TRANSPORT LEGISLATION AMENDMENT BILL (No. 2) 2002

EXPLANATORY NOTES

GENERAL OUTLINE

OBJECTIVES OF THE LEGISLATION

The objective of the Transport Legislation Amendment Bill (No. 2) 2002 is to provide for amendments to a range of statutes administered by the Department of Transport and Department of Main Roads.

REASONS FOR THE BILL

The *Century Zinc Project Act 1997* is to be amended to revise property descriptions and allow for lodgment of survey plans with the Department of Natural Resources and Mines.

The *Hay Point Harbour (Ratification of Agreements) Act 1987* is to be repealed as agreements underpinning this Act have served their purpose and have been terminated.

The *Tow Truck Act 1973* contains references to repealed legislation, and it is proposed to redirect these references to current legislation.

It is proposed to make a number of amendments to the *Transport Infrastructure Act 1994*:

- to define port marine operational areas under legislation administered by the Environmental Protection Agency;
- to create provisions specifying the owner of rail and non-rail corridor land for the purposes of the *Integrated Planning Act 1997*; and
- to allow the Cairns Port Authority to develop residential and tourist type accommodation on strategic port land.

A number of amendments are proposed to the *Transport Operations (Road Use Management) Act 1995*:

- to enable an existing policy or permit arrangement to be amended, suspended or cancelled;
- to enable drivers who are not the registered operator of a vehicle to nominate themselves as the offender for a camera-detected offence;
- to correct references to repealed legislation in the definition of 'convicting';
- to expand the extended liability provisions for heavy vehicle offences in respect of the requirement to give information;
- to amend the procedures for challenging the condition or operation of a detection instrument;
- to allow images from speed cameras to be admissible as evidence of a wider range of offences; and
- to refine the range of penalties applying to unlicensed driving offences.

ESTIMATED COSTS FOR GOVERNMENT IMPLEMENTATION

No costs are estimated for governmental implementation of these amendments.

RESULTS OF CONSULTATION

The proposed amendments have been supported.

CONSISTENCY WITH FUNDAMENTAL LEGISLATIVE PRINCIPLES

Proposed changes to the extended liability provisions of the *Transport Operations (Road Use Management) Act 1995* include powers to require information that may potentially breach the principle of protection from self-incrimination. This is considered to be justified by the need to improve safety outcomes in the heavy vehicle industry. Howere, it is considered necessary to create a limited immunity from prosecution, which itself may constitute a breach of fundamental legislative principles. However, this protection is warranted to safeguard the rights of individuals generally, and to encourage the giving of information that is essential to achieving significant road safety outcomes.

NOTES ON CLAUSES

PART 1—PRELIMINARY

Clause 1 states that the short title of the Act is to be the *Transport Legislation Amendment Act (No. 2) 2002*.

Clause 2 states that certain sections of this Act are to commence by proclamation. The balance of the Act will commence on assent.

PART 2—AMENDMENT OF THE *CENTURY ZINC PROJECT ACT 1997*

Clause 3 states that this part amends the *Century Zinc Project Act 1997*.

Clause 4 omits ss.21(2) to (6) of the *Century Zinc Project Act 1997* as this regulation-making power has expired. Additionally, this power could be considered to have been in breach of fundamental legislative principles as it allowed a regulation to amend an Act of Parliament. (This is known as a Henry VIII clause.)

Clauses 5 and 6 amend the property descriptions provided in schedules to the Act.

One of the objectives of the Act was to facilitate certain aspects of an agreement made under the right to negotiate provisions of the *Native Title Act 1993* (Cwlth) regarding the establishment of a zinc mine, port facility and miscellaneous transport infrastructure corridor, to ensure that native title is not extinguished and to enable the determination of a development application on certain land in north-west Queensland.

At the time of drafting it was envisaged that property descriptions would need to be revised as more detailed surveying work was completed. A regulation-making power was provided to enable these changes to be made. This regulation-making power has now expired.

Rather than extend the regulation-making power, and so continue a potential breach of fundamental legislative principles, it has been decided

to use an Act of Parliament to directly update the relevant property descriptions.

