport Operations (Marine Safety) Act 1994*.
- (2) The person must return the person's Queensland driver licence to the chief executive for the removal of the code from the driver licence.

Maximum penalty—20 penalty units.

- (3) After receiving the person's Queensland driver licence, the chief executive must—
 - (a) remove the code from the driver licence; and
 - (b) give the person—
 - (i) for a smartcard driver licence—a driver licence receipt without the code on it; or
 - (ii) for a driver licence that is not a smartcard driver licence—a replacement driver licence without the code on it.

151 Licence labels

A label issued by the chief executive for attachment to a Queensland driver licence forms part of the licence for which it was issued when it is attached to the licence.

152 Application for restricted licence—Act, s 81

An application under section 81(7) of the Act must be in the approved form.

[s 153]

153 Particular licences can not be held simultaneously

- (1) To remove any doubt, it is declared that a person who holds a Queensland driver licence of a particular type is not eligible to be granted a Queensland driver licence of a different type.
- (2) Subsection (1) does not apply to a learner licence.

154 Issue of restricted licences—Act, s 87

- (1) An application by a person as mentioned in section 87(3A)(b) of the Act to a superintendent must be in the approved form.
- (2) If a court has made an order under section 87 of the Act directing that the person be issued with a restricted licence, the superintendent must issue—
 - (a) if the person held a P provisional licence or open licence immediately before the disqualification that led to the order—a P restricted licence; or
 - (b) if the person held a P1 provisional licence immediately before the disqualification that led to the order—a P1 restricted licence; or
 - (c) if the person held a P2 provisional licence immediately before the disqualification that led to the order—a P2 restricted licence.
- (3) In this section—

disqualification means a disqualification of the type mentioned in section 87(1) of the Act.

155 Issue of P2 restricted licences

- (1) This section applies to a person who—
 - (a) holds a P1 restricted licence; and
 - (b) has held a P1 type licence for at least 1 year; and
 - (c) applies, under section 87(3A)(b) of the Act, to a superintendent in the approved form for a P2 restricted licence; and

- (d) if the person is applying for a P2 restricted licence that authorises the person to drive a class C vehicle—has passed a hazard perception test.
- (2) The superintendent must issue to the person a P2 restricted licence.

156 Declaration for provisions that are not unlawful discrimination

The following are declared not unlawful discrimination on the basis of age for the *Anti-Discrimination Act 1991*—

- (a) sections 8, 9, 10(9), 13, 14, 15, 16, 27 to 35, 41, 42, 61, 62 and 67 to 74;
- (b) provisions of the schedules relating to any of the sections mentioned in paragraph (a).

157 Effect of suspension if licence must be held for a period

If a person is required to hold a class or type of driver licence, other than a restricted licence, for a period, and the person's licence is suspended under the Act or another Act, the period is extended by the length of the period for which the licence is suspended.

158 Disqualification from holding Queensland driver licence because of conviction under s 51

- (1) This section applies if—
 - (a) an offender is convicted of an offence under section 51; and
 - (b) the court that convicts the offender is satisfied, having regard to the circumstances in which the offence was committed, the offender should, in the interests of justice, be disqualified from holding or obtaining a Queensland driver licence.
- (2) The court may, in addition to any penalty that may be imposed, order that the offender is, from the time of the

[s 159]

conviction, disqualified absolutely, or for the period ordered by the court, from holding or obtaining a Queensland driver licence.

159 Fees

The fees payable under this regulation are stated in schedule 1.

160 Exemption from payment of particular fees

(1) The following persons are exempt from the payment of the fees mentioned in schedule 1, items 1 to 7 that are otherwise payable under this regulation—

- (a) the head of a consulate;
- (b) a career officer of a consulate;
- (c) the head of TECO in Brisbane;
- (d) an officer of TECO in Brisbane;
- (e) an immediate family member of a person mentioned in any of paragraphs (a) to (d).

(2) In this section—

immediate family member, of a person, means—

- (a) the person's spouse; or
- (b) a child or stepchild of the person, if the child or stepchild is—
 - (i) under 21 years; or
 - (ii) at least 21 years but under 25 years and in full-time study.

TECO means the Taipei Economic and Cultural Office under the *Taipei Economic and Cultural Office (Privileges and Immunities) Regulations 1998* (Cwlth).

161 Partial refund of fees

- (1) This section applies if—
 - (a) the holder of a valid Queensland driver licence has a mental or physical incapacity that is likely to adversely affect the holder's ability to drive safely and, before the licence expires—
 - (i) the holder surrenders the licence under section 123; or
 - (ii) the chief executive cancels the licence under section 125; or
 - (b) the holder of a valid Queensland driver licence dies before the licence expires.
- (2) The person who was the holder of the licence or, if subsection (1)(b) applies, the deceased's legal personal representative, may apply to the chief executive for a partial refund of the fee paid for the driver licence.
- (3) If the chief executive is satisfied the information given by the applicant is correct, the chief executive must make the partial refund to the applicant.
- (4) The partial refund is to be worked out using the formula—

$$\text{refund} = \frac{LF \times WM}{LP}$$

where—

LF means the licence fee paid for the licence.

