
Transport and Other Legislation Amendment Bill 2023

Explanatory Notes

Short title

Transport and Other Legislation Amendment Bill 2023

Policy objectives and the reasons for them

The objectives of the Transport and Other Legislation Amendment Bill 2023 (the Bill) are to:

- facilitate the transition of certain regulatory services from the Department of Transport and Main Roads (TMR) to the National Heavy Vehicle Regulator; and
- improve road safety, streamline and improve administrative and legislative processes, and clarify existing requirements.

National Services Transition

The *Heavy Vehicle National Law Act 2012* establishes the National Heavy Vehicle Regulator (the NHVR) to administer the Heavy Vehicle National Law (HVNL), which is contained in the schedule to the Act. The HVNL is a single national law for the consistent regulation of heavy vehicle operations that has been adopted by all states and territories, other than Western Australia and the Northern Territory.

The NHVR, its authorised officers, and its delegates have the power to enforce and monitor compliance with the HVNL. The NHVR also has the discretion to determine the manner in which heavy vehicle regulatory functions are performed in participating jurisdictions.

Following the commencement of operational provisions of the HVNL in February 2014, the NHVR relied on state and territory agencies to deliver most of its frontline heavy vehicle regulatory services under a Service Level Agreement with each jurisdiction.

Under its National Services Transition program, the NHVR has progressively assumed responsibility for direct delivery of heavy vehicle regulatory services in South Australia (2017), Tasmania (2018), the Australian Capital Territory (2019), Victoria (2019), and New South Wales (2022). Queensland will be the final participating jurisdiction to transition regulatory services to the NHVR.

To ensure the continuity of regulatory services in Queensland post-transition, following an extensive engagement process with impacted staff and relevant unions, up to 135 full-time equivalent employees of TMR who are currently performing regulatory services may transfer to the NHVR. To facilitate this transition the Bill proposes to:

- allow the Minister to create ministerial transfer schedules for transferring employees and vehicles, and *Public Sector Act 2022* directives that will apply to staff choosing to transfer to the NHVR;
- complement the operation of *Fair Work Act 2009 (Cth)* provisions to preserve transferred employees' benefits, entitlements and remuneration;
- provide authority for the NHVR authorised officers to undertake state-based non-HVNL regulatory services to maintain efficient and quality service delivery for industry; and
- support post-transition information access arrangements between TMR and the NHVR.

Road safety

Despite record investment in a wide range of road safety initiatives, the number of people losing their lives or being seriously injured on Queensland roads continues to be unacceptably high. To realise the commitment of zero deaths by 2050, Queensland's transport related legislation must continually evolve to: accommodate changing risk profiles within the community; cater for the adoption of new and emerging technologies; and ensure that enforcement authorities have appropriate powers and can impose meaningful sanctions to positively impact behaviour change to improve safety for all users of roads and road-related areas.

An emerging technology that has seen rapid uptake in Queensland in recent times are personal mobility devices (PMD), such as e-scooters.

Amendments to the *Transport Operations (Road Use Management—Road Rules) Regulation 2009* were progressed in 2022 in response to the emerging popularity of PMDs in Queensland. To facilitate these changes, PMDs were re-classified as *vehicles* under the regulation (previously they were considered *pedestrians*).

Following those amendments, further review of provisions in the *Transport Operations (Road Use Management) Act 1995* (the TORUM Act) has identified the following issues with the TORUM Act:

- Section 84(2), which relates to the driving of vehicles (other than motor vehicles) without due care and attention or without reasonable consideration for other road users, does not apply to road-related areas such as bike paths and footpaths.
- Section 92, which imposes duties on drivers and riders to stop and render assistance in the event of an incident resulting in death or injury, does not apply to drivers of vehicles (other than motor vehicles) on road-related areas such as bike paths and footpaths.
- Section 93, which requires the drivers and riders of vehicles to provide certain information, including their name and address, in the event of a crash, does not apply to PMD riders.

The Bill extends the scope of these provisions to enhance the safety of PMD riders and other members of the public that those riders may interact with.

Consistent safety duty regulatory framework for road-based public passenger services

The *Transport Operations (Passenger Transport) Act 1994* (TOPTA) aims to achieve the best possible public passenger transport at a reasonable cost to the community and government, while minimising government regulation and promoting the safety of persons using public passenger transport.

As part of the 2017 reform of Queensland's personalised transport industry, a general safety duty was adopted in the TOPTA for persons involved in providing personalised transport (taxi and booked hire) services, ensuring a modern, risk-based approach to managing the safety of these services. For most other road-based public passenger services (such as bus services), the *Transport Operations (Passenger Transport) Standard 2010* (PT Standard) imposes a general obligation on drivers and operators to operate a vehicle safely, as well as various other prescriptive safety requirements.

However, the current prescriptive requirements applying to non-personalised transport services may not encompass the full breadth of potential hazards and risks. In addition, a prescriptive approach may not effectively anticipate or manage emerging safety risks associated with rapidly

changing vehicle technology (and fuels) and emerging passenger transport service models. As a result, it is intended to adapt and extend the existing safety duty provisions that currently only apply to personalised transport services, to provide a consistent framework for safety duties across road-based public passenger services. Additionally, a requirement for safety management plans will be introduced. These changes will support industry to take a preventative and targeted approach to managing safety risks that can be scaled to their particular circumstances.

Consistent audit and direction framework for road-based public passenger services

The traditional compliance and enforcement approach relies on on-road interceptions or customer complaints to identify noncompliance, with punitive infringement notices or court action. Audit and direction provisions complement the traditional approach, but also provide proactive, and potentially preventative ways of managing safety issues and industry noncompliance.

As part of the reforms in 2017, audit and direction provisions were established for investigating personalised transport service compliance, verifying information provided relating to the provision of the service and directing remedial action if needed. However, other road-based public passenger services operate under different provisions which allow for audits of records and the giving of directions in relation to the PT Standard. The Bill amends the TOPTA to ensure there is a consistent audit and directions framework for road-based public passenger services.

Process simplification and modernisation – Tolling demand notice compliance

Amendments to the *Transport Infrastructure Act 1994* (TIA) will simplify and modernise the process to comply with a notice issued to the registered operator under either sections 99 or 105ZH or issued to the person identified as the driver under sections 101 or 105ZK (referred to as a demand notice).

Despite technological advancement and changing customer expectations, the process to comply with a demand notice has not kept pace with these changes. The current process still operates largely in line with the process provided for by amendments to the TIA in the *Transport and Another Act Amendment Act 2001*.

Under the TIA, when a vehicle passes through an electronic toll plaza, the driver is liable to pay a toll. Whether the toll incurred is for using a State toll road or a Brisbane City Council (BCC) local government tollway, the process is the same, with drivers having a window of opportunity to pay the toll, before the toll road operator or local government tollway operator issues a toll invoice as part of business practices to the registered operator. The statutory compliance and enforcement regime is the same if the driver still does not pay the toll. The toll road operator may issue the registered operator of the vehicle with a written notice under sections 99 or 105ZH (a demand notice) in the approved form.

Liability can be discharged by the registered operator by either paying the toll or nominating another driver. If nomination occurs, a new demand notice (this time under either sections 101 or 105ZK) is issued to the nominated driver with the same options available: to pay the toll or nominate another driver. As an enforcement mechanism, noncompliance with a demand notice without a reasonable excuse is an offence.

Currently, the TIA only provides for nomination via a *statutory declaration in the approved form*. This is in contrast to the process for nominating another driver for camera-detected offences under the TORUM Act, which provides for online declarations as well as standard statutory declarations.

Transurban Queensland (TQ) currently operates State Government toll roads under long-term concession agreements with TMR and provides toll collection services for the Toowoomba Bypass and operates local government tollways for the BCC. TQ's toll collection service operates under the Linkt Brand.

TQ has been trialing an online nomination facility, which allows recipients of demand notices to nominate another person online instead of completing a statutory declaration in the approved form, with Linkt advising the online nomination process has been well-received with over 75 per cent of nominations made each month by utilising the online nomination facility. The online nomination facility has enabled it to contact the appropriate driver in a more timely manner.

The amendments to the TIA will provide that online nominations and standard statutory declarations are accepted methods to deal with tolling demand notices and reflect customer expectations and technological advancements.

Minor and technical amendments

The Bill also includes a number of minor and technical amendments as listed below:

- Amendments to the *Cross River Rail Delivery Authority Act 2016* will remove a quorum reference. The proposed amendment to remove Section 44(3) modernises the quorum requirements to a simple majority, in line with conventional practice and ensures the efficiency of board meetings. Modernising quorum provisions to a simple majority maintains the integrity of decision making and remains consistent with the original intent whereby meetings can be held and questions decided if only half of the board is present. This ensures the board does not need to be reconvened if some members cannot attend.
- Amendments to the *Maritime Safety Queensland Act 2002* will provide for the remuneration of the General Manager, Maritime Safety Queensland, to be decided by the Governor in Council. This will remove the current limitation on the remuneration available for the role under the *Public Sector Act 2022* and bring it in line with comparable roles of maritime safety and port regulators across the sector.
- Amendments to the *Sustainable Ports Development Act 2015* (Ports Act) will provide for the inclusion of areas of land subject to tidal waters outside of port limits in a priority port's master planned areas. The amendment is necessary because:
 - the Ports Act establishes a regime requiring the development of master plans for the priority ports in the Great Barrier Reef World Heritage Area (GBRWHA);
 - the master plans establish a long-term vision for the priority ports consistent with the principles of ecologically sustainable development, with the purpose of each master plan being to provide strategic direction and guide the long-term sustainable development of the port and surrounding land and marine areas to 2050 to protect the GBRWHA;
 - section 6(3)(a) of the Ports Act in its current form prohibits the inclusion of an area covered by tidal water outside the port limits in a master planned area;
 - the port limits for the priority ports land boundaries are determined in relation to the *high-water mark*, and there is uncertainty as to the status of including land adjacent to the port limits due to variations in terms of tidal range; and
 - the master plan and the port overlay, which implements the master plan, must apply to all of the master planned area (sections 7(2)(b) and 19(2)(b) of the Ports Act).