PART 3—AMENDMENT OF THE *TOW TRUCK ACT 1973*

Clause 7 states that this part amends the *Tow Truck Act 1973*.

Clause 8 omits the reference in s.7(2) of the Act to the *Transport Infrastructure (Roads) Act 1991* and inserts a reference to a regulation under the *Transport Operations (Road Use Management) Act 1995*.

The *Transport Infrastructure (Roads) Act 1991* was repealed on 1 October 1999. The relevant provisions are now contained in the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 1999* under the *Transport Operations (Road Use Management) Act 1995.*

Clause 9 omits a reference in s.12(2) to the *Motor Vehicles Safety Act 1980* and inserts the correct reference as the *Transport Operations (Road Use Management) Act 1995.*

Section 12 (2)(d) of the *Tow Truck Act 1973* provides that a holder of a tow truck licence must not operate any tow truck unless it has been inspected and holds a current certificate of inspection on each tow truck operated under the licence as required by the *Motor Vehicles Safety Act 1980*. The *Motor Vehicles Safety Act 1980* has been repealed and the relevant provisions now appear in the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 1999* under the *Transport Operations (Road Use Management) Act 1995.*

PART 4—AMENDMENT OF THE *TRANSPORT INFRASTRUCTURE ACT 1994*

Clause 10 states that this part amends the *Transport Infrastructure Act 1994*.

Clause 11 inserts a new section specifying that the chief executive is taken to be the owner of rail corridor and non-rail corridor land when owner's consent is required under the *Integrated Planning Act 1997*.

Rail corridor and non-rail corridor land is land leased to the state (represented by the Department of Transport) under perpetual lease PPL208003.

Clause 12 amends section 161 (Functions of port authorities) by inserting a new paragraph that will allow the Cairns Port Authority to develop residential and tourist accommodation on its strategic port land. Some strategic port land in Cairns is adjacent to the main city centre.

Clause 13 inserts a new section specifying certain land within port limits and below the high water mark to be a port marine operational area for this Act, *Integrated Planning Act 1997* or any other law.

The land includes the marked shipping channel and recognised entry and exit shipping channels plus 200 metres on all sides, and swing basins, commercial shipping wharves, moorings, anchorages and spoil grounds plus 100 metres on all sides. A regulation may also declare a port marine operational area.

The purpose of the provision is, where applicable, a power would only apply to the area containing or surrounding the location where marine operations are conducted, rather than applying to the whole of the area within the limits of a port.

PART 5—AMENDMENT OF THE *TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995*

Clause 14 states that this part amends the *Transport Operations (Road Use Management) Act 1995*.

Clause 15 inserts a new subsection 18(g) to provide authority for the chief executive to amend, suspend or cancel an existing approval. The chief executive may issue permits that allow industry, in particular circumstances to operate outside of regulatory provisions.

As a result of an incident that involved a lapse in public safety and to protect road infrastructure particularly due to environmental concerns such as flooding and infrastructure inundation, it is necessary for the chief

executive to be able to consider public safety and infrastructure protection as grounds for amending, suspending or cancelling a permit or other approval.

The amendment will not interfere with the rights of a permit holder who receives notice of intention to amend, suspend or cancel a permit to existing rights of review or appeal to the Magistrates Court as provided in s.19 of the Act.

Clause 16 amends s.50 (Power to require information).

Subsection 1 is amended by the insertion of a definition of **"information"** to include a document containing information. This is necessary to ensure that the power to require information extends to documents as well as oral information.

Subclause 2 inserts a new power to assist authorised officers in investigating information offences by providing that the officer requires a person who the officer reasonably believes has committed an information offence, either orally or by written notice, to give to the officer the information at a reasonable place and time.

This provision allows for information to be gathered in a controlled situation without interference or undue influence. Authorised officers will be able to nominate a reasonable place and time for a person to attend and provide information about information offences as defined in the section.

Clause 17 inserts a new s.50AA to expand existing provisions to enable direct enforcement against parties other than the driver who contribute to the commission or unduly influence the commission of heavy vehicle offences.

