

Queensland



# **TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995**

**Reprinted as in force on 8 November 2000  
(includes amendments up to Act No. 46 of 2000)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 4B**

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This Act is reprinted as at 8 November 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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# **TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995**

[as amended by all amendments that commenced on or before 8 November 2000]

**An Act about road management and other purposes related to  
transport**

## **CHAPTER 1—PRELIMINARY**

### **Short title**

**1.** This Act may be cited as the *Transport Operations (Road Use Management) Act 1995*.

### **Objectives**

**3.(1)** The overall objectives of this Act are, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, to—

- (a) provide for the effective and efficient management of road use in the State; and
- (b) provide a scheme for managing the use of the State's roads that will—
  - (i) promote the effective and efficient movement of people, goods and services; and
  - (ii) contribute to the strategic management of road infrastructure in ways consistent with the *Transport Infrastructure Act 1994*; and
  - (iii) improve road safety and the environmental impact of road use in ways that contribute to overall transport effectiveness

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- and efficiency; and
- (iv) support a reasonable level of community access and mobility in support of government social justice objectives; and
  - (c) provide for the effective and efficient management of vehicle use in a public place.
- (2) This Act establishes a scheme to allow—
- (a) identification of vehicles, drivers and road users; and
  - (b) establishment of performance standards for vehicles, drivers and road users; and
  - (c) establishment of rules for on-road behaviour; and
  - (d) monitoring of compliance with this Act, including by using alternative compliance schemes; and
  - (e) management of non-performing vehicles, drivers and road users; and
  - (f) control of access to the road network, or parts of the road network, for vehicles, drivers and road users; and
  - (g) management of traffic to enhance safety and transport efficiency.

### **Achieving an appropriate balance between safety and cost**

**4.(1)** Although it may be possible to regulate to achieve the highest level of safety, doing so would ignore the impact of the regulation on the effectiveness and efficiency of road use.

(2) Therefore, this Act acknowledges the need to achieve an appropriate balance between safety, and the costs that regulation imposes on road users and the community.

### **Definitions—the dictionary**

**5.(1)** A dictionary in schedule 4 defines particular words used in this Act.

(2) Definitions found elsewhere in the Act are signposted in the dictionary.

### **Act binds everyone, including government entities**

**6.(1)** In this section—

“**government entity**” includes—

- (a) the State, the Commonwealth or another State; or
- (b) an instrumentality or agent of the State, the Commonwealth or another State.

**(2)** This Act binds everyone, including every government entity.

**(3)** However, a regulation may exempt a government entity from this Act or a provision of this Act.

## **CHAPTER 2—RESPONSIBILITIES FOR ROAD USE MANAGEMENT STRATEGIES AND PROGRAMS**

### **PART 1—ROAD USE MANAGEMENT STRATEGIES**

#### **Development of strategies**

**7.(1)** The chief executive must, from time to time, develop for the Minister’s approval a road use management strategy designed to give effect to the transport coordination plan in accordance with this Act’s objectives.

**(2)** In developing a road use management strategy, the chief executive must take reasonable steps to engage in public consultation.

**(3)** The Minister may, at any time, direct the chief executive—

- (a) to prepare a new road use management strategy for the Minister’s approval; or
- (b) to amend a road use management strategy.

**(4)** The Minister may—

- (a) approve a road use management strategy submitted for approval;

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or

- (b) require the chief executive to amend a road use management strategy submitted for approval.

### **Contents of strategies**

**8.(1)** A road use management strategy must include—

- (a) a statement of the specific objectives to be achieved; and
- (b) road use management initiatives; and
- (c) criteria for deciding priorities for government spending on road use management initiatives; and
- (d) appropriate performance indicators for deciding whether, and to what extent, the strategy's objectives have been achieved.

**(2)** A road use management strategy must aim to provide an adequate framework for coordinating and integrating road use management policies as between the different transport modes and levels of government.

**(3)** A road use management strategy may also take into account agreements about transport between the State and the Commonwealth, a local government or another State.

**(4)** A road use management strategy for the SEQTA area under the *Transport Planning and Coordination Act 1994* must not be inconsistent with, and must give effect to any integrated regional transport plan in force for the area.