- Amendments to the TIA will:
 - update the way in which TMR can advertise a limited access road declaration;
 - streamline court proceedings for tolling matters through amendments to the evidentiary provisions; and
 - remove unnecessary provisions referring to the repealed *Wild Rivers Act 2005* (Wild Rivers Act) to update the TIA.
- Amendments to the TOPTA will:
 - allow authorised persons to require information in the form of a document, including for example, vehicle security camera footage, in the same way they can require other information;
 - reflect modern drafting practice for the regulation making power about the chief executive charging of a default fare (for example, when a person fails to tap on or off at the beginning or end of a journey); and
 - ensure the chief executive of TMR can continue to obtain relevant information to verify eligibility for assistance with transport arrangements for students attending non-State schools.
- Amendments to the TORUM Act will:
 - update the reference to the advertising standards entity responsible for advising TMR on whether a vehicle has been determined as displaying sexually explicit, discriminatory or otherwise offensive advertising enabling TMR to cancel that vehicle's registration;
 - replace the term *motorised scooter* with *low powered toy scooter* to remove confusion regarding the road rules that apply to different devices; and
 - provide flexibility for future camera enforcement of driver distraction offences, if rules are expanded beyond mobile phone use to cover, for example, media players, tablet computers and laptops.
- Amendments to the *Transport Planning and Coordination Act 1994* (TPCA) will:
 - provide for the recognition and use in Queensland of foreign digital licences from a recognised country approved by the chief executive and published on a Queensland government website that comply with a standard prescribed by regulation. The International Standard for mobile driver licences (ISO 18013-5) is being prescribed through an amendment to the *Transport Planning and Coordination Regulation 2017*. This will simplify the process for overseas visitors to drive on Queensland roads.

Achievement of policy objectives

National Services Transition

The Bill achieves the policy objectives by amending the *Heavy Vehicle National Law Act 2012* and other legislation in the ways indicated below.

The amendments introduce a new division 4A into part 4 of the *Heavy Vehicle National Law Act 2012*. This division deals with the transfer of employees and vehicles by providing that:

- the Minister may make transfer schedules which identify the following matters:
 - the employees of TMR that are to be transferred to the NHVR;
 - the directives made under the *Public Sector Act 2022*, that are to apply to an employee to be transferred; and
 - the vehicles owned by TMR that are to be transferred to the NHVR.
- the date of the transfer will be indicated in the transfer schedule made by the Minister.
- transferred employees will retain existing benefits, entitlements, remuneration, and rights to superannuation, recreation, sick and long service and other leave when their employment transfers to the NHVR.
- transferred employees will not be entitled to a payment or other benefit for a retrenchment or redundancy. As they will be employed by the NHVR following the transfer, the State will not be required to take any steps to find transferring employees alternative employment either before or after the transfer day.
- processes or requirements under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021* and the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021* associated with the transfer of a vehicle will not apply to the transfer of vehicles to the NHVR. This includes the completion of the relevant form, obtaining a certificate of inspection for the vehicle and payment of a transfer fee.

As noted above, on its creation under state legislation back in 2014, the NHVR relied on state and territory government employees to provide heavy vehicle compliance and enforcement activities on its behalf within each jurisdiction. This was, however, always seen as a transitional arrangement until the NHVR became fully established throughout the country and was able to take back direct responsibility for those functions. During this transitional period, authorised officers within Queensland have delivered these frontline heavy vehicle regulatory services under a Service Level Agreement.

Under its National Services Transition program, the NHVR has progressively assumed responsibility for direct delivery of heavy vehicle regulatory services in all other participating jurisdictions. As part of that process, relevant authorised officers from the various jurisdictions have transferred to the NHVR to continue to provide the same services previously provided while they were employed by the various states and territories.

Provisions within the Bill allow the Minister to create ministerial transfer schedules that will identify the TMR employees and vehicles that are to be transferred to the NHVR and the *Public Sector Act 2022* directives that will continue to apply to transferring staff. The transfer schedules will state the transfer day when an employee or vehicle identified in the schedule is transferred to the NHVR. Accordingly, vehicles identified in the schedule will be transferred and will not be subject to administrative processes under transport regulations. This approach specifically caters for the transition of TMR staff as Queensland public servants to the NHVR as a national employer under the *Fair Work Act 2009 (Cth)* (Fair Work Act). The Bill, in combination with the provisions of the Fair Work Act, will ensure that the benefits, rights and entitlements of those transferring employees are protected.

The Bill also makes consequential amendments as follows:

- the TOPTA and the TORUM Act are being amended to allow employees of the NHVR to be appointed to perform enforcement activities under these Acts.
- the Transport *Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021* is being amended to reflect that vehicles used for heavy vehicle enforcement will be used by the NHVR rather than TMR. This will allow, for example, the continued use of flashing lights and sirens on these vehicles.

Road safety

Section 84(2) of the TORUM Act already requires PMD and bicycle riders to ride with due care and attention and reasonable consideration of other road users. New section 84AA, inserted by the Bill, expands this requirement to also apply on road-related areas. Road-related areas include areas such as footpaths, bicycle paths, shared paths, malls, nature strips, median strips, road shoulders, dedicated cycle tracks, car parks and certain public trails. Insertion of new section 84AA will consistently manage safe interactions between vehicles and vulnerable users and recognises that PMDs and bicycles are frequently used on road-related areas, where careless riding poses a significant risk to users such as pedestrians, including people with mobility impairments. Private or closed off-road facilities, such as closed velodromes or similar locations, are not impacted by the change.

The amendments to section 92 of the TORUM Act will ensure all drivers and riders are required to stop and render assistance at the scene of a crash causing injury or death on roads and road-related areas. This requirement already applies to the drivers of motor vehicles on roads and elsewhere. The amendment will expand the existing requirement for non-motor vehicle drivers from roads to both roads and road-related areas. This includes any transport that moves on wheels and includes PMDs, bicycles, motorised mobility devices, wheelchairs, skateboards, toy scooters and other similar wheeled devices.

The amendments to section 93 of the TORUM Act will require PMD riders involved in a crash on a road or road-related area to stop and provide their particulars, including their name and address, to any other driver involved in the crash, anyone else injured in the crash or the owner of any property damaged in the crash. This obligation already applies to all other drivers and riders, including in relation to motor vehicles and bicycles, however, does not and will not be applied to motorised mobility devices and persons in a wheelchair.

It is acknowledged that section 92 and 93 of the TORUM Act create obligations that have the potential to be problematic for some vulnerable people, such as victims of domestic and family violence or young people (under 18 years of age). For example, a victim of domestic violence should not be expected to provide their address details to a perpetrator or person known to the perpetrator, and thus expose the victim to risk of further abuse. In addition, children may not be capable of understanding or complying with their obligation to render assistance at the scene of a crash causing injury or death.

Existing protections already exist to mitigate these risks including, for example:

- Section 92(1)(b) balances the level of assistance a driver must provide with their capacity to do so. In the event of a crash causing death or injury, a driver is required to ‘render such assistance as the driver can’ and ‘make reasonable endeavors to obtain medical and other aid’. This strikes an appropriate balance to ensure injured persons receive timely aid, where possible, while not unreasonably placing obligations on young people that they may not have the maturity, capacity or capability to understand and comply with the obligation; and

- a young person riding a PMD is required to be at least 12 years of age, and if under the age of 16 is required to be accompanied by an adult. It is envisaged that an accompanying adult would assist a young person in meeting the requirements of sections 92 and 93;
- additional protections are also available under the Criminal Code. For example, if a party involved in a crash threatens physical violence, a driver fearing for their safety, who does not comply with sections 92 or 93, could rely on section 31 of the Criminal Code as part of their defence.

In addition to these existing protections, the Bill further protects vulnerable drivers' personal information, if providing that information to a person involved in a crash would expose the driver or another person, to harm. The amendments to section 93 allow a driver to not comply with the requirement to provide their information to another person at the scene of the crash, if the driver reasonably believes that sharing this information would be likely to expose them, or another person, to harm. In these circumstances, the driver must instead report the incident to a police officer, including providing their required particulars, to support further investigation for enforcement or insurance purposes.

Consistent safety duty based regulatory framework for road-based public passenger services

The Bill will provide a consistent framework for safety duties across most road-based public passenger services. The duties will not apply to services provided by light rail vehicles. The duties will also not apply to services provided by volunteer associations, and their volunteers, who do not have duties under the *Work Health and Safety Act 2011* (WHS Act).

The safety duties will apply to persons who are in a position to influence the safety aspects of road-based public passenger services. Duty holders will have an obligation to ensure the safety of their services by eliminating risk as far as is reasonably practicable. Contravention of a duty will be an offence and the maximum penalty is scaled, based on the risk to safety.

Operators and booking service providers will also need to have safety management plans. These plans must be documented, but may be similar to, and reference any plan they have in place under, the WHS Act or the HVNL.

To the extent feasible, the proposed amendments align closely with current WHS Act and the HVNL regulatory requirements, therefore implementation should not result in significant increase in regulatory burden. The proposed amendments are also consistent with regulatory policy settings in jurisdictions such as Victoria and Western Australia.