The amendment also includes a power for authorised officers to compel a person to provide information including documents about an information offence. These persons are to have protection against self-incrimination so that the information cannot be used against them in proceedings (unless the information supplied is false or misleading). The amendment will also introduce the power to issue a notice to attend an interview with an authorised officer at a reasonable time and place in order to furnish information. Similar provisions exist in the *Transport Operations (Passenger Transport) Act 1994*, s.128(2A), the *Fair Trading Act 1989*, s.90 and the *Transport Operations (Road Use Management) Act 1995*, s.51C(1) and (2).

Between September 2000 and September 2001, 57 fatal accidents in Queensland involved heavy vehicles. In the heavy vehicle industry, drivers

may be requested, instructed or directed to perform their duties in ways that would lead them to commit fatigue and/or mass and/or loading offences which result in unsafe driving practices. Traditionally, only the actions of the driver have attracted enforcement measures.

The information/evidence obtained could then be used to activate the extended liability provisions or to enforce other offences such as the specified obligations of employers, consignors or loaders under fatigue management or dangerous goods legislation.

Consistent with the *Transport Operations (Passenger Transport) Act 1994,* the trigger to activate these provisions would be when the "authorised officer suspects on reasonable grounds that an offence has occurred."

These changes may breach the fundamental legislative principles outlined in the *Legislative Standards Act 1992*. In particular, the power to require information could show insufficient regard to an individual's rights and liberties by undermining a person's common law right to silence. This amendment could also interfere with the person's protection against self-incrimination outlined in the *Legislative Standards Act 1992*, s.4(3)(f). But it is intended that protection could be offered to individuals by a provision that prohibits the information being used against the person. But doing so raises a further breach in that it may create immunity from proceedings or prosecution.

It is believed that these amendments are justified because they recognise the role that persons other than a driver may play in the way that heavy vehicles are used on the road. For example, one employer may influence the behaviour of several drivers. Clearly, being able to identify and address the persons adversely influencing drivers will lead to safer heavy vehicle driving practices. This in turn will mean a safer road environment for all road users.

In a social context, the heavy vehicle industry is becoming increasingly aware of the "chain of responsibility" or link between consignors, loaders, packers, employers and driving behaviour. Information bulletins issued by the National Road Transport Commission, and articles in industry journals acknowledge the need to make each party responsible for their conduct. The proposed amendments are a natural progression from the existing legislation to meet community and industry expectations.

Clause 18 amends s.54 (Obstructing authorised officers or accredited persons).

Subclause 1 states a person must not obstruct an official in the exercise of a power, unless the person has a reasonable excuse.

Subclause 2 provides for the insertion of a requirement for an 'official' to warn the person that the official intends to exercise the power if the official considers that the person is obstructing the official.

Subclause 3 defines "**obstruct**" and extends the section to apply to all "**officials**" as defined in s.52 and s.53 of the Act.

Increasingly transport inspectors, as authorised officers, are being subjected to abusive and insulting language while performing duties including inspecting loads and vehicles, weighing vehicles, conducting searches of vehicles, issuing infringement notices, requiring information and other duties, such as audits relating to fatigue management, that are clearly within their powers.

It is apparent that the drivers of these vehicles have realised that provided they reasonably comply with directions, they can be abusive and use personally insulting words to inspectors with immunity from legal sanction.

These amendments will have the effect of raising the protection afforded to authorised officers and accredited persons similar to the provisions included in s.135 of the *Transport Operations (Passenger Transport) Act 1994*. This will mean that transport inspectors will have consistent powers when performing their duties.

Queensland Transport understands that there may be concerns about enforcement of this type of offence. That is why this offence will NOT be enforceable by infringement notice. Instead an enforcement report must be completed and adjudicated by the Offence Management Unit in Queensland Transport. The Offence Management Unit is a separate unit responsible for commencing prosecutions for offences within the transport portfolio. Their knowledge of court expectations will ensure that trivial matters do not result in court action.

Clause 19 amends s.57B (Further liability provisions for extended liability offences).