### **Tabling of strategies**

**9.** The Minister must table a copy of each road use management strategy, and each amendment of a road use management strategy, approved by the Minister in the Legislative Assembly within 5 sitting days after it is approved.



## **PART 2—ROAD USE IMPLEMENTATION PROGRAMS**

### **Development of programs**

**10.(1)** Before the start of each financial year, the chief executive must develop, for the Minister's approval, a road use implementation program for the year and for 1 or more later years.

**(2)** A road use implementation program must include—

- (a)** a statement of the policies, projects and financial provisions for implementing the road use management strategy; and
- (b)** a statement of the performance targets to be achieved.

**(3)** A road use implementation program may include a proposal to spend an amount not directly related to road use, if the proposal would contribute to the effectiveness and efficiency of road use management.

**(4)** In developing a road use implementation program, the chief executive must take reasonable steps to engage in public consultation.

**(5)** A road use implementation program must be made available to the public in the way decided by the Minister.

**(6)** The Minister may, at any time, direct the chief executive to amend a road use implementation program.

**(7)** The Minister may—

- (a)** approve a road use implementation program submitted for approval; or
- (b)** require the chief executive to amend a road use implementation program submitted for approval.

### **Consistency with strategies**

**11.(1)** Subject to the Minister's directions, a road use implementation program must be consistent with a road use management strategy.

**(2)** If the Minister's directions result in a road use implementation program being inconsistent with a road use management strategy, the

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Minister must table a copy of the directions in the Legislative Assembly within 5 sitting days after they are given.

### **Report on operation of programs**

**12.** Each annual report of the department must include a report on the implementation of the road use implementation program during the year of the report.

## **PART 3—GUIDELINES**

### **Guidelines**

**13.(1)** This section applies to the Minister and chief executive in developing and implementing policies about road use management, and in exercising powers under this Act.

**(2)** The Minister and chief executive must endeavour to—

- (a) achieve an appropriate balance between safety, and the costs that regulation imposes on road users and the community; and
- (b) establish the benefits and costs of policy alternatives; and
- (c) take account of national and international benchmarks and best practice; and
- (d) promote efficiency, affordable quality and cost-effectiveness; and
- (e) ensure competition is not unjustifiably restricted; and
- (f) ensure accountability for, and transparency of, decisions affecting road use.

**(3)** Each annual report of the department must include a report on how effect has been given to this section during the year of the report.

## **PART 4—OBJECTIVES**

### **Objectives**

**14.(1)** The following objectives are, as far as practicable, to be applied by anyone wanting to encourage a high level of road user performance and compliance with this Act—

- (a) information about their obligations under this Act should be made available to road users;
- (b) voluntary compliance should be sought in preference to enforcement;
- (c) enforcement should be aimed primarily at deterring noncompliance by road users;
- (d) enforcement strategies should, accordingly, try to increase road users' perceptions of the risk of being detected if they offend;
- (e) measures aimed at encouraging compliance should—
  - (i) target the road users who are least likely to comply with this Act; and
  - (ii) try to avoid imposing costs on the road users who are likely to comply voluntarily;
- (f) appropriate alternative compliance schemes should be used as a way of demonstrating compliance.

**(2)** Preventing the continued commission of offences and imposing appropriate penalties should be seen as objectives that support the other objectives in subsection (1).

## **CHAPTER 3—ROAD USER PERFORMANCE AND COMPLIANCE**

### **PART 1—ALTERNATIVE COMPLIANCE**

#### **Alternative ways of complying with Act**

**15.(1)** A person who operates a vehicle (an **“operator”**) may apply to the chief executive for approval of a scheme (an **“alternative compliance scheme”**) for an alternative way to comply with a provision of this Act that is prescribed under a regulation.

**(2)** The regulation must prescribe the purpose of the prescribed provision.

**(3)** An application for approval of an alternative compliance scheme must be in writing.

**(4)** The chief executive may approve an alternative compliance scheme only if satisfied it provides an effective way of demonstrating the operator’s vehicles, or drivers operating under it in Queensland, achieve the prescribed purpose.

**(5)** The chief executive may approve the scheme by written notice to the operator.

**(6)** The approval may be given on conditions stated in it and operates for the period stated in it.

**(7)** The prescribed provision does not apply to the operator’s vehicles or drivers as provided under the scheme while—

- (a)** an approval is in force for the operator; and
- (b)** the operator complies with the scheme, including the conditions of its approval.