The transition to safety duties for road-based public passenger services is being progressed in conjunction with the sunset review of the expiring PT Standard. As part of that review, it has been identified that some prescriptive requirements in the PT Standard will not be required under the new safety duty framework. However, some provisions in the PT Standard will still need to continue to operate because they are not adequately managed by the new framework. These are proposed to be transferred to the *Transport Operations (Passenger Transport) Regulation 2018* (PT Regulation). The TOPTA will be amended to ensure appropriate regulation making powers support this transition. Ultimately, the amendments will mean that the PT Standard is no longer needed and Chapter 9 (Standards) of the TOPTA will be repealed.

Commencement of these TOPTA amendments will be by proclamation. Prior to commencement, TMR will engage with industry to raise awareness of obligations under the new framework. In addition, a 6 month transition period will apply from commencement to allow industry time for implementation.

Consistent audit and direction framework for road-based public passenger services

The Bill amends the TOPTA to expand the current audit provisions in chapter 7, part 5, division 2, to apply to all duty holders of road-based public passenger services (rather than only personalised transport services).

The proposed audit provisions:

- enable the issuing of an audit notice to a duty holder of a road-based public passenger service;
- specify, using an audit notice, the requirements that the duty holder must comply with, including to allow the audit and to cooperate with every reasonable requirement;
- make noncompliance with an audit notice, without a reasonable excuse, an offence; and
- require an audit report be given to the duty holder.

The Bill also expands the current direction to comply provision, in section 91ZQ of the TOPTA, to apply to all duty holders of road-based public passenger services.

The amendment enables a direction to be issued to a duty holder of a road-based public passenger service when the chief executive or authorised person is satisfied that a duty holder has not complied with relevant transport legislation. Duty holders are required to comply with the direction, in the specified timeframe, unless they have a reasonable excuse.

Process simplification and modernisation – Tolling demand notice compliance

The Bill's proposed amendments to the TIA will:

- simplify the process to comply with a tolling demand notice by removing the requirement for a statutory declaration to be made in the approved form, and instead permit standard statutory declarations to be made under the *Oaths Act 1867*; and
- modernise the nomination process by permitting the recipient of a demand notice to nominate another driver via an online nomination facility, in addition to the statutory declaration process.

Minor and technical amendments

The Bill will achieve the policy objectives relating to the minor and technical amendments by:

- amending the *Cross River Rail Delivery Authority Act 2016* to remove section 44(3) thereby modernising the quorum requirements for Cross River Rail Delivery Authority board meetings to be a simple majority, in line with conventional practice;
 - amending section 10 of the *Maritime Safety Queensland Act 2002* to provide that, despite the provisions of the *Public Sector Act 2022*, the General Manager of Maritime Safety Queensland is to be paid the remuneration decided by the Governor in Council.
 - amending the Ports Act to:
 - make it clear that areas of land subject to tidal waters outside of the port limits, as long as they are not the sea, may be included as part of a master planned area, while still protecting the GBRWHA; and
 - respect the intent of the Ports Act by enabling the implementation of current and future master plans in their entirety to guide the development of their respective ports.
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- amending the TIA to:
 - update the way in which the declaration of a limited access road may be advertised;
 - streamline court proceedings for noncompliance with a tolling demand notice by providing for additional matters to be submitted by evidentiary certificates and providing for the presumption a demand notice is in the approved form unless there is evidence to the contrary; and
 - remove unnecessary provisions to reflect the repeal of the Wild Rivers Act by section 95 of the *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014*. This amendment will not result in any operational change to TMR’s compliance with environmental legislation.
- amending the TOPTA to:
 - ensure authorised persons have enforceable powers to require information in documents, including, for example, vehicle security camera footage;
 - apply a modern drafting approach to the regulation making power relating to the charging of default fares; and
 - ensure the chief executive of TMR can continue to obtain relevant information to verify eligibility for assistance with transport arrangements for students attending non-State schools.
- amending the TORUM Act to:
 - update references to the advertising standards entity to allow TMR to continue to utilise provisions in the TORUM Act which allow TMR to deregister a vehicle displaying offensive advertising;
 - prepare for the adoption of the *Australian Road Rules (Driver Distraction) Amendment 2021* which adopts a technology neutral approach to the types of electronic devices that are expressly prohibited while driving, by:
 - amending section 120E to provide that a regulation can prescribe which driver distraction offences the evidentiary provision applies to; and
 - amending section 150AA(1)(i) to expand the existing head of power to deal with the possible use of devices other than mobile phones by young drivers.
 - replace the term *motorised scooter* with *low powered toy scooter* in the TORUM Act and in other Queensland legislation.
- inserting a new section 11AA into the TPCA to allow for the recognition and use of foreign issued digital licences from a recognised country approved by the chief executive that meet a standard prescribed by regulation, such as the International Standard for mobile driver licences (ISO 18013-5). This will simplify the process for overseas visitors to drive on Queensland roads.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Estimated cost for government implementation

It is intended government costs incurred through the implementation of the amendments in the Bill will be met within existing budget and resource allocations, noting that additional funding for ongoing operational costs may be sought by TMR following the transition of staff to the NHVR.

Consistency with fundamental legislative principles

The fundamental legislative principles under the *Legislative Standards Act 1992* (LSA) that arise as a result of the Bill are discussed in detail below. A Statement of Compatibility under section 38 of the *Human Rights Act 2019* is also tabled with this Bill to address any human rights limitations raised by this Bill.

Fundamental legislative principles that arise from the *National Services Transition*

Clause 53 of the Bill amends section 77 of the TORUM Act to allow Queensland driver licensing information to be released to the NHVR through the National Exchange of Vehicle and Driver Information Systems (NEVDIS). This information may include personal information such as the name and address of a heavy vehicle licence holder.

This may raise fundamental legislative principles relating to individuals' right to privacy.

The NHVR currently obtains Queensland driver licensing information via a webservice that links to data maintained by TMR. This information is essential for the NHVR to be able to exercise its functions under the HVNL including, for example, for the purpose of exercising enforcement functions. Clause 53 will simply allow the NHVR to obtain that same information via NEVDIS. NEVDIS is owned by Austroads, which is an association of Australasian road transport and traffic agencies, and it allows those agencies to interact across state borders.

Importantly, clause 53 of the Bill provides that information may only be disclosed to the NHVR for the performance of its functions under the HVNL. In addition, any disclosure of information will be subject to the detailed information security and confidentiality provisions that apply to the release of information through NEVDIS.

As a result, the amendment has sufficient regard to the fundamental legislative principles and an individual's right to privacy.

Fundamental legislative principles that arise from the *TORUM Act amendments*

LSA section 4(2)(a) – sufficient regard to rights and liberties of individuals – new offences and proportionate penalties

Section 84AA is a new provision being added to the TORUM Act providing that a person riding a bicycle or PMD on a road-related area commits an offence if the person rides without due care and attention or without reasonable consideration for another person using the road-related area. This new offence is subject to a maximum penalty of 40 penalty units and is necessary to discourage unsafe behaviours by riders such as weaving in between pedestrians on footpaths at unsafe speeds. It is closely aligned with the existing offence in section 84(2) to drive a vehicle (other than a motor vehicle), a tram, a train, or an animal on a road without due care or attention or without reasonable consideration for other persons using the road. Section 84(2) already applies to bicycles and PMDs when used on a road.

Section 84(2) has a maximum penalty of 40 penalty units or 6 months imprisonment. The consistent maximum financial penalty of 40 penalty units for the new section 84AA and the existing section 84(2) reflect that these offences regulate the same behaviour where the only difference is whether offending occurs on a road-related area or a road. It was not considered appropriate to impose an imprisonment term for offending on a road-related area under section 84AA. The maximum financial penalty for section 84AA is proportionate with the similar offence under section 84(2) so any breach of fundamental legislative principles is justified.

LSA section 4(3)(d) – reversal of onus of proof

The amendment to section 93 of the TORUM Act (new subsection (4A)) introduces a provision that allows a driver to not comply with the requirement to provide their information to another person at the scene of the crash under section 93(2), if the driver reasonably believes that sharing their information would be likely to expose the driver, or another person, to harm.

In these circumstances, the person must instead report the incident to a police officer.

The intention of this amendment is to protect vulnerable drivers from potential harm. The proposed new subsection (4A) operates in the context of section 123M(a) of the TORUM Act which provides that in a proceeding for an offence, the defendant bears the onus of proving that a person is exempt from a provision of the TORUM Act to the balance of probabilities.

Reversing the onus of proof under new subsection (4A) is necessary to maintain the integrity of the provision. It is important that vulnerable drivers are protected from providing their information to another person in circumstances that would cause the driver to reasonably expect to result in harm. However, the driver is the only person who has the information to establish that subsection (4A) applied at the time of the offence. A police officer who is not at the scene of the crash, has no ability to determine whether or not section 93(4A) applies to the driver. It is not the policy intention to create a situation where an offence under section 93(2) cannot be proven unless the prosecution can establish beyond a reasonable doubt that there was no reasonable expectation that the driver, or another person, would be exposed to harm.

It is reasonable to expect that if a driver did not comply with a requirement under section 93(2), and they are the only person who has the information needed to establish why they did not comply with section 93(2), then that driver should be required to prove that the offence of section 93(2) did not apply to them at the time of the offence.

LSA section 4(2)(b) – sufficient regard for the institution of parliament

The amendments to section 120E of the TORUM Act enable a regulation to prescribe the offences to which the evidentiary provision applies, this may raise the fundamental legislative principle of sufficient regard to the institution of Parliament. This is justified, however, as the regulation of driver distraction offences must be agile to respond to fast moving technological advancements (both in terms of the distracting devices drivers may use and the camera technology able to detect these dangerous behaviours).

To mitigate any perceived impacts, the draft Bill includes protections to ensure that only offences relating to driver distraction can be prescribed as a driver distraction offence under a regulation. In addition, any future subordinate legislative changes to prescribe further driver distraction offences will be subject to the standard regulation making process, including tabling in Parliament and the ability for Parliament to consider a disallowance motion.