At present, s.57B(2) indicates extended liability provisions can only be activated if the driver has committed an offence. This effectively requires a court conviction. The purpose of this amendment is to clarify that authorised officers are able to take direct action against employers and other "influencing persons" without first having a conviction recorded

against the driver. The authorised officer must be able to prove that the driver or other person committed the offence.

In the heavy vehicle industry, drivers may be requested, instructed or directed to perform their duties in ways that would lead them to commit fatigue and/or mass and/or loading offences which result in unsafe driving practices. Traditionally, only the actions of the driver have attracted enforcement measures. Queensland Transport (QT) aims to expand existing provisions to enable direct enforcement against parties other than the driver who contribute to the commission of heavy vehicle offences.

The extended liability provisions in the *Transport Operations (Road Use Management) Act 1995*, s.57B are designed to help QT identify the causes of offending behaviour (such as inappropriate work practices or instructions) and to address those causes. Where a driver has committed an information offence, s.57B allows prosecution action to also be commenced against persons who have "influenced" the driver's behaviour or the operation of the vehicle. "Influencing persons" may include employers, consignors or loaders of vehicles.

An example of when this would be beneficial is where a heavy vehicle driver dies as a result of an accident and the rosters, manifests, consignment documents or loading records show conduct by an employer, loader or another person that may have contributed to the accident. Further examples include where a QT investigation reveals a pattern of inappropriate conduct through an audit of a transport company or where infringement notices are continually issued to a particular company's drivers. In these circumstances the ability to directly pursue an "influencing person" would more effectively and efficiently address the root cause of the offending behaviour and improve road safety for all road users.

Clause 20 amends s.61 to remove an inconsistency with the method a defendant may use to notify the chief executive or the commissioner of an intention to challenge the condition of an instrument or the way it was operated. Section 61 of the Act provides for this notice to be given in an approved form and s.124 of the Act simply provides for the defendant to give written notice. The amendment removes the need for the defendant to give notice on an approved form and provides for a written notice. This eases the burden on defendants.

Courts have been accepting "written notices" in relation to challenges to instruments under section 61 in the absence of an approved form.

Clause 21 amends s.78 (Driving of motor vehicle without a driver licence prohibited).

Subclause 1 substitutes the existing s.78(1A) with a new s.78(1A) to allow for the issue of an infringement notice under the *State Penalties Enforcement Act 1999* to a person who has been found driving without a driver licence, providing they have not already been convicted of an unlicensed driving offence in the last 5 years.

The existing scheme only provides for the issue of an infringement notice to a person who has been found driving under a licence that had expired no more than 1 year before they committed the offence. A person found driving without a licence for any other reason is presently dealt with by a court and, on conviction, disqualified from holding or obtaining a driver licence for 6 months.

This new arrangement will simply impose a monetary penalty on all persons convicted of a first-time unlicensed driving offence and give them the opportunity to obtain a driver licence before driving again. This should reduce the instances of these persons committing further unlicensed driving offences.

However, a person found driving without a driver licence because they have been disqualified from holding or obtaining a driver licence (a "disqualified driver") is excluded from this arrangement. Briefly, a disqualified driver means a person who has been disqualified under any court order, or because their driver licence has been dealt with under the demerit points scheme or unpaid court imposed fines.

Subclause 2 amends s.78(2) to limit the matters the court must take into consideration when deciding the penalty to be imposed on a person convicted of unlicensed driving.

The court must now only consider those matters surrounding the commission of the offence if, at the time of the offence, the person was a disqualified driver, or they have in the 5 years before this conviction, previously been convicted of driving without a licence.

Presently, the court must consider these matters only when deciding what penalty to impose on a disqualified driver. In the case where a person is convicted of a further unlicensed driving offence within 5 years of the first offence, the court, in addition to imposing a monetary penalty, may decide to disqualify them for a period of at least 1 month but not more than 6 months.

Subclause 3 is an amendment to the present Act omitting the word "or" at the end of the section.