**(8)** In this section—

**“interstate scheme”** means a scheme approved as an alternative compliance scheme under a corresponding law to this part.

**“scheme”** includes an interstate scheme.

## **PART 1A—APPROVALS**

### **Definition**

**17A.** In this part—

“**approval**” includes accreditation, certificate, consent, exemption, licence, permit and registration given or granted by the chief executive under this Act but does not include the following—

- (a) an approval under section 166;<sup>1</sup>
- (b) a Queensland driver licence.

### **Granting, renewing or refusing approval**

**17B.(1)** A regulation may provide for the granting, issuing or renewing of, or refusing to grant or renew, an approval.

**(2)** Without limiting subsection (1), a regulation may authorise the chief executive to refuse to grant or renew an approval prescribed under a regulation if the applicant or holder has been—

- (a) convicted of a disqualifying offence; or
- (b) charged with a disqualifying offence and the charge has not been finally disposed of.

**(3)** In this section—

“**approval**” does not include an approval for an alternative compliance scheme under section 15.

### **Grounds for amending suspending or cancelling approvals**

**18.** Each of the following is a ground for amending, suspending or cancelling an approval—

- (a) the approval was issued because of a document or representation that is—

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<sup>1</sup> Section 166 (Official traffic sign approvals)

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- (i) false or misleading; or
- (ii) obtained or made in another improper way;
- (b) the holder of the approval has contravened a condition of the approval;
- (c) the holder has been convicted of—
  - (i) an offence against this Act or a corresponding law; or
  - (ii) for the holder of an approval prescribed under a regulation—a disqualifying offence;
- (d) for the registration of a motor vehicle with a GVM of more than 4.5 t—the vehicle has been used to commit an offence against this Act or a corresponding law;
- (e) for an approval of an alternative compliance scheme—
  - (i) the scheme is not, or is no longer, an effective way of demonstrating the operator’s vehicles or drivers operating under it in Queensland achieve the relevant purpose prescribed under section 15(2); or
  - (ii) for an interstate scheme—the approval under a corresponding law to this chapter is amended, suspended or cancelled.

### **Procedure for amending, suspending or cancelling approvals**

**19.(1)** If the chief executive considers a ground exists to amend, suspend or cancel an approval, (the “**proposed action**”), the chief executive must give the holder written notice—

- (a) stating the proposed action; and
- (b) stating the ground for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the ground; and
- (d) if the proposed action is to amend the approval (including a condition of the approval)—stating the proposed amendment; and
- (e) if the proposed action is to suspend the approval—stating the

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proposed suspension period; and

- (f) inviting the holder to show (within a stated time of at least 28 days) why the proposed action should not be taken.

**(2)** If, after considering all written representations made within the stated time, the chief executive still considers a ground exists to take the proposed action, the chief executive may—

- (a) if the proposed action was to amend the approval—amend the approval; or
- (b) if the proposed action was to suspend the approval—suspend the approval for no longer than the period stated in the notice; or
- (c) if the proposed action was to cancel the approval—amend the approval, suspend the approval for a period or cancel it.

**(3)** The chief executive must inform the holder of the decision by written notice.

**(4)** If the chief executive decides to amend, suspend or cancel the approval, the notice must state—

- (a) the reasons for the decision; and
- (b) that the holder may—
  - (i) under section 65—ask for the decision to be reviewed and appeal against the reviewed decision; and
  - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

**(5)** The decision takes effect on the later of the following—

- (a) the day the notice is given to the holder;
- (b) the day stated in the notice.

**(6)** However, despite subsection (1), if the chief executive considers it necessary in the public interest, the chief executive may, by written notice given to the holder, immediately suspend the approval until the earliest of the following—

- (a) the chief executive informs the operator of the chief executive's

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decision by notice under subsection (3), given after complying with subsections (1) and (2);

(b) the end of 56 days after the notice is given to the holder.