LP means the total period of the licence in months.

WM means the unexpired period of the licence in whole months.

- (5) The chief executive may deduct from the partial refund an amount decided by the chief executive to cover reasonable administrative costs.
- (6) Subsection (3) does not apply if the reasonable administrative costs are greater than the amount of the partial refund.

[s 162]

162 Licence granted to interstate licence holder—term and fees

- (1) This section applies if an applicant for a Queensland driver licence is the holder of a valid interstate licence, other than a defence force licence.
- (2) If the chief executive decides to grant the Queensland driver licence, the chief executive may, at the choice of the applicant, grant the Queensland driver licence—
 - (a) for the same period as the unexpired period of the interstate licence; or
 - (b) for another period that includes the unexpired period.
- (3) Despite section 159 and schedule 1—
 - (a) if the licence is granted only for the same period as the unexpired period, no fee is payable for the licence; and
 - (b) if the licence is granted for another period that includes the unexpired period, no fee is payable for the licence to the extent the licence is for the unexpired period.

Part 18 Repeal

163 Repeal

The Transport Operations (Road Use Management—Driver Licensing) Regulation 1999, SL No. 301 is repealed.

Part 19 Transitional provisions

164 Licence codes M and V

- (1) A medical certificate under the repealed regulation, schedule 2, part 1, entry for licence code M as in force immediately before the commencement of this section is taken to be in the approved form for schedule 2, part 1, entry for licence code M.
- (2) A vehicle modification notice under the repealed regulation, schedule 2, part 1, entry for licence code V as in force immediately before the commencement of this section is taken to be a notice mentioned in schedule 2, part 1, entry for licence code V.

165 References to repealed regulation

In an Act or other document, a reference to the *Transport Operations (Road Use Management—Driver Licensing) Regulation 1999* may, if the context permits, be taken to be a reference to this regulation.

Part 20 Amendment of State Penalties Enforcement Regulation 2000

166 Regulation amended in pt 20

This part amends the *State Penalties Enforcement Regulation 2000*.

167 Amendment of sch 3 (Transport legislation)

- (1) Schedule 3, entry for the *Transport Operations (Road Use Management) Act 1995*, entry for section 78(1), from 'For a

[s 167]

contravention by a person if the person’s authority to drive’ to
 ‘section 35(5)2’—

omit, insert—

‘For a contravention by a person if the
 person’s authority to drive under a
 non-Queensland driver licence was
 withdrawn under the *Transport
 Operations (Road Use
 Management—Driver Licensing)
 Regulation 2010—*

- (a) section 128(3) 4
- (b) section 128(5) 2’.

- (2) Schedule 3, entry for the *Transport Operations (Road Use
 Management—Driver Licensing) Regulation 1999—*

omit, insert—

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

Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)
s 4(7)	1 ³ / ₅
s 4(8)	6
s 5(12)	1 ³ / ₅
s 5(13)	6
s 25(2)	1
s 31(4)	6
s 56(3)	2 ² / ₁₅
s 58.....	1 ³ / ₅
s 59(2)	1 ³ / ₅
s 60.....	4 ⁴ / ₅
s 61(2)	1 ³ / ₅

s 62(2)	1 ³ / ₅
s 63(1)	4/ ₅
s 63(2)	4/ ₅
s 64(1)	2/ ₃
s 64(2)	2/ ₃
s 65(1)	4/ ₁₅
s 65(2)	4/ ₁₅
s 66(1)	4/ ₁₅
s 68(2)	3
s 69(2)	3
s 70(2)	3
s 70(4)	1 ³ / ₅
s 72(3)	3
s 72(6)	1 ³ / ₅
s 74(2)	3
s 128(2)	1
s 133(1)	2/ ₁₅
s 133(3)	2/ ₁₅
s 137(2)	2/ ₁₅
s 139(2)	2/ ₁₅
s 139(4)	2/ ₁₅
s 141.....	1/ ₃

Authorised person for service of infringement notices—an authorised officer under the *Transport Operations (Road Use Management) Act 1995*, section 20’.

[s 168]

Part 21 **Consequential amendments of other regulations**

168 **Amendment of other regulations**

Schedule 8 amends the regulations mentioned in it.

Schedule 1 Fees

section 159

	\$
1 Road rules test under section 10(3)	19.15
2 Practical driving test under section 10(6).	44.95
3 Passing a hazard perception test under section 10(9).	15.90
4 Grant or renewal of a learner licence other than in the form of a smartcard driver licence, under section 23, for each 3 year period or part of a 3 year period	72.60
5 Grant or renewal of a learner licence in the form of a smartcard driver licence, under section 23, for each 3 year period or part of a 3 year period	92.45
6 Grant or renewal of a provisional, probationary, restricted or open licence other than in the form of a smartcard driver licence under section 23—	
(a) for a 1 year licence	29.35
(b) for a 2 year licence	40.90
(c) for a 3 year licence	52.45
(d) for a 4 year licence	64.00
(e) for a 5 year licence	75.55
7 Grant or renewal of a provisional, probationary, restricted or open licence in the form of a smartcard driver licence under section 23—	
(a) for a 1 year licence	37.35
(b) for a 2 year licence	52.05
(c) for a 3 year licence	66.75
(d) for a 4 year licence	81.35
(e) for a 5 year licence	96.05
8 Make a logbook available under section 30(3).	16.70
9 Application under section 34 for an exemption from the logbook requirements	33.30
10 Application under section 71 for a certificate of exemption relating to high-powered vehicles.	33.30