Fundamental legislative principles that arise from the *TOPTA* amendment

LSA section 4(3)(d) – reversal of onus of proof – reasonable excuse

A duty holder of a road-based public passenger service commits an offence if they fail to comply with an audit notice in section 67ZF, or direction to comply in section 67ZH(5), without a reasonable excuse. In effect, the offences reverse the onus of proof as the defendant must prove that they had a reasonable excuse for the noncompliance.

The new provisions are largely consistent with existing sections 91ZO and 91ZQ(5) in the TOPTA. The audit and directions provisions are important compliance mechanisms to ensure high standards of safety and compliance with relevant transport legislation for road-based public passenger services. Including enforceable offences for noncompliance with audit and direction provisions are in the public interest to protect the community. The reversal of the onus of proof is justified as the defendant is best placed to provide evidence of the purpose of their conduct.

LSA section 4(3)(e) – power to enter premises without a warrant

In relation to the consistent safety duty and audit and direction frameworks, the Bill amends section 120 of the TOPTA to allow entry to duty holder's places of business without a warrant by inserting new section 120(ca) and replacing section 120(d).

Section 120(c) already allows entry to places of business mentioned in an accreditation, authorisation, contract or licence under the TOPTA. The new subsection (ca) ensures there is an entry power for places of business of duty holders not covered by subsection (c) including for example, some community transport services or courtesy transport services that are not available to the general community. The new provision is appropriate and justified as the power is limited to the duty holder's place of business while it is open for business or otherwise open for entry, and the power provides an efficient way to support investigations, including into service safety.

The amended section 120(d) allows authorised persons to enter the place of business of a duty holder for a road-based public passenger service who is subject to an audit notice, where the authorised person believes it is reasonably necessary to enter the place to carry out the audit.

The amended provision is appropriate and justified as it is sufficiently limited and will enable audits to be carried out effectively. If the amendment was not made, it would create an inconsistency as an authorised person would only be able to enter a place of business to carry out an audit in relation to personalised transport services.

LSA section 4(2)(a) – sufficient regard to rights and liberties of individuals – ordinary activities should not be unduly restricted and right to conduct business without interference

The TOPTA amendments about the consistent safety duty and audit and directions framework include provisions that may be viewed as unduly restricting ordinary activities or interfering with a person's right to conduct their business because:

- new chapter 6A, part 2 of the TOPTA adapts the existing general safety duty framework (including offences) for personalised transport services and extends it so that safety duties apply to those involved in the provision of road-based public passenger services;
 - new chapter 6A, part 3 outlines requirements for safety management plans including offences for responsible duty holders (that is, operators, booking service providers or a duty holder prescribed by regulation) to have a current safety management plan and to ensure it is implemented; and
 - proposed sections 67ZE and 67ZH expand the application of audit and direction provisions to duty holders of road-based public passenger services, rather than only personalised transport services.
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The duties introduced through chapter 6A, part 2 of the TOPTA only apply to those who are in a position to influence the safety of these services, and only to the extent that it is reasonably practicable for them to ensure safety. As a result, the amendments are justified as they are sufficiently targeted and are necessary to promote safety in the provision of road-based public passenger services.

In relation to the chapter 6A, part 3 amendments, safety management plans have been identified as one of the most effective ways for a person to meet their safety obligations. The safety management plan requirements aim to promote effective risk identification and mitigation, and also support audits that will potentially prevent safety incidents from arising. As a result, the requirement for a safety management plan is justified in the interests of safety.

The purpose of the audit and directions provisions are to assess a duty holder's compliance with relevant transport legislation, verify information provided about their business activities relating to the provision of the service and direct remedial action if needed, ideally before any incident has occurred. These provisions are proportionate and justified in these circumstances, as audits and directions are an important part of the approach to ensure high standards of safety for road-based public passenger services.

LSA section 4(2)(a) – sufficient regard to rights and liberties of individuals – new offences and proportionate penalties

Offences relating to compliance with the safety duty and safety management plan requirements will now apply beyond personalised transport services. The offences and penalties are as follows:

Section	Description of offence	Maximum Penalty
67P	Executive officer of corporation fails to exercise due diligence to ensure corporation complies with safety duty	Equivalent to penalty for individual for 67V, 67W and 67X
67V	Reckless conduct – category 1 - recklessly contravening a safety duty that exposes individual/s to risk of death or serious injury	Individual – 3,000 penalty units or 5 years imprisonment Corporation – 30,000 penalty units
67W	Failure to comply with duty– category 2 - contravention of safety duty that exposes individual/s to risk of death or serious injury	Individual – 1,500 penalty units Corporation – 15,000 penalty units
67X	Failure to comply with duty – category 3 – contravention of safety duty	Individual – 500 penalty units Corporation – 5,000 penalty units
67ZC	Particular obligations about safety management plan (1) Failure to have safety management plan (2) Failure to implement the safety management plan (4) Failure of a duty holder to comply with a responsible duty holder's plan to the extent applicable	Individual – 100 penalty units Corporation – 1,000 penalty units

The impact of failing to comply with a safety duty or safety management plan will potentially have significant safety implications and the penalties are graduated to reflect this. The penalties for contravention of a safety duty are consistent with the existing penalties for contravention of

a general safety duty relating to personalised transport services. Overall, the penalties are proportionate to each other, and the risk involved therefore any breach of fundamental legislative principles is justified. The offences and penalties relating to compliance with audit notices and directions to comply that will apply to all duty holders of road-based public passenger services are listed below:

Section	Description of offence	Maximum Penalty
67ZF	Failure to comply with an audit notice.	160 penalty units
67ZH(5)	Contravening a direction to comply.	Where a direction has been issued for: Noncompliance that exposes an individual to a risk of death or serious injury - 320 penalty units Otherwise – 160 penalty units

The proposed penalty amount for failure to comply with an audit notice is higher than the current penalty of 100 penalty units, that applies to personalised transport services (see section 91ZO of the TOPTA). However, the proposed penalty is consistent with the penalties for contravening a direction to comply in current sections 91ZQ(5)(b) and 100(7) of the TOPTA, and in new section 67ZH(5)(b) of the TOPTA.

The offence and penalty provisions for audits and directions are appropriate, proportionate and justified, as they ensure high standards of safety for road-based public passenger services, and that the public interest to protect the community prevails.

LSA section 4(4)(a) – allows the delegation of legislative power only in appropriate cases and to appropriate persons

The TOPTA amendments for the consistent safety duty and audit and direction framework that allow for certain matters to be prescribed by regulation may be viewed as delegating the power to change the application of the Act to an entity other than Parliament. These matters are listed and justified below.

The Bill will replace sections 14 and 26 of the TOPTA to ensure the operator accreditation and driver authorisation matters that are currently in the PT Standard can instead be prescribed by regulation. These amendments support the modernisation of the legislative framework flowing from the application of the safety duties to road-based public passenger services, and the expiry of the PT Standard. The matters that can be prescribed are technical and practical in nature.

New section 67Y allows a regulation to impose duties or requirements on duty holders about managing driver fatigue. Section 67Z lists who can be a responsible duty holder for safety management plans but allows others to be prescribed by regulation and section 67ZB lists matters to be contained in safety management plans, but then allows further matters to be prescribed by regulation. It would be impractical to attempt to reflect all current and likely scenarios relevant to these provisions in the Act. Allowing further requirements to be prescribed by regulation is necessary to ensure the legislative scheme is practical and responsive to an evolving public passenger transport industry. The amendments are justified to support a flexible and pragmatic approach to managing safety issues.

Proposed section 67ZE expressly provides for certain matters to be included in an audit notice, and also allows for other matters to be prescribed by regulation. Section 67ZG requires an audit report to include matters prescribed by regulation. These provisions are consistent with existing sections 91ZN and 91ZP of the TOPTA. Allowing such matters to be prescribed by regulation

is considered appropriate as the matters that may be prescribed are minor and administrative. It also provides flexibility and enables changes to ensure that audit documentation remains transparent and fit for purpose.

Importantly, any regulation made under any of the above provisions will be tabled and subject to scrutiny by parliament, and possible disallowance, through the usual regulation making processes.

Fundamental legislative principles that arise from the TIA amendments

LSA section 4(3)(d) – reversal of onus of proof – evidentiary provisions

The amendments to the tolling evidence and procedure provisions (sections 105 and 105ZO of the TIA), if enacted, will streamline court proceedings by providing that additional matters can be provided during court proceedings via evidentiary certificates, as well as providing for a presumption that a demand notice is issued in the approved form unless there is evidence to the contrary.

The proposed amendments at clauses 23 and 27 will provide that additional matters can be submitted as evidence via signed certificates (evidentiary certificates).

The additional matters to be dealt with by evidentiary certificates are:

- that a vehicle passed through the toll plaza;
- that a toll plaza was designated as such by a stated sign; and
- that a recording was made at a stated time and place.

These matters being dealt with by the evidentiary amendments are considered appropriate for certificate evidence. The information is either a matter of administrative record or objective in nature.

Allowing this type of evidence to be provided by evidentiary certificate promotes more efficient and cost-effective court processes by reducing the need for prosecutors to call witnesses for matters that are not in dispute (unless challenged).

The proposed amendments at clauses 23(5) and 27(5) will insert provisions to presume that a demand notice is in the approved form. This reverses the onus of proof as it removes the need for the prosecution to prove this element of the offence unless the defendant provides evidence to the contrary.