This amendment corrects a minor drafting inconsistency to provide for the substitution of the existing sections 78(3)(b) to (d) with new sections 78(3)(b) to (d) and the insertion of the new sections 78(3)(e) and (f). See clause 21(4).

Subclause 4 omits the existing ss.78(3)(b) to (d) and inserts new ss.78(3)(b) to (f).

The new s.78(3)(b) clarifies that a court must disqualify a person who has been convicted of driving when their Queensland driver licence was suspended because of the allocation of demerit points, for a period of 6 months. This sanction period is already in place, however, this section has been rewritten to make a clear statement that the 6 months period may be imposed on a person who is found driving on a Queensland driver licence that has been dealt with under the demerit points scheme.

The new section 78(3)(c) clarifies that a court must disqualify a person, who has been convicted of driving when their authority to drive on their non-Queensland driver licence was suspended because of the allocation of demerit points, for a period of 6 months. This sanction period is already in place, however, this section has been rewritten to make a clear statement that the 6 months period may be imposed on a person who is found driving on a non-Queensland driver licence that has been dealt with under the demerit points scheme.

The new section 78(3)(d) clarifies that a court must disqualify a person for a period, of at least 1 month but no more than 6 months, who has been convicted of driving when their Queensland driver licence was suspended because of outstanding fines under the State Penalties Enforcement Act 1999.

The new section 78(3)(e) clarifies that a court must disqualify a person for a period, of at least 1 month but no more than 6 months, who has been convicted of driving when their authority to drive in Queensland on a non-Queensland driver licence was suspended because of outstanding fines under the State Penalties Enforcement Act 1999.

The existing sanction period of 6 months for the offence mentioned in both section 78(3)(d) and (e) is considered to be unnecessarily severe. The person's driver licence or their authority to drive on their non-Queensland driver licence was not suspended because of any inappropriate driving behaviour but simply because they have failed to pay their court imposed fines. The court will now be able to decide an appropriate disqualification

period after taking into consideration any mitigating circumstances relating to the commission of the offence.

The new section 78(3)(f) clarifies that a court must disqualify a person for a period, of at least 1 month but not more than 6 months, who has been convicted of driving without a licence and who has, within 5 years of the conviction, previously been convicted of driving without a licence.

The existing sanction period for this type of offence varies according to the circumstances surrounding the reason for the person not holding a driver licence. The period may be at least 1 month but not more than 6 months where their licence had simply expired, and a period of 6 months for any other reason that they do not hold a driver licence. These sanctions are considered to be inconsistent and unnecessarily severe in a number of circumstances. The court will now be able to decide an appropriate disqualification period after taking into consideration any mitigating circumstances relating to the commission of the offence.

However, this section does not apply to a person found driving without a driver licence because they have been disqualified from holding or obtaining a driver licence under an order made by any Australian court.

Subclause 5 omits the redundant s.78(3B). The matters originally provided in this section (where appropriate) have been included in the new s.78(3)(d).

Subclause 6 amends s.78(4) to clarify the application of the section.

This amendment removes a reference to the redundant s.78(3B) as required by these amendments. See Clause 21(5).

Subclause 7 amends s.78(6) to omit redundant definitions.

Omitted are the redundant definitions of "**expired**" and "**recently expired**" licences. The definition of "expired" is no longer required. The definition "recently expired licence" has now been relocated to section 78A (Permit to drive—recently expired driver licence) as required by these amendments. See clause 22.

Subclause 8 amends s.78(6) and inserts new definitions for the terms "**disqualified driver**", "**repeat unlicensed driver**" and "**unlicensed driver**".

Clause 22 amends s.78A (Permit to drive—recently expired driver licence).

Subclause 1 amends s.78A(1) to clarify that the section applies only to a person found driving on a recently expired licence and who has been issued

an infringement notice under the *State Penalties Enforcement Act 1999* for an unlicensed driving offence under section 78(1).

This scheme is already in existence, and the amendment to this section was required to allow for the adoption of the definition of "**recently expired**" licence that was relocated from the present s.78. See clause 21(7).

Subclause 2 inserts a new s.78A(6) to define for the purpose of this section, the term "recently expired licence".