Schedule 1

	\$
11 Application under section 73 for a certificate of exemption relating to late night driving	33.30
12 Issue of replacement licence under section 114 other than in the form of a smartcard driver licence	28.10
13 Issue of replacement licence under section 114 in the form of a smartcard driver licence	35.80
14 Issue of a replacement Queensland driver licence under section 137(2) or 147(3) other than in the form of a smartcard driver licence	28.10
15 Issue of a replacement Queensland driver licence under section 135(2), 137(2) or 147(3) in the form of a smartcard driver licence	35.80
16 Issue of a replacement licence under section 79F of the Act other than in the form of a smartcard driver licence . .	28.10
17 Issue of a replacement licence under section 79F of the Act in the form of a smartcard driver licence.	35.80
18 Release of information under section 77 of the Act about a person’s Queensland driver licence	18.65
19 Release of information under section 77 of the Act about a person’s traffic history	18.65

Schedule 2 Licence codes

sections 144(2) and 146(2) and (3)

Part 1 Licence codes, other than marine licence indicator codes and indicator condition codes

Code	Type
L	learner licence
P1	P1 provisional licence, P1 probationary licence or P1 restricted licence
P2	P2 provisional licence, P2 probationary licence or P2 restricted licence
P	P provisional licence, P probationary licence or P restricted licence
O	open licence
D	replacement licence

Code	Class
RE	a learner approved motorbike that is a moped a learner approved motorbike, other than a moped, with or without a trailer
R	a class RE vehicle a motorbike, with or without a trailer
C	a moped a motor vehicle, other than a motorbike, of not more than 4.5t GVM, built or fitted to carry no more than 12 adults, including the driver, with or without a trailer a specially constructed vehicle of not more than 4.5t GVM, with or without a trailer

Schedule 2

Code	Class
LR	<p>a class C vehicle</p> <p>a bus of not more than 8t GVM, with or without a trailer of not more than 9t GVM</p> <p>a truck, including a prime mover, of not more than 8t GVM, with or without a trailer of not more than 9t GVM</p> <p>a specially constructed vehicle of not more than 8t GVM, with or without a trailer of not more than 9t GVM</p>
MR	<p>a class LR vehicle</p> <p>a bus of more than 8t GVM with not more than 2 axles, with or without a trailer of not more than 9t GVM</p> <p>a truck, including a prime mover, of more than 8t GVM, with not more than 2 axles, with or without a trailer of not more than 9t GVM</p> <p>a specially constructed vehicle of more than 8t GVM with not more than 2 axles, with or without a trailer of not more than 9t GVM</p>
HR	<p>a class MR vehicle</p> <p>a bus, of more than 8t GVM, with more than 2 axles, with or without a trailer of not more than 9t GVM</p> <p>an articulated bus</p> <p>a truck, including a prime mover, of more than 8t GVM, with more than 2 axles, with or without a trailer of not more than 9t GVM</p> <p>a specially constructed vehicle of more than 8t GVM, with more than 2 axles, with or without a trailer of not more than 9t GVM</p>
HC	<p>a class HR vehicle</p> <p>a truck, including a prime mover, of more than 8t GVM, with a trailer of more than 9t GVM</p> <p>a specially constructed vehicle of more than 8t GVM, with a trailer of more than 9t GVM</p>
MC	<p>a class HC vehicle</p> <p>a B-double</p> <p>a road train</p>
UD	<p>a specially constructed vehicle, with or without a trailer</p>

Code	Condition
A	licensee may only drive vehicle with automatic transmission
B	licensee may only drive vehicle with synchromesh gearbox
I	licensee may only drive while carrying, and in accordance with, an order under the <i>Penalties and Sentences Act 1992</i> , part 5, division 1
M	licensee may only drive while carrying, and in accordance with, a current medical certificate in the approved form
S	licensee may only drive while wearing corrective lenses
V	licensee may only drive a vehicle fitted with the driver aids, or equipped or adapted, in the way stated in a written notice given to the licensee by the chief executive, and only while carrying the notice
X1	licensee may only drive while carrying, and in accordance with, an order under section 87 or 88 of the Act
X3	licensee may only drive while carrying, and in accordance with, a special hardship order and any special hardship variation order
X4	licensee may only drive while carrying, and in accordance with, a section 79E order and any section 79E variation order

Part 2 Marine licence indicator codes and indicator condition codes

Code	Marine licence
RMDL . . .	recreational marine driver licence
PWCL . . .	personal watercraft licence

Code	Condition
N	marine licence is not subject to a condition
Y	marine licence is subject to a condition

Schedule 3 Demerit points

section 75

Part 1 8 demerit point offences

1 Speeding—more than 40km/h over the speed limit

The number of points for a contravention of the Queensland Road Rules, section 20 by driving more than 40km/h over the speed limit is 8.