However, this is mitigated by the rebuttal provision, if there is evidence to the contrary, contained in these provisions. Defendants in tolling cases are provided briefs of evidence prior to court hearings and have the opportunity to compare the gazetted form number of the approved form with the form number on their tolling demand notice, thereby proving that the demand notice is in the approved form. The new provisions contained in clauses 23(5) and 27(5) are similar to section 120(6) of the TORUM Act for camera-detected offences, which provides that evidence of the condition of the photographic detection device is not required unless evidence that the device was not in proper condition has been given.

Importantly, defendants can still contest the information provided in an evidentiary certificate, by submitting their own evidence and they can check that the demand notice is in the approved form by comparing the gazetted form number with the form number on the demand notice received. Therefore, any impact on fundamental legislative principles is justified by these safeguards and the nature of the information to be submitted via evidentiary certificates.

Fundamental legislative principles that arise from the Ports Act amendments

LSA section 4(3)(g) – Retrospectively affecting rights and liberties, or imposing obligations

The transitional provision contained in clause 15 of the Bill may be considered as breaching the fundamental legislative principle that legislation does not adversely affect rights and liberties, or impose obligations, retrospectively (section 4(3)(g) of the LSA).

However, the proposed transitional amendment will only apply from the date of commencement and will not affect the legal status of anything that occurred beforehand.

The amendment will provide certainty as to the status of land that may be subject to tidal waters. This will further define administrative power in terms of making master plans to protect the GBRWHA.

Fundamental legislative principles that arise from the TPCA amendments

The proposed changes to the *TPCA* may breach the fundamental legislative principle that allows the delegation of administrative power only in appropriate cases and to appropriate persons by providing that the chief executive may list jurisdictions to recognise their digital authorities. This potential breach is justified on the grounds that Queensland based organisations and businesses must have confidence that the identity attached to that credential has been verified to a similar standard to that found for the issuance of an Australian digital authority, and that the cryptographic keys are managed securely.

The recognition of certain foreign countries already occurs for the transfer of a motorbike or car licence without the need for someone from one of those countries to undertake a test. See section 10 of the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2021* and the definitions of *experienced driver recognition country* and *recognised country* in schedule 9 of that regulation. In this case, the countries are listed on the Austroads website.

Consultation

National Services Transition

Consultation was undertaken with TMR employees likely to be impacted by the Bill and the Together Queensland union and its members. Together Queensland has provided feedback on the proposed process for identifying employees to transfer to the NHVR. In response, adjustments to the process have been made. TMR will continue to engage with Together Queensland and affected employees after passage of the Bill and prior to any transfers taking effect.

Consultation was also undertaken with the NHVR and it is supportive of the amendments.

Road Safety

In relation to the PMD related amendments, community consultation was undertaken with a wide range of relevant stakeholders including the Royal Automobile Club of Queensland, Jamieson Trauma Institute, Queensland Walks, Bicycle Queensland, Queenslanders with a Disability Network, Vision Australia, Scooter Hut, Electric Scooter Squad Brisbane, Evolve Skateboards, local government councils and the Queensland Family and Child Commission. All stakeholders are supportive of the proposed changes.

Amendments to the TOPTA

In relation to the consistent safety duty framework for road-based public passenger services, a discussion paper titled *Legislation changes to support Creating Better Connections for Queenslanders* was released for public consultation on 24 October 2022 for a period of four weeks. Key stakeholder consultations were also held, for example, with industry peak bodies such as the Queensland Bus Industry Council (QBIC) and the Queensland School Bus Alliance (QSBA) in November 2022. Feedback on the discussion paper was also sought from Services Australia (National business gateway) and the Department of Veterans Affairs.

A total of 76 stakeholder submissions were received including 63 submissions from industry providers and peak bodies. Submissions on the discussion paper broadly supported having a safety duty across all road-based public passenger services. The peak bodies for the bus industry and the personalised transport industry both strongly supported the proposals, indicating that the majority of their members already comply with the existing requirements.

Other organisations, such as a large booking entity for personalised transport services, provided feedback that they supported a principle-based approach, which provides flexibility in how they meet the requirements of the safety management plan. However, they expressed concerns around the impracticality of the proposed requirement to consult with other duty holders, which they believed was beyond their existing WHS Act requirements. TMR notes that, although not legislated, the WHS Code of Practice refers to the duty to consult as part of the safety duty. Access and consultation has been found to improve safety outcomes by promoting safety messages and information, and promoting the safety management plan and various roles and responsibilities. Ultimately, access and consultation can lead to enhanced safety outcomes because the hazards, risks and controls are considered more robustly from a variety of different perspectives.

The QSBA stated it would have concerns if the changes resulted in additional requirements for operators. The QSBA will be further consulted during the review of the PT Standard to identify any specific concerns they have. Peak industry bodies such as QBIC and QSBA requested that TMR continue to collaborate with them which is intended to occur as part of the implementation of the safety duty and during the review of the PT Standard.

Providers of operator accreditation services raised some concerns that the proposal duplicated existing requirements in other legislation like the WHS Act or the HVNL. The proposed approach is not intended to duplicate existing requirements, but rather streamline requirements as they apply to the provision of passenger transport services, and strengthen industry understanding and compliance. Much of the feedback related to industry providers seeking detail about the requirements and compliance framework, identification of impacts, and seeking communications in different languages. These issues will be addressed through implementation.

No consultation was undertaken regarding the amendment about authorised persons requiring information in documents, including vehicle security camera footage, because of the minor and technical nature of the change.

No consultation was undertaken regarding the amendment to apply modern drafting practice to the regulation making power for the chief executive charging, a default fare, because of the minor and technical nature of the change.

No consultation was undertaken regarding the amendment to ensure the chief executive of TMR can continue to obtain information to verify eligibility for assistance with transport arrangements for students attending non-State schools because it merely reinforces the current processes and so will not have an adverse impact on stakeholders.

Amendments to the Ports Act

Public consultation on the amendments to the Ports Act did not occur as port authorities, landowners and the public have been consulted during the draft master planning processes on the basis that the master planned areas included the areas of land subject to tidal waters outside the port limits.

Amendments to the TPCA

No specific consultation with external entities has been undertaken in relation to the ability to recognise foreign issued digital licences (digital authorities).

Consistency with legislation of other jurisdictions

The amendments for the National Services Transition are consistent in intent with the legislation passed by other jurisdictions which have transitioned responsibility for delivery of heavy vehicle regulatory services to the NHVR.

As PMDs are an emerging technology, the regulatory framework that governs these devices differs within each jurisdiction. However, there is broad alignment across all jurisdictions that PMDs must be used safely with regard to other drivers and path users. The amendments in the Bill continue to align the use of PMDs with the broad road safety intention across other jurisdictions.

The safety duty framework for road-based public passenger services is generally consistent with the HVNL (which applies to heavy vehicles in participating jurisdictions across Australia) and the WHS Act (which forms part of a system of nationally consistent work health and safety laws). Specifically, the approach to road-based public passenger services is also similar to schemes in Victoria and Western Australia.

Notes on provisions

Part 1 Preliminary

Clause 1 states the Act may be cited as the *Transport and Other Legislation Amendment Act 2023*.

Clause 2 states which parts of the Bill will commence on a date fixed by proclamation.

The *Maritime Safety Queensland Act 2002* amendments commencing by proclamation provide that the Governor in Council decides remuneration paid to the General Manager of Maritime Safety Queensland.

The TOPTA provisions commencing by proclamation relate to the safety duty, safety management plans and audit and direction frameworks.

Part 2 Amendment of Cross River Rail Delivery Authority Act 2016

Clause 3 states that this part amends the *Cross River Rail Delivery Authority Act 2016*.

Clause 4 amends section 44 to omit a reference to a quorum.

Part 3 Amendment of the Heavy Vehicle National Law Act 2012

Clause 5 states that this part amends the *Heavy Vehicle National Law Act 2012*.

Clause 6 inserts a new part 4, division 4A into the *Heavy Vehicle National Law Act 2012*.

This new division is to support the transition of regulatory functions and transfer of staff and vehicles from TMR to the NHVR.

New section 34A contains the definitions for the new division.

New section 34B(1) provides that the Minister may make a transfer schedule identifying:

- the employees of TMR that are to be transferred to the NHVR;
- the directives made under the *Public Sector Act 2022* that are to continue to apply to a transferred employee; and
- the vehicles that are to be transferred to the NHVR that are to be exempt from administrative processes or requirements under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021* and the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021*.

New section 34B(2) provides that the Minister must state in a transfer schedule the day that the employees and vehicles are transferred to the NHVR under new division 4A.

New section 34C provides that on the transfer day a transferring employee becomes an employee of the NHVR.

Other matters provided for in new section 34C are as follows:

- TMR's records to the extent they relate to the employment of transferring employees become records of the NHVR (subsection (1)(c)) and TMR may retain copies of the records (subsection (3));
- TMR's liabilities relating to a transferring employee's accrued rights to annual, sick, long service or other leave become the liabilities of the NHVR (subsection (1)(d)); and
- TMR must pay to the NHVR an amount equivalent to the liabilities mentioned in subsection (1)(d) (subsection 4).

Part 6-3A of the Fair Work Act applies in certain circumstances where employees of a State cease to be employed and subsequently become employed by a non-State employer. If the relevant circumstances apply, there is deemed to be a 'transfer of business'. To be a transfer of business the following four elements of section 768AD of the Fair Work Act must be satisfied:

- the employment of a person with a State employer must be terminated. The Bill will facilitate this via new section 34C(1)(a) at the time the transfer schedule comes into effect.
 - the person must become employed by the new employer within 3 months after the termination.
 - the Bill will facilitate this via new section 34C(1)(b) at the time the transfer schedule comes into effect.
 - the work the person performs for the new employer is the same, or substantially the same, as the work the person performed for the old State employer. Transferred employees will perform the same heavy vehicle regulatory functions for the NHVR as they are currently performing for TMR.
 - there must be a connection between the old State employer and the new employer. Subsections (2) to (4) of section 768AD of the Fair Work Act set out what is to be
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regarded as a connection between the two employers. Relevantly, there will be a connection if there is an arrangement between the two employers under which the new employer owns or has beneficial use of assets that prior to the transfer were owned or used by the old State employer, and that are used in connection with the transferring work. TMR currently owns or leases assets used in performing heavy vehicle regulatory functions. These include vehicles and weighing scales. These assets will be used by the NHVR in performing these same regulatory functions after the transfer process.