This definition has been relocated from the present section 78(6). It has been rewritten to include its application to a non-Queensland driver licence where the authority for the holder to drive on a Queensland road under that licence was withdrawn no more than 1 year before the person committed the offence of driving without a licence. This definition now clearly excludes a non-Queensland driver licence where the authority was withdrawn because the holder was granted a Queensland driver licence, or the holder is no longer medically fit to drive.

The previous definition inadvertently included a non-Queensland driver licence where the authority to drive under that licence had been withdrawn for any reason. This arrangement included the reason that the holder's licence had been dealt with under the demerit points scheme or because of unpaid court imposed fines. In real terms, the person is, by definition, a disqualified driver and the existing scheme was never intended to include this type of offender.

Clause 23 amends s.114 (Offences detected by photographic detection device).

Subclause 1 provides that it is a defence to a camera detected offence for a person to prove that the person has notified the commissioner or chief executive that the person did not know and could not with reasonable diligence, have ascertained the name and address of the person in charge of the vehicle at the time the offence happened.

Subclause 2 provides for the removal of the requirement for a registered operator of a motor vehicle, after receiving notice of a camera detected offence involving the motor vehicle, to give notice to the commissioner or chief executive on the approved form if the registered operator was not the driver at the time when the offence was committed. This notice is basically a statutory declaration placed on the reverse side of photographic detection device offence infringement notice.

The purpose of the amendment is to facilitate the ease with which the registered operator may transfer liability for a camera detected offence by completing a statutory declaration under the *Oaths Act 1867*.

The Traffic Camera Office (TCO) receives significant numbers of statutory declarations in lieu of the approved forms which have been used to nominate other persons as the driver of a motor vehicle which has been recorded as having been involved in a camera detected offence. The TCO has been accepting these statutory declarations and sending notice of the offence to the person nominated in the statutory declaration. The amendment will simplify which form should be used to notify the chief executive or the commissioner if the registered operator was not the driver at the time that the offence was committed.

Subclause 3 provides that notice under subsection 3(b)(i) or 3(b)(ii) for the defence under subsection 3 to be available to a person.

Subclause 4 provides for the omission of s.114(8) as this provision is no longer needed because false nomination of another person as the driver of a vehicle involved in a camera-detected offence will be dealt as an offence against s.53 of the Act.

The new s.114(8) allows a person who is not the registered operator but was in charge of the vehicle at the time the camera-detected offence occurred to self nominate themselves as the driver.

Enforcement action for camera-detected offences commences by sending the infringement notice to the registered operator of the vehicle. Section 114(1) of the *Transport Operations (Road Use Management) Act 1995* indicates the registered operator (or owner) is taken to be the offender.

Where the registered operator was not the driver of the vehicle, the legislation allows the registered operator to nominate the person who was driving (s.114(3)). This will be done through a statutory declaration in future.

But in some circumstances it is impracticable for the registered operator to nominate the driver and the driver may wish to nominate themselves. These situations often occur when the registered operator is travelling and has left the vehicle in the control of a friend or family member.

The Traffic Camera Office indicates that non-owner drivers wishing to nominate themselves is increasingly common. However, the current legislation does not allow this approach. As a result the Traffic Camera Office have requested an amendment to the legislation to allow a person to

nominate themselves on a statutory declaration and to allow the declaration to be tendered as a confession under the rules of evidence.

Clause 24 amends s.120 to extend the admissibility of camera detected images for offences involving motor vehicles under this Act or another Act.

Section 120 of the Act allows certified copies of images taken by speed and red light cameras to be admissible in proceedings for speeding and failing to obey a red light. However, in situations where the vehicle is detected travelling at excessive speeds, it may be appropriate to initiate proceedings for more serious offences such as dangerous driving under the Criminal Code, s.328A.

The amendment extends the admissibility of images for offences involving motor vehicles under this Act or another Act so that any offences involving the use of a motor vehicle that is recorded by enforcement cameras may be used as evidence.