Part 2 6 demerit point offences

2 Speeding—30–40km/h over the speed limit

The number of points for a contravention of the Queensland Road Rules, section 20 by driving more than 30km/h, but not more than 40km/h, over the speed limit is 6.

Part 3 4 demerit point offences

3 Speeding—20–30km/h over the speed limit

The number of points for a contravention of the Queensland Road Rules, section 20 by driving more than 20km/h, but not more than 30km/h, over the speed limit is 4.

Schedule 3

- section 173(2)
- section 174(1).

10 Disobeying emergency traffic sign installed under Act, s 71(1)

The number of points for a contravention of section 74(1) of the Act relating to an indication given by a sign installed under section 71(1) of the Act is 3.

11 Disobeying particular red or yellow traffic lights or arrows

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 56(1) or (2)
- section 57(1) or (2)
- section 59(1)
- section 60
- section 61(2)
- section 66(1) or (4)
- section 123(a)
- section 152(1), so far as it relates to section 152(2) or (3)
- section 281
- section 284.

12 Disobeying stop or give way sign and other particular traffic control devices

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 39(1) or (2)
- section 41
- section 63(2)

- section 67(2), (3) or (4)
- section 68(2) or (3)
- section 69(2), (2A) or (3)
- section 69A
- section 70
- section 71(1)
- section 80(2)(a) or (3)
- section 88(1) or (2)
- section 89(1) or (2)
- section 90
- section 91(1) or (2)
- section 92(1)
- section 93(1)(a) or (b)
- section 94
- section 96(1)
- section 97(1)
- section 98(1)
- section 99(1) or (2)
- section 100
- section 101(1) or (2)
- section 102(1)
- section 103(1) or (2)
- section 104(1), (2) or (3)
- section 105
- section 106(1), (2) or (3)
- section 107
- section 108(1)
- section 114(1)

- section 121
- section 122
- section 123(b)
- section 152(1), so far as it relates to section 152(4)
- section 282
- section 286(2).

13 Disobeying traffic lane arrows in roundabout

The number of points for a contravention of the Queensland Road Rules, section 116 is 3.

14 Driver failing to ensure passenger complies with particular requirement about wearing seat belt or occupying seating position

The number of points for a contravention of the Queensland Road Rules, section 265(3) is 3.

15 Driving on safety ramp or arrester bed when not permitted

The number of points for a contravention of the Queensland Road Rules, section 101A(1) is 3.

16 Driving or parking vehicle on a road in particular circumstances

The number of points for a contravention of the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*, section 5(4)(a) or (b) is 3.

17 Driving vehicle exceeding carrying capacity

The number of points for a contravention of each of the following provisions of the *Traffic Regulation 1962* is 3—

- section 76
- section 77(1).

18 Driving with person in or on trailer or prohibited part of vehicle

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 268(4A)
- section 268(4B)
- section 298.

19 Driving with television receiver or visual display unit visible or likely to distract

The number of points for a contravention of the Queensland Road Rules, section 299(1)(a) or (b) is 3.

20 Entering level crossing when train or tram approaching

The number of points for a contravention of the Queensland Road Rules, section 123(c), (d) or (e) is 3.

21 Failing to comply with maximum work and minimum rest requirements—critical risk breach

The number of points for a contravention, that is a critical risk breach, of the following provisions of the Fatigue Management Regulation is 3—

- section 48(2)
- section 49(2)
- section 50(2)
- section 53(2)
- section 55(2)

- section 56(2)
- section 57(2).

22 Failing to comply with requirements about work records

(1) The number of points for a contravention of the following provisions of the Fatigue Management Regulation is 3—

- section 68(1)
- section 71(1)
- section 72(1)
- section 73(1)
- section 74
- section 104(1)
- section 104(2)
- section 105(1).

(2) The number of points for a contravention of the following provisions of the Fatigue Management Regulation by the driver of a fatigue regulated heavy vehicle is 3—

- section 102
- section 103
- section 106
- section 107
- section 108(1)
- section 109
- section 111(1)
- section 112(1).

23 Failing to give way, other than by disobeying a traffic sign

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 38

- section 62(1)(a), (b) or (c)
- section 63(3)
- section 64(a), (b) or (c)
- section 65(2)
- section 72(1)
- section 73(1)
- section 74(1)
- section 75(1)
- section 77(1)
- section 79(1)
- section 80(2)(b) or (4)
- section 81(2)
- section 83
- section 84(1)
- section 85
- section 86(1)
- section 87(1) or (3)
- section 148(1) or (2)
- section 148A
- section 149
- section 288(4)
- section 289(2).

24 Failing to keep clear of police and emergency vehicles

The number of points for a contravention of the Queensland Road Rules, section 78(1) or (2) is 3.

25 Failing to keep left or keep off painted island

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 132(2) or (3)
- section 138(1).