Because the transfer envisaged by the Bill will meet the requirements of a 'transfer of business' under section 768AD of the Fair Work Act, 'copied State instruments' will come into operation under the Fair Work Act. A copied State instrument may be a 'copied State award' or a 'copied State employment agreement' (such as an enterprise agreement). At the point of transfer of the employees to the NHVR these copied State instruments will come into operation under the Fair Work Act and apply to the transferred employees.

The copied State award is taken to include the terms as were in the award that covered transferring employees immediately before the termination of those employees' employment with TMR. Similarly, the copied State employment agreement is taken to include the same terms as were in the enterprise bargaining certified agreement that covered transferring employees immediately before the termination of those employees' employment with TMR.

Further, as indicated in subsection (1)(b) of new section 34B, directives made under the *Public Sector Act 2022* listed in a transfer schedule will continue to apply to benefit transferred employees. The directives that may be listed in the transfer schedule deal with issues including, for example, sick leave, overtime and excess travel. The Fair Work Act sets out when copied State instruments cease to operate. For a copied State award, there is a default period of 5 years starting from the date of the termination of employment with the old State employer. However, if after the reemployment with the new employer another enterprise agreement starts to cover the transferred employee, the copied State instrument ceases to operate.

Section 34C(5) clarifies that a reference to an employee's right in section 34C to various kinds of leave includes rights under a directive identified in a transfer schedule.

New section 34D addresses the rights of transferring employees from TMR to the NHVR. Subsection (1) provides that the transfer of a transferring employee does not:

- affect the employee's benefits, entitlements, or remuneration;
- prejudice the employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave;
- interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service;
- entitle the employee to a payment or other benefit from the State because the employee is no longer employed by TMR; or
- require TMR to make any payment to the employee in relation to the employee's accrued rights to recreation, sick, long service or other leave.

Section 34D(2)(a) makes clear that the termination of employment with TMR does not entitle any transferring employee to a payment or other benefit for a retrenchment or redundancy. This would include redundancy pay under Chapter 2 Division 13 Subdivision 2 of the *Industrial Relations Act 2016* or any benefit contained in a public sector directive for a retrenchment or redundancy.

Section 34D(2)(b) provides that the termination of employment with TMR does not require TMR or the State to find an employee who will be transferred to the NHVR alternative employment.

The reason for this is that the Bill ensures that transferred employees' employment continues with the NHVR.

Section 34D(3) clarifies that a reference to an employee's rights and similar things in section 34D includes a reference to those rights or similar things in a directive identified in a transfer schedule.

Section 34D(4) provides that a directive identified in a transfer schedule that is not a copied state instrument under the Fair Work Act, ceases to operate for a transferring employee when the directives that are copied State instruments under the Fair Work Act cease to operate under section 768AO of that Act.

New section 34E is about trailers that will be transferred from TMR to the NHVR.

This section provides that the processes and requirements that usually apply when the registered operator of a vehicle changes, do not apply. For example, the procedural requirements such as the need to make a formal transfer application under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021* do not apply. Similarly, the requirement for a safety certificate or an inspection certificate for the transferred vehicle does not apply.

New section 34F is about any proceedings by or against TMR that are current as of the date of transfer and that relate to a transferred employee. The section provides that TMR remains responsible for all aspects of those proceedings. That is, nothing related to those proceedings is to transfer to the NHVR.

Clause 7 inserts new sections 42CA and 42CB into the *Heavy Vehicle National Law Act 2012*. These sections modify the application of provisions in the HVNL as they apply in Queensland. These provisions clarify that following the transfer of employees from TMR, employees from the NHVR are able to be appointed as authorised officers to perform functions under other legislation administered by TMR, and that the NHVR may exercise powers of authorised officers.

Clause 8 inserts new section 42DA which provides that the NHVR has the functions conferred on it under another law of Queensland.

Part 4 Amendment of Maritime Safety Queensland Act 2002

Clause 9 states that this part amends the *Maritime Safety Queensland Act 2002*.

Current provisions align the remuneration package payable to the General Manager of Maritime Safety Queensland to the *Public Sector Act 2022*. This inherently limits the remuneration package to be no more than that of SES4.2 as set out in the directive relating to Senior Executive Service employment conditions.

Clause 10 of the Bill amends section 10 of the *Maritime Safety Queensland Act 2002* to remove that limitation by providing that, despite the *Public Sector Act 2022*, the General Manager is to be paid the remuneration decided by the Governor in Council.

Part 5 Amendment of Motor Dealers and Chattel Auctioneers Act 2014

Clauses 11 states that this part amends the *Motor Dealers and Chattel Auctioneers Act 2014*.

Clause 12 makes consequential amendments to support the change of name from *motorised scooter* to *low powered toy scooter*.

Part 6 Amendment to the Sustainable Ports Development Act 2015

Clause 13 states that this part amends the *Sustainable Ports Development Act 2015*.

Clause 14 amends section 6 to remove doubt and provide that areas of land periodically covered by tidal waters outside the port limits may be included in a master planned area for a priority port. This provides certainty to areas of land where the tidal range extends beyond the mapped high-water mark of the port limits. The existing prohibition on including areas of a State or Commonwealth marine park remains unchanged.

Clause 15 inserts a new transitional provision to provide that the amended framework applies to the approved master planned areas and the proposed master planned areas even if a proposed master plan for a relevant priority port is made under section 11 before commencement.

Part 7 Amendment of the Transport Infrastructure Act 1994

Clause 16 states that this part amends the *Transport Infrastructure Act 1994*.

Clause 17 amends section 60 to clarify that advertisement of a limited access road declaration under section 54 of the TIA can occur in a way the chief executive considers appropriate. Examples are given, consistent with the overarching online publication requirement in part 5A of the *Financial Accountability Act 2009*, which requires online publication of information except in particular circumstances, on the department's website, in an electronic version of a newspaper, or in a newspaper circulating in the location of the limited access road where a permitted regional newspaper is deemed to be the best method to advertise.

Clause 18 amends the definitions for chapter 6, part 7, division 3 – failure to pay toll, by inserting a definition of online nomination facility into section 97.

Clause 19 amends section 99 to provide that a recipient of a notice issued under section 99(1) may provide the necessary information by statutory declaration or by using the online nomination facility (new subsection (3A)). The amended section 99 will provide that standard statutory declarations and online nominations are accepted methods to discharge liability of a tolling demand notice.

Clause 20 amends section 100 to remove the requirement that a statutory declaration must be in the approved form.

Clause 21 amends section 101 to provide that a person identified as the driver who receives a notice under section 101(1) may provide the necessary information by a standard statutory declaration or by using the online nomination facility.

Clause 22 amends section 102 to remove the requirement that supporting statutory declarations must be in the approved form.

Clause 23(1) amends section 105(1)(c) by inserting new subsections providing the following matters can be submitted as evidence in court proceedings by evidentiary certificates:

- a stated vehicle passed through a toll plaza for a toll road at a stated time; and
- a toll plaza or part of a toll plaza for a toll road was or was not designated by a stated sign at a stated time and place.

Clause 23(2) amends section 105(1)(c)(xii) to provide that evidentiary certificates can be used to state whether online nominations were or were not received in addition to statutory declarations.

Clause 23(3) amends section 105(1)(c)(xiii) to provide that a recording by a photographic, mechanical or electronic device was made at a stated time or place.

Clause 23(4) renumbers the amended subsections in section 105(1)(c).

Clause 23(5) inserts a new subsection to provide that a demand notice issued under section 99(1) of the TIA was in the approved form unless there is evidence to the contrary.

Clause 23(6) renumbers the remaining subsections in section 105.

Clause 24 amends the definitions for chapter 6, part 8, division 6, subdivision 3 – failure to pay toll, by inserting a definition of online nomination facility into section 105ZF.

Clause 25 amends section 105ZH to provide that a registered operator who receives a notice issued under section 105ZH(1) may provide the necessary information by a standard statutory declaration or by using the online nomination facility.

Clause 26 amends section 105ZK to provide that a person identified as the driver who receives a notice under section 105ZK(1) may provide the necessary information by a standard statutory declaration or by using the online nomination facility.

Clause 27(1) amends section 105ZO(1)(c) by inserting new provisions providing the following matters can be submitted as evidence in court proceedings by evidentiary certificates:

- a stated vehicle passed through a toll plaza for a local government tollway at a stated time; and
- a toll plaza or part of the toll plaza for a local government tollway was or was not designated by a stated sign at a stated time and place.

Clause 27(2) amends section 105ZO(1)(c)(xii) to provide that evidentiary certificates can be used to state whether online nominations were or were not received in addition to statutory declarations.

Clause 27(3) amends section 105ZO(1)(c)(xiii) to provide that a recording by a photographic, mechanical or electronic device was made at a stated time or place.

Clause 27(4) renumbers the amended subsections in section 105ZO(1)(c).

Clause 27(5) inserts a new subsection to provide that a demand notice issued under section 105ZH(1) was in the approved form unless there is evidence to the contrary.

Clause 27(6) renumbers the remaining subsections in section 105ZO.

Part 8 Amendment of Transport Operations (Passenger Transport) Act 1994

Clause 28 states this part amends the *Transport Operations (Passenger Transport) Act 1994*.