The proposed changes are not intended to alter the ability of the court to apply their discretion when admitting evidence and it is not intended to alter the ways in which a person can contest the accuracy of the equipment or image. However, where these factors are not in issue, it is believed that allowing a certified image to be tendered will improve the efficiency of the court process. A more efficient court process benefits both the prosecution and the defence.

Clause 25 amends s.131 (Appeals with respect to issue of licences etc.).

Subclause 1 substitutes the existing section 131(2) with a new section 131(2) to clarify that a person, who has been disqualified from holding or obtaining a driver licence absolutely or for a period of more than 2 years, may apply to have the disqualification removed after the person has served at least 2 years of the disqualification period. This disqualification period may be imposed under an Act of Queensland or by an order of a Queensland court.

A new section 131(2AA) clarifies to which court the person must make the application for the removal of the disqualification. This is an existing requirement and has been rewritten to reflect current drafting styles.

This amendment removes an exclusion inadvertently placed on a person when amendments to the Act were introduced on 3 December 2001. Presently, only a person disqualified from holding or obtaining a Queensland driver licence for a period greater than 2 years under an order of a Queensland court is able to apply to a court for the removal of the disqualification period. The existing scheme was never intended to exclude

a person who was disqualified under an Act of Queensland for a similar period from applying for its removal after at least 2 years had been served.

Subclause 2 amends s.131(2E) by omitting a reference to a redundant process.

Details of the traffic history of a licence holder are no longer shown on the licence because of privacy considerations. However, this information is readily available to enforcement officers if or when required.

Clause 26 amends chapter 7 (Transitional provisions) by inserting a new part 5 and section 197.

In the new section 197:

Subsection 1 clarifies when the provisions of the new s.18(g) as inserted by these amendments may be applied.

This section now clarifies where an approval has been granted, whether before or after the commencement of s.18(g), to a person to do, or not do, something and by doing or not doing the thing, the person may endanger public safety or damage transport infrastructure, then the chief executive make take action to amend, suspend or cancel the approval.

Subsection 2 clarifies when the provisions of the new s.50AA as inserted by these amendments may be applied.

This section now clarifies that a person may only be called upon to give information about an information offence that was committed, or alleged to have been committed, after the commencement of the new s.50AA.

Subsection 3 clarifies when the provisions of s.78(3) as in force immediately before the commencement of the new s.78(3) may be applied.

This section clarifies that if a person commits an offence prescribed in s.78(3) in force immediately before the commencement of these amendments, and a court subsequently convicts the person of the offence, then the court must impose the penalty that was set for the offence under the repealed s.78(3).

Subsection 4 clarifies when the provisions of the new s.131(2) as inserted by these amendments may be applied.

This new section now allows a person who has been disqualified from holding or obtaining a driver licence for a period greater than 2 years, imposed under an Act of Queensland or by an order of a Queensland court before or after the commencement of the new s.131(2), to apply to a court for its removal. *See clause 25(1).*

Clause 27 inserts new definitions for "**interstate licence**" and "**non-Queensland drivers licence**" into schedule 4 and amends the definition of "**convicting**" in schedule 4 by updating the reference in paragraph (b) from the *Justices Act 1886*, part 4A, to the *State Penalties Enforcement Act 1999.*

This updates the reference in the definition of "**convicting**" to refer to the *State Penalties Enforcement Act 1999*. This Act also omitted part 4A of the *Justices Act 1886*.

PART 6—REPEALS

Clause 28 repeals the *Hay Point Harbour (Ratification of Agreements) Act 1987*.

The construction, leasing, financing and use of the Hay Point Tug Harbour were governed by five agreements. These agreements were contained in schedules to the *Hay Point Harbour (Ratification of Agreements) Act 1987*. Parties to those agreements were identified in a regulation made under the Act, amended from time to time according to changes in commercial arrangements. These parties have decided that the original agreements have served their purpose.

With the consent of all parties, the *Hay Point Harbour (Ratification of Amended Agreements) Regulation 2001* (subordinate legislation No. 247 of 2001) amended the Act to allow these agreements to be terminated. With these agreements gone, it is now proposed to repeal this Act.