26 Failing to wear helmet, seat belt or restraint

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 264(1)
- section 265(1)
- section 266(1)
- section 270(1)(a)
- section 270(1)(b)
- section 270(2).

27 False representations about accreditation or exemption under Fatigue Management Regulation

The number of points for a contravention of the Fatigue Management Regulation, section 175(1), (2) or (3), by the driver of a fatigue regulated heavy vehicle is 3.

28 Improper turns

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 29(1)
- section 33(1) for a contravention of section 33(2) of the Queensland Road Rules
- section 42
- section 132(2A).

29 Particular licence holders using mobile phones

The number of points for a contravention of section 68(2) of this regulation is 3.

30 Speeding—13–20km/h over the speed limit

The number of points for a contravention of the Queensland Road Rules, section 20 by driving at least 13km/h, but not more than 20km/h, over the speed limit is 3.

31 Using mobile phones

The number of points for a contravention of the Queensland Road Rules, section 300(1) is 3.

32 Using vehicle not in safe condition

The number of points for a contravention of the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*, section 5(1)(a)(iv) is 3.

33 Vehicle entering bicycle storage area before traffic lights showing a red traffic light

The number of points for a contravention of the Queensland Road Rules, section 60A(1) or (2) is 3.

Part 5 2 demerit point offences**34 Driving fatigue regulated heavy vehicle while impaired by fatigue**

The number of points for a contravention of the Fatigue Management Regulation, section 21 is 2.

35 Failing to comply with maximum work and minimum rest requirements—severe risk breach

The number of points for a contravention, that is a severe risk breach, of the following provisions of the Fatigue Management Regulation is 2—

- section 48(2)
- section 49(2)
- section 50(2)
- section 53(2)
- section 55(2)
- section 56(2)
- section 57(2).

36 Failing to display or fit green P plates

The number of points for a contravention of section 62(2) of this regulation is 2.

37 Failing to display or fit L plates

The number of points for a contravention of section 58 of this regulation is 2.

38 Failing to display or fit red P plates

The number of points for a contravention of section 61(2) of this regulation is 2.

39 Failing to give proper change of direction signal

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 2—

- section 46(1)
- section 48(1)
- section 53(1), (2) or (3)

- section 112(2) or (3)
- section 113(2) or (3)
- section 117(1) or (2)
- section 118(1).

40 Failing to keep left

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 2—

- section 115(1)
- section 129(1)
- section 130(2)
- section 135(1)
- section 136.

41 Failing to use slip lane

The number of points for a contravention of the Queensland Road Rules, section 28(1A) is 2.

42 Improper overtaking, passing or driving to the right of centre of road

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 2—

- section 131(1)
- section 132(1)
- section 140
- section 141(1)
- section 142(1)
- section 143(1) or (2)
- section 144.

43 Improper passing or overtaking of trams

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 2—

- section 160(2) or (3)
- section 161(2) or (3)
- section 163(2), (3) or (4)
- section 164(2), (3) or (4).

44 Improper turn, other than U-turn

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 2—

- section 27(1)
- section 28(1)
- section 31(1)
- section 32(1)
- section 37
- section 40
- section 111(1).

45 Increasing speed when being overtaken

The number of points for a contravention of the Queensland Road Rules, section 145 is 2.

46 Injurious matter on roads

The number of points for a contravention of section 137(1) of the Act is 2.

47 Unnecessary noise or smoke from vehicle

The number of points for a contravention of the Queensland Road Rules, section 291(1)(b) is 2.

Part 6 **1 demerit point offences**

48 Dazzling road users

The number of points for a contravention of the Queensland Road Rules, section 219 is 1.

49 Failing to comply with condition stated on Queensland driver licence

The number of points for a contravention of section 25(2) of this regulation is 1.

50 Failing to comply with condition of non-Queensland driver licence

The number of points for a contravention of section 128(2) of this regulation is 1.

51 Failing to dip headlights

The number of points for a contravention of the Queensland Road Rules, section 218(1)(a) or (b) is 1.

52 Failing to have lights lit

The number of points for a contravention of the Queensland Road Rules, section 215(1) is 1.

53 Failing to produce certificate of exemption for driving high-powered vehicle

The number of points for a contravention of section 70(4) of this regulation is 1.

54 Failing to produce certificate of exemption for late night driving

The number of points for a contravention of section 72(6) of this regulation is 1.

55 Following too closely

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 1—

- section 126
- section 127(1).

56 Improper vehicle equipment, construction or loading

The number of points for a contravention of the following sections of the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010* is 1—

- section 5(1)(a)(i), (ii), (iii), (v) or (vi) or (b)
- section 10(1)(d) or 11.

57 Learner driving while not under direction of licensed driver

The number of points for a contravention of section 4(7) or 5(12) of this regulation is 1.

58 Speeding—less than 13km/h over the speed limit

The number of points for a contravention of the Queensland Road Rules, section 20 by driving less than 13km/h over the speed limit is 1.