Clause 29 amends section 111 of the TOPTA to include an employee of the NHVR as a person who may be appointed an authorised person to exercise functions under that Act.

Clause 30 amends section 128 to include a definition of information to allow an authorised person to require a person to produce a document that contains information about an offence that is in any form. For example, the document might be footage from a vehicle security camera system.

Clause 31 inserts new section 128A which allows for the copying and returning of documents that have been given to an authorised person under section 128(2) or 128(2A). The authorised person may keep the document to copy it, and if they copy it, the authorised person may ask the person to certify the copy as a true copy of the document. The document must be returned as soon as practicable after copying it.

Clause 32 amends section 143AB to reflect modern drafting practices so there is an explicit head of power in relation to default fares, for example, where a person fails to tap on or off at the beginning and or end of a journey.

Clause 33 amends section 144 to ensure a principal of a non-State school who receives a request for information under section 144(3), must give the chief executive the relevant information. The request for information is limited through subsection (3) to only matters relevant to the administration of the school transport arrangements. In practice, this provision only applies where there is an application for assistance.

Clause 34 amends section 11 to replace 'appropriate standard' with 'any prescribed requirements'. As a result, when the PT Standard is no longer in force, the PT Regulation can be used to regulate holders of operator accreditation regarding the matters that are currently managed through the PT Standard.

Clause 35 replaces section 14 to allow a regulation to prescribe matters about operator accreditation that can currently be prescribed in the PT Standard.

Clause 36 amends section 23 to replace a reference to 'appropriate standard' with 'any prescribed requirements'. As a result, when the PT Standard is no longer in force, the PT Regulation can be used to regulate holders of driver authorisations regarding the matters that are currently managed through the PT Standard.

Clause 37 replaces section 26 to allow a regulation to prescribe matters about driver authorisation that can currently be prescribed in the PT Standard.

Clause 38 inserts new chapter 6A Road-based public passenger services.

Part 1 Interpretation

Part 1 of chapter 6A inserts section 67G which provides for the definition of *relevant transport legislation* that applies in chapter 6A.

Part 2 Safety duties

Part 2 of chapter 6A provides for safety duties for road-based public passenger services. New chapter 6A, part 2, is based on current chapter 7, part 3, but expanded to apply to road-based public passenger services as defined in schedule 3.

Division 1 Preliminary

Section 67H includes definitions for chapter 6A, part 2.

Section 67I defines what is *reasonably practicable* in relation to a duty to ensure safety. The content of section 67I is the same as the definition of reasonably practicable that was contained in section 83.

Section 67J outlines who are safety duty holders for road-based public passenger services. The definition of *road-based public passenger service* will be inserted in schedule 3, making it clear that a service provided using a light rail vehicle, or a service provided by a volunteer association

or their volunteers (as defined in schedule 3) are not road-based public passenger services. However, section 67J(2) states that a person contracted by a volunteer association is a duty holder.

Section 67K outlines the relationship between part 2 and other safety laws. Safety law is defined in section 67H as the WHS Act and the HVNL.

Division 2 Principles

Section 67L explains that each duty holder has a shared responsibility for the safety of activities associated with providing road-based public passenger services and explains the factors that impact the person's level and nature of responsibility.

Section 67M outlines the principles applying to the safety duties. For example, a person may have more than one duty and more than one person can concurrently have the same duty.

Division 3 Nature of primary duties

Section 67N provides for the primary duty of care for duty holders for a road-based public passenger service, other than drivers. Each duty holder must ensure, as far as is reasonably practicable, the safety of their activities in providing the service. *Reasonably practicable* is defined in section 67I.

Section 67O provides for the primary duty of care of drivers in providing a road-based public passenger service. This provision provides that drivers must take reasonable care for their own safety and, so far as is reasonably practicable, to not adversely affect another person's safety.

Section 67P states the duty of executive officers of corporations. This section creates an offence for an executive officer of a corporation with a safety duty to fail to exercise due diligence to ensure the corporation complies with the duty. *Executive officer* of a corporation is defined in schedule 3 as a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer. *Due diligence* is defined in section 67P(3) and includes, for example, ensuring the corporation has appropriate resources and processes to eliminate or minimise safety hazards or risks.

Division 4 Further duties of particular duty holders for road-based public passenger services

Division 4 provides for further specific duties for operators (section 67Q), registered operators and drivers of motor vehicles used to provide road-based public passenger services (sections 67R and 67S respectively), booking service providers (section 67T) and holders of personalised transport service licences (section 67U). These further duties are in recognition of the different service delivery models, the different roles of each duty holder and highlight the varying control a person may have in eliminating or reducing a risk depending on their role. These further duties do not limit the primary duty of care under sections 67N or 67O.

Division 5 Failing to comply with safety duties

Division 5 includes new sections 67V, 67W and 67X which set out the offence and penalty structure for when a safety duty holder fails to comply with their safety duty. These offences are consistent with existing sections 90, 91 and 91A.

Section 67V provides for the category 1 offence, which applies where a person has a safety duty and without a reasonable excuse, engages in conduct related to that duty that exposes an individual, or class of individuals, to a risk of death or serious injury or illness, and is reckless to the risk. The maximum penalty is 3,000 penalty units or 5 years imprisonment for an individual and 30,000 penalty units for a corporation.

Section 67W provides for the category 2 offence, which applies where a person has a safety duty, contravenes the duty and thereby exposes an individual, or class of individuals, to a risk of death or serious injury or illness. The maximum penalty is 1,500 penalty units for an individual and 15,000 penalty units for a corporation.

Section 67X provides for a category 3 offence, which applies where a person has a safety duty and contravenes that duty. The maximum penalty is 500 penalty units for an individual and 5,000 penalty units for a corporation.

Division 6 Duties relating to fatigue management

Section 67Y allows a regulation to impose other duties or requirements, relating to driver fatigue on a duty holder for a road-based public passenger service, such as standards about working time spent driving a motor vehicle; requirements relating to monitoring, recording and reporting on these matters; use of particular equipment or technology to manage fatigue; and training of drivers and duty holders about managing driver fatigue.

Part 3 Safety management plans

Part 3 of chapter 6A introduces requirements for safety management plans. Safety management plans will provide a way for responsible duty holders for road-based public passenger services to manage their safety duty obligations.

Section 67Z defines *responsible duty holder* for a road-based public passenger service to be an operator of the service, a booking service provider or a duty holder prescribed by regulation.

Section 67ZA provides what a *safety management plan* is. A safety management plan is a document, or multiple documents, that sets out how to protect the safety of persons who may be affected because of activities carried out in the course of providing the service. A safety management plan also ensures that the responsible duty holder is meeting their obligations under the safety duties as defined in section 67H.

Section 67ZB outlines requirements for safety management plans and allows additional requirements to be prescribed by regulation.

Section 67ZC(1) provides that responsible duty holders must have a safety management plan that complies with section 67ZB. Failure to do so is an offence with a maximum penalty of 100 penalty units for an individual and 1,000 penalty units for a corporation.

Section 67ZC(2) provides that a responsible duty holder must ensure their safety management plan is implemented. Failure to do so is an offence with a maximum penalty of 100 penalty units for an individual and 1,000 penalty units for a corporation. This offence will not apply if the responsible duty holder does not have a safety management plan.

Section 67ZC subsections (3) and (4) provide that a duty holder must, so far as is reasonably practicable, comply with the safety management plan of a responsible duty holder to the extent applicable. Failure to do so is an offence with a maximum penalty of 100 penalty units for an individual and 1,000 penalty units for a corporation.

Part 4 Audits

Section 67ZD states the purpose of part 4, which is to allow the chief executive or an authorised person to audit a duty holder for a road-based public passenger service to assess their compliance with relevant transport legislation, or to verify information given to the chief executive or an authorised person about the duty holder's business activities in relation to providing the service.

Section 67ZD is based on and will replace current section 91ZM.

Section 67ZE outlines the audit notice process. It allows the chief executive or an authorised person to give a duty holder for a road-based public passenger service a written audit notice to allow the audit to be carried out within the period stated in the notice, and that the duty holder must cooperate with every reasonable requirement of the chief executive or authorised person.

Section 67ZE(2) outlines the requirements for audit notices, including that additional matters may be prescribed by regulation.

Section 67ZE(3) provides that the chief executive may give a duty holder an audit notice as frequently as reasonably required for a purpose in section 67ZD.

Section 67ZE is based on, and will replace, current section 91ZN.

Section 67ZF provides that a duty holder, who is given an audit notice, must comply with the notice unless they have a reasonable excuse. Failure to do so is an offence with a maximum penalty of 160 penalty units.

Section 67ZF is based on, and will replace, current section 91ZO.

Section 67ZG requires the chief executive to give an audit report to the duty holder whose activities have been audited, as soon as practicable after an audit is carried out, and that the audit notice must include any additional matters prescribed by a regulation.

Section 67ZG is based on, and will replace, current section 91ZP.

Part 5 Directions to comply

Section 67ZH provides for directions to comply. A direction to comply can be given where the chief executive or an authorised person is satisfied that a duty holder for a road-based public passenger service has not complied with relevant transport legislation. *Relevant transport legislation* is defined in section 67G.

The purpose of the direction provision is to provide a duty holder with an opportunity to remedy their noncompliance, to discourage further contravention, and to enable the TMR to take action if the duty holder does not remedy the identified contravention.

Section 67ZH(5) provides that a duty holder who is given a direction to comply must not contravene the direction unless they have a reasonable excuse. Failure to do so is an offence. The maximum penalty is 320 penalty units for contravening a direction to immediately comply with a provision of relevant transport legislation. Otherwise, where it is not a direction to immediately comply, the maximum penalty is 160 penalty units.