Schedule 4 Prescribed countries

sections 10(4)(c) and (8)(b) and 33(3) and (4)

1 Prescribed countries

(1) Each of the following countries is prescribed—

- Austria
- Belgium
- Canada
- Croatia
- Denmark
- Finland
- France
- Germany
- Greece
- Guernsey
- Ireland
- Isle of Man
- Italy
- Japan
- Jersey
- Luxembourg
- Malta
- Netherlands
- Norway
- Portugal
- Singapore
- Spain

Schedule 4

- Sweden
 - Switzerland
 - United Kingdom
 - United States of America.
- (2) However—
- (a) Isle of Man is prescribed only in relation to driver licences granted on or after 1 April 1991; and
 - (b) Malta is prescribed only in relation to driver licences granted on or after 2 January 2004.

Schedule 5 Remote area

section 21(6)(b)

Aramac
Aurukun
Balonne
Barcaldine
Barcoo
Bauhinia
Belyando
Bendemere
Blackall
Booringa
Boulia
Bowen
Broadsound
Bulloo
Bungil
Burke
Carpenteria
Cloncurry
Cook
Croydon
Dalrymple
Diamantina
Doomadgee
Duarina

Schedule 5

Emerald
Etheridge
Flinders
Herberton
Hope Vale
Ilfracombe
Injinoo
Isisford
Jericho
Kowanyama
Lockhart River
Longreach
Mapoon
Mareeba
McKinlay
Mornington
Mount Isa
Murilla
Murweh
Napranum
Nebo
New Mapoon
Paroo
Peak Downs
Pormpuraaw
Quilpie
Richmond
Tambo

Tara

Taroom

Umagico

Waggamba

Warroo

Winton

Woorabinda

Wujal Wujal

Schedule 6 Exempted high-powered vehicles

schedule 9, definition *high-powered vehicle*

Model	Engine capacity	Year of model
Daihatsu Copen L880 2D Convertible Turbo	659cc	2003 or later
Smart Fortwo Coupe 2D Turbo 3	698cc	2000 or later
Smart Fortwo Cabriolet Turbo 3 2D	698cc	2000 or later
Smart Roadster Turbo 3 2D	698cc	2000 or later
Suzuki Cappuccino 2D Cabriolet Turbo	657 or 658cc	1992 to 1997

Schedule 7 Prescribed motorbikes

schedule 9, definition *prescribed motorbike*

Aprilia RS250

Honda NSR250

Kawasaki KR250 (KR-1 and KR1s models)

Suzuki RGV250

Yamaha TZR250

Schedule 8 Consequential amendments of other regulations

section 168

Transport Operations (Passenger Transport) Regulation 2005

- 1 Section 17(b)(i), ‘1999’—**
omit, insert—
‘2010’.

Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005

- 1 Section 35(5), definition *O type licence*, ‘1999’—**
omit, insert—
‘2010’.

Schedule 9 Dictionary

section 3

1 year licence, in relation to the payment of a fee for a licence, means a licence issued or renewed for a period of not more than a year.

2 year licence, in relation to the payment of a fee for a licence, means a licence issued or renewed for a period of more than 1 year but not more than 2 years.

3 year licence, in relation to the payment of a fee for a licence, means a licence issued or renewed for a period of more than 2 years but not more than 3 years.

4 year licence, in relation to the payment of a fee for a licence, means a licence issued or renewed for a period of more than 3 years but not more than 4 years.

5 year licence, in relation to the payment of a fee for a licence, means a licence issued or renewed for a period of more than 4 years but not more than 5 years.

approved foster carer, for a child, means an approved foster carer under the *Child Protection Act 1999*, schedule 3, in whose care the child is placed under section 82 of that Act.

approved kinship carer, for a child, has the meaning given by the *Child Protection Act 1999*, schedule 3.

choice day means the last day on which a person is able to make a choice under a notice to choose.

class, of vehicle, means a vehicle that is authorised to be driven under a class of licence.

Example—

A class C vehicle is a moped, or a car with or without a trailer.

competency declaration means a valid competency declaration under the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005*.

converter dolly means a trailer with a fifth wheel coupling designed to support a semitrailer for hauling purposes.

critical risk breach, for a contravention of a provision of the Fatigue Management Regulation, means a contravention of the provision declared in that regulation to be a critical risk breach.

damaged—

- 1 *Damaged*, in relation to a document other than a smartcard driver licence, includes—
 - (a) destroyed; or
 - (b) defaced; or
 - (c) damaged to the extent that any information, including a photo, on the licence is unrecognisable.
- 2 *Damaged*, in relation to a smartcard driver licence—
 - (a) means—
 - (i) the licence is damaged to an extent that—
 - (A) any information on the licence is impossible or difficult to read with or without the use of technology; or
 - (B) a digital photo or a digitised signature on the licence is impossible or difficult to recognise with or without the use of technology; or
 - (ii) any information stored electronically on the licence is no longer accessible by using the holder's PIN; and
 - (b) includes destroyed.
- 3 However, *damaged*, in relation to a document, does not include the document being destroyed as required under section 142.

defence force identification means a current form AB135—Driver Identification issued by the Australian Defence Force.

defence force licence means a driver licence granted by the Australian Defence Force.

defence force member means—

- (a) a person on full-time permanent service with the Australian Defence Force; or
- (b) a person on full-time duty with the Australian Defence Force Reserve.

demerit points offence means an offence, other than an offence committed by a person while riding a bicycle, against a provision mentioned in schedule 3.

destroy, a driver licence, includes damage the licence so that any information, including a photo, on the licence is unrecognisable.

driver trainer means a person accredited as a driver trainer under the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005*.

driving session means a single occasion of supervised driving in a car on a road.

electronic communication, for part 7, see section 52.

eligible family member, of a defence force member, means a person who—

- (a) resides with the defence force member; and
- (b) is entitled to be transferred with the defence force member at the expense of the Australian Defence Force.

emergency service worker means—

- (a) a fire officer under the *Fire and Rescue Service Act 1990*; or
- (b) a service officer under the *Ambulance Service Act 1991*.

exempted police driver means any of the following—

- (a) a police officer;
- (b) a watch-house officer within the meaning of the *Police Service Administration Act 1990*;
- (c) a special constable within the meaning of the *Police Service Administration Act 1990*;
- (d) a community police officer within the meaning of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*;
- (e) a person appointed by the commissioner under the *Public Service Act 2008*, chapter 5 part 5, as a police liaison officer;
- (f) a member of a police service of another State.

Fatigue Management Regulation means the *Transport Operations (Road Use Management—Fatigue Management) Regulation 2008*.

fifth wheel coupling means a device, other than the upper rotating element and the kingpin (that are parts of a semitrailer), used with a prime mover, semitrailer or a converter dolly to permit quick coupling and uncoupling and to provide for articulation.

green P plate means a plate or sign with an area, measuring at least 146mm by 146mm, that shows only a green upper case letter 'P' clearly marked on a white background.

guardian, of a person, means—

- (a) if the person is a child—a person in whose favour a parenting order is in force under the *Family Law Act 1975* (Cwlth); or
- (b) if the person is an adult—a guardian appointed for the person under the *Guardianship and Administration Act 2000*.

hazard perception test means a test designed to measure the ability of a driver to recognise and respond appropriately to driving situations that are potentially dangerous.

health professional see section 142(3) of the Act.

high-powered vehicle means a car, other than a car mentioned in schedule 6, that has at least 1 of the following—

- (a) 8 or more cylinders;
- (b) a turbocharged engine that is not diesel powered;
- (c) a supercharged engine that is not diesel powered;
- (d) an engine that has a power output of more than 200kW under the manufacturer's specifications for the car;
- (e) a rotary engine that has an engine capacity of more than 1146cc under the manufacturer's specifications for the car;
- (f) a modification to the engine of a type that must be approved under the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*, section 13.

interstate offence means an offence under a corresponding law that corresponds to a demerit points offence.

learner approved motorbike see the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8.

learner licence, for part 5, division 3, see section 39.

logbook—

- (a) means a document, in the approved form, for use under this regulation to record the driving experience of a young driver; and
- (b) includes a document, in the approved form, for which details can be wholly or partly recorded and verified, as required under section 31(1), by using an electronic system.

logbook requirements means the requirements mentioned in section 29.

low loader means a gooseneck semitrailer with a loading deck 1m or less above the ground.

low loader dolly means a trailer that—

Schedule 9

- (a) is of the type usually coupled between a prime mover and a low loader; and
- (b) consists of a gooseneck rigid frame; and
- (c) does not carry any load directly on itself; and
- (d) is equipped with 1 or more axles, a kingpin and a fifth wheel coupling.

L plate means a plate or sign with an area, measuring at least 146mm by 146mm, that shows only a black upper case letter ‘L’ clearly marked on a yellow background.

marine licence means a licence granted under the *Transport Operations (Marine Safety) Act 1994*, section 62(1).

mobile phone does not include a CB radio or any other two-way radio.

moped means a motorbike—

- (a) that either—
 - (i) is fitted with an electric motor; or
 - (ii) has an internal combustion engine with an engine capacity of not more than 50mL; and
- (b) that has a manufacturer’s top rated speed of not more than 50km/h; and
- (c) that is not a bicycle.

night means the period between sunset on a day and sunrise on the next day.

notice to choose see section 79(3).

order period, for a person in relation to whom a special hardship order applies, means the order period stated, under section 112(1)(a)(ii), in the order.

O type licence includes a driver licence granted outside Queensland that corresponds to an open licence.

P1 probationary licence means a probationary licence that has the code P1 stated on the licence.

P1 provisional licence means a provisional licence that has the code P1 stated on the licence.

P1 restricted licence means a restricted licence that has the code P1 stated on the licence.

P1 type licence means a P1 provisional licence, P1 probationary licence or P1 restricted licence.

P2 probationary licence means a probationary licence that has the code P2 stated on the licence.

P2 provisional licence means a provisional licence that has the code P2 stated on the licence.

P2 restricted licence means a restricted licence that has the code P2 stated on the licence.