Section 67ZH is based on, and will replace current, section 91ZQ.

Clause 39 omits chapter 7, part 3 (Safety duties). Chapter 7, part 3 only applied safety duties to personalised transport services. Safety duties for all road-based public passenger services will now be regulated through chapter 6A.

Clause 40 omits chapter 7, part 5, division 2 (Audits) because a new audit and directions framework applying to duty holders of road-based public passenger services is being inserted through chapter 6A, parts 4 and 5.

Clause 41 omits chapter 9 (Standards). With the introduction of the new safety duty framework, a review of the PT Standard has identified that the requirements in the PT Standard could be now managed either through the new safety duties or by being prescribed in regulation.

Clause 42 amends section 120 (Entry of place) to insert subsection (ca) to ensure an authorised person may enter a place of business of a duty holder for a road-based public passenger service that is not already covered by (c) if the place is open for business or otherwise open for entry. This will support compliance and enforcement activities relating to safety duties.

This clause also replaces section 120(d) to enable an authorised person to enter the duty holder's place of business if the authorised person believes it is reasonably necessary to carry out the audit. This provision applies when a duty holder for a road-based public passenger service has been given an audit notice.

Clause 43 inserts part 21, to provide transitional provisions relating to the new safety duty and audit and direction framework.

Section 219 includes definitions for part 21.

Section 220 provides for a 6 month transitional period for persons in the chain of responsibility from the commencement of the new safety duty framework in chapter 6A.

Section 221 provides for a 6 month transitional period for persons, other than drivers, who are now subject to a safety duty because of section 67J but were not in the chain of responsibility prior to commencement of the new safety duty framework in chapter 6A.

Section 222 provides a 6 month transitional period for drivers who are now subject to a safety duty but were not in the chain of responsibility prior to commencement of the new safety duty framework in chapter 6A.

Section 223 provides a 6 month transitional period from commencement during which responsible duty holders do not need to complete a safety management plan.

Section 224 ensures that proceedings for offences committed under former chapter 7, part 3, prior to the commencement of new chapter 6A, can still be commenced or continued so that the person can be convicted and punished.

Section 225 provides that former chapter 7, part 5, division 2 continues to apply to audits that were commenced under the former provisions but are not completed prior to the commencement of the amending Act.

Section 226 provides that former section 91ZQ continues to apply to directions to comply given under section 91ZQ prior to the commencement of the amending Act.

Section 227 provides former section 100 continues to apply to directions to comply with the standard given prior to the commencement of the amending Act.

Clause 44 amends schedule 2 (Reviewable decisions) to omit reference to section 91ZQ(2)(b) and insert a reference to section 67ZH(2)(b).

Clause 45 amends the schedule 3 (Dictionary).

Part 9 Amendment of Transport Operations (Road Use Management) Act 1995

Clause 46 states this part amends the *Transport Operations (Road Use Management) Act 1995*.

Clauses 47-51 amend sections 19D – 19H of the TORUM Act to omit definitions of *Advertising Standards Bureau* and *board* and replace them with new definitions of *advertising standards entity* and *community panel*. These changes reflect that the *Advertising Standards Bureau* has now been replaced by *Ad Standards* and the *board* has been replaced by the *Ad Standards Community Panel*. These new entities will be prescribed by regulation (see the amendments to the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021* at clauses 69 and 70). References to 'a notice' have also been updated to 'a written notice' for greater clarity.

Clause 52 amends section 20 of the TORUM Act to include an employee of the NHVR as a person who may be appointed as an authorised officer to exercise functions under that Act.

Clause 53 amends section 77 to include reference to the NHVR. The NHVR is already authorised to receive driver licensing information under provisions in the *Heavy Vehicle National Law Act 2012*. This information is currently obtained via a web service.

The amendment in this clause will allow the NHVR to obtain that same driver licensing information via the National Exchange of Vehicle and Driver Information Systems (NEVDIS). This is an entity that, under an agreement between Queensland and other Australian jurisdictions, maintains a database containing information about driver licences and traffic histories (see sections 77(1)(e) and (5)). In addition, any disclosure of information will be subject to the detailed information security and confidentiality requirements that apply to the release of information through NEVDIS.

Clause 54 amends the heading of section 84 to more clearly reflect the application of the provision.

Clause 55 inserts a new section 84AA to provide that a person riding a bicycle or PMD on a road-related area commits an offence if the person rides without due care and attention or without reasonable consideration for another person using the road-related area. The maximum penalty for this offence is 40 penalty units, which is consistent with the existing maximum penalty for the equivalent offence on a road under section 84(2).

Clause 56 amends the heading of Chapter 5, part 4 to better reflect the application of part 4.

Clause 57 amends section 92 to extend the duties and liabilities imposed on the driver of a vehicle other than a motor vehicle in the event of an incident on a road, to also apply when incidents occur on road-related areas.

Clause 58 extends the requirements to stop and provide a driver's particulars to riders of PMDs on both roads and road-related areas. In addition, a new protection is created for vulnerable drivers (regardless of what type of vehicle they are driving), by providing that a driver does not need to comply with the requirement to provide their particulars to another person at the scene of the crash if the driver reasonably believes that sharing that information would be likely to expose them, or any person to harm, be it the driver or another person. In these circumstances, the driver must instead report the incident to a police officer, including providing their particulars, to support further investigation for enforcement or insurance purposes.

Clause 59 amends section 94 to clarify that the operation of any scheme to facilitate the supply of information relating to road incidents also authorises the supply of information relating to incidents that occur on road-related areas.

Clause 60 omits the definition of *unregistered or uninsured offence* from the divisional definitions with the definition being moved to section 114 where the term is used.

Clause 61 inserts the definition of *unregistered or uninsured offence*.

Clause 62 amends section 120E to ensure the continued operation of the evidentiary provision, that supports camera-detected enforcement, if driver distraction offences are broadened in the future. For example, to capture other electronic devices, in addition to mobile phones.

Clause 63 amends section 150AA(1)(i) to expand the existing head of power to regulate driver distraction in young drivers to enable the future introduction of rules relating to other electronic devices, in addition to mobile phones.

Clause 64 amends schedule 4 to make a variety of consequential amendments relevant to the clauses above and also replaces the term *motorised scooter* with *low powered toy scooter* to avoid confusion.

Part 10 Amendment of Transport Operations (Road Use Management—Road Rules) Regulation 2009

Part 10 makes consequential amendments to support the amendment to section 120E of the TORUM Act and change of name from *motorised scooter* to *low powered toy scooter*.

Clause 65 states this part amends the *Transport Operations (Road Use Management-Road Rules) Regulation 2009*.

Clause 66 to 67 makes consequential amendments to support the name change from *motorised scooter* to *low powered toy scooter*.

Clause 68 prescribes the mobile phone offence to be a driver distraction offence, enabling the evidentiary provisions as contained in the Act to apply.

Part 11 Amendment of Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021

Clause 69 states this part amends the *Transport Operations (Road Use Management-Vehicle Registration) Regulation 2021*.

Clause 70 makes consequential amendments to prescribe Ad Standards ABN 54 003 179 and the Ad Standards Community Panel for the purposes of sections 19D and 19E of the TORUM Act.

Part 12 Amendment of Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021

Clause 71 states that this part amends the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021* (Vehicle Standards and Safety Regulation).

Clause 72 amends schedule 1, section 33(3) of the Vehicle Standards and Safety Regulation to reflect that vehicles will be used by the NHVR (rather than TMR) for the enforcement of the *Heavy Vehicle National Law (Queensland)*. This consequential amendment ensures that these vehicles will continue to be allowed to have a siren.

Clause 73 amends schedule 1, section 114 of the Vehicle Standards and Safety Regulation to reflect vehicles will be used by the NHVR (rather than TMR) for the enforcement of the *Heavy Vehicle National Law (Queensland)*. This consequential amendment ensures that these vehicles will continue to be allowed to have flashing magenta lights.

Part 13 Amendment of Transport Planning and Coordination Act 1994

Clause 74 indicates that this part amends the *Transport Planning and Coordination Act 1994*.

Clause 75 amends section 29AB to provide definitions in Part 4E for a *recognised country*, *recognised country authority* and *whole-of-government website*.

Clause 76 amends the definition of a *digital authority* under section 29AC to include a *recognised country authority*.

Clause 77 amends the dictionary in schedule 1 to include a *recognised country*, *recognised country authority* and *whole-of-government website*.

Part 14 Amendment of Transport Planning and Coordination Regulation 2017

Clause 78 indicates that this part amends the *Transport Planning and Coordination Regulation 2017*.

Clause 79 inserts a new section 11AA to prescribe ISO/IEC 18013-5 (Personal identification—ISO-compliant driving licence—part 5: mobile driving licence (mDL) application) under section 29AB of the Act.

Part 15 Other amendments

Clause 80 states that schedule 1 amends the legislation mentioned in it.

Schedule 1 Other amendments

Rural and Regional Adjustment Regulation 2011

Items 1, 2 and 3 make consequential amendments to the *Rural and Regional Adjustment Regulation 2011* to support the change of name from *motorised scooter* to *low powered toy scooter*.

Transport Infrastructure Act 1994

Item 1 omits section 35(2).

Item 2 renumbers sections 35(3) and (4) as sections 35(2) and (3).

Item 3 updates section 36(1)(a)(i) to omit section 35(3) and inserts an updated reference to section 35(2).

Item 4 updates section 36(7) to omit section 35(4) and inserts an updated reference to section 35(3).

Item 5 omits section 39(4).

Item 6 omits section 167(4).

Item 7 omits section 306(3).

Item 8 amends Schedule 6 – dictionary, by omitting the definition of *wild river area*.

Item 9 amends Schedule 6 to insert references to the locations of the definition of *online nomination facility*.