P2 type licence means a P2 provisional licence, P2 probationary licence or P2 restricted licence.

passenger, on a motorbike, means a passenger—

- (a) on the pillion; or
- (b) in a sidecar attached to the motorbike.

P probationary licence means a probationary licence other than a P1 probationary licence or P2 probationary licence.

P provisional licence means a provisional licence other than a P1 provisional licence or P2 provisional licence.

practical driving test means a test of an applicant's practical ability to drive a vehicle.

Example—

An applicant doing a practical driving test may be required to do any of the following—

- (a) to drive the vehicle in a forward and reverse direction;
- (b) to drive the vehicle into or through a restricted space in a forward and reverse direction;
- (c) to stop the vehicle (with the engine running and the gears disengaged) during the ascent of a steep hill and restart the vehicle in a forward direction;
- (d) to drive the vehicle while the vehicle is carrying a load.

pre-licence driver training has the meaning given by the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005*, section 30.

prescribed motorbike means a motorbike mentioned in schedule 7.

P restricted licence means a restricted licence other than a P1 restricted licence or P2 restricted licence.

P type licence means a P provisional licence, P probationary licence or P restricted licence.

Q-Ride training has the meaning given by the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2005*.

record, in relation to a document that is a logbook and for which details can be wholly or partly recorded and verified, as required under section 31(1), by using an electronic system, includes record electronically by using the electronic system.

red P plate means a plate or sign with an area, measuring at least 146mm by 146mm, that shows only a red upper case letter ‘P’ clearly marked on a white background.

relevant charge, for part 13, see section 90.

relevant order means—

- (a) a section 79E order; or
- (b) a special hardship order under part 14.

relevant provision, for part 14, see section 104.

repealed regulation means the repealed *Transport Operations (Road Use Management—Driver Licensing) Regulation 1999*.

requisite suspension period, for the imposition of a sanction because of the allocation of demerit points, means—

- (a) for a sanction imposed because of section 79(1)(c), 80(1), 81(1) or 82(1)(c)—
 - (i) if the sanction is imposed because of the allocation of at least 20 demerit points—5 months; or

- (ii) if the sanction is imposed because of the allocation of at least 16 but not more than 19 demerit points—4 months; or
 - (iii) if the sanction is imposed because of the allocation of not more than 15 demerit points—3 months; or
- (b) otherwise—3 months.

road in Australia includes a road in an external Territory.

road rules test means a test of an applicant's knowledge of the Queensland Road Rules or a corresponding law.

sanction day of a licence stated in a notice to choose means—

- (a) if the person notifies the chief executive of the person's choice on or before the choice day—
 - (i) the choice day; or
 - (ii) an earlier day, not before the day on which the person gives the notice to the chief executive, chosen by the person; or
- (b) if the person fails to notify the chief executive of the person's choice on or before the choice day—the day after the choice day; or
- (c) if the licence expires or is surrendered between the day the notice to choose is issued and the choice day—the day after the choice day.

section 79E variation order see section 96.

severe hardship means severe hardship suffered by—

- (a) the applicant; or
- (b) the applicant's family because the applicant has taken on a role of special responsibility in relation to the applicant's family.

severe risk breach, for a contravention of a provision of the Fatigue Management Regulation, means a contravention of the provision declared in that regulation to be a severe risk breach.

show cause notice see section 125(1).

special hardship variation order see section 115(2).

specially constructed vehicle—

- (a) means—
- (i) an agricultural machine, including a tractor, within the meaning of the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8; or
 - (ii) a crane, hoist or load shifting equipment for which a WHS certificate is issued; or
 - (iii) any other motor vehicle that is not constructed to carry passengers or a load, except things used in performing the vehicle’s function; but
- (b) does not include a motor vehicle with a chassis that is substantially the same as a truck chassis.

special need for a class RE or R licence see section 38.

supervised driving means driving under the direction of a supervisor.

supervisor means a person who—

- (a) directs the driving of a vehicle by another person; and
- (b) if the vehicle the other person is driving has passenger seating capacity—sits next to the other person while directing the driving; and
- (c) holds an O type licence for a class C vehicle; and
- (d) has held the licence for at least 1 year.

suspended licence, for part 13, see section 90.

suspended open or provisional licence, for part 14, see section 104.

valid, in relation to a driver licence, means—

- (a) the licence has not expired; and
- (b) the licence has not been cancelled or suspended; and
- (c) the licensee is not disqualified, by order of an Australian court, from holding or obtaining a driver licence.

WHS certificate means—

- (a) an earthmoving or particular crane work certificate, or a licence to perform a class of high risk work, under the *Workplace Health and Safety Regulation 2008*; or
- (b) a certificate to work in an occupation issued under a law of the Commonwealth, or another State, about occupational health and safety.

young driver see section 28(1).

young driver disqualification offence, in relation to a person, means an offence committed when the person was under 25 years that led to a disqualification, under the Act, another Act or an order made by an Australian court, from holding or obtaining a driver licence.

ENDNOTES

- 1 Made by the Governor in Council on 5 August 2010.
- 2 Notified in the gazette on 6 August 2010.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Transport and Main Roads.

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