(7) If the chief executive immediately suspends the approval, the notice must state—

(a) the reasons for the decision; and

(b) that the holder may—

(i) under section 65—ask for the decision to be reviewed and appeal against the reviewed decision; and

(ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

(8) Subsections (1) to (7) do not apply—

(a) if the chief executive proposes to amend the approval only—

(i) for a formal or clerical reason; or

(ii) in another way that does not adversely affect the holder's interests; or

(b) if the holder asks the chief executive to amend or cancel the approval and the chief executive proposes to give effect to the request.

(9) The chief executive may amend or cancel an approval under subsection (8) by written notice given to the holder.

## **PART 2—AUTHORISED OFFICERS AND ACCREDITED PERSONS**

### **Appointment of authorised officers**

**20.(1)** Every police officer is an authorised officer.



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(2) The chief executive may appoint any of the following persons to be an authorised officer—

- (a) officers and employees of the public service;
- (b) other persons prescribed under a regulation.

(3) The chief executive may appoint a person as an authorised officer only if satisfied the person has the necessary expertise to be an authorised officer.

(4) A provision of part 3 that corresponds to a provision of the *Police Powers and Responsibilities Act 2000* does not apply to an authorised person who is a police officer.

### **Appointment of accredited persons**

**21.(1)** The chief executive may appoint a person to be an accredited person to perform functions prescribed under a regulation only if satisfied the person has the necessary expertise to be an accredited person to perform the functions.

(2) A regulation may provide for accreditation documents for accredited persons.

### **Powers**

**22.(1)** An authorised officer or accredited person—

- (a) has the powers given under this or another Act; and
- (b) is subject to the directions of the chief executive or commissioner in exercising the powers.

(2) The powers may be limited—

- (a) under a regulation; or
- (b) under a condition of appointment; or
- (c) by written notice given by the chief executive or commissioner to the authorised officer or accredited person.

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### **Appointment conditions**

**23.(1)** An authorised officer or accredited person holds office on the conditions stated in the instrument of appointment.

**(2)** An authorised officer or accredited person—

- (a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and
- (b) if the conditions of appointment provide—ceases holding office on ceasing to hold another office stated in the appointment conditions (the **“main office”**); and
- (c) may resign by signed notice given to the chief executive or commissioner.

**(3)** However, an authorised officer or accredited person may not resign from the office under this Act (the **“secondary office”**) if a term of employment to the main office requires the officer or person to hold the secondary office.

### **Identity cards**

**24.(1)** This section does not apply to an authorised officer who is a police officer.

**(2)** The chief executive must give each authorised officer an identity card.

**(3)** The identity card must—

- (a) contain a recent photo of the person; and
- (b) be signed by the person; and
- (c) identify the person as an authorised officer; and
- (d) state an expiry date.

**(4)** A person who stops being an authorised officer must return the person’s identity card to the chief executive as soon as practicable (but within 21 days) after the person stops being an authorised officer, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

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(5) This section does not prevent the giving of a single identity card to a person for this and other Acts.

**Production or display of identity cards**

**25.(1)** This section does not apply to a police officer.

(2) An authorised officer may exercise as power in relation to a person only if—

- (a) the officer first produces the officer's identity card for the other person's inspection; or
- (b) the officer has the officer's identity card displayed so it is clearly visible to the person.

(3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the officer must produce the identity card as soon as it is practicable.

**PART 3—POWERS OF AUTHORISED OFFICERS**

*Division 1—Powers for places*

**Entry to places**

**26.(1)** An authorised officer may enter a place if—

- (a) its occupier consents to the entry; or
- (b) the entry is authorised by a warrant; or
- (c) it is mentioned in a licence or other document prescribed under a regulation as a place of business, or another place, required to be open to inspection and the entry is made when the place is—
  - (i) open for the conduct of business or otherwise open for entry; or
  - (ii) required under the licence or document to be open for

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inspection; or

- (d) for a place other than in a dwelling house—
  - (i) the officer reasonably believes—
    - (A) a vehicle is for sale in the place; and
    - (B) the place is open for entry to anyone interested in purchasing the vehicle; and
  - (ii) the entry is made between sunrise and sunset; or
- (e) the officer reasonably believes a dangerous situation exists in the place and it is necessary for the officer to enter it to take action under section 51E to prevent the danger.

(2) An authorised officer, without the occupier's consent or a warrant, may—

- (a) enter a public place when the place is open to the public; or
- (b) enter the land around premises to ask its occupier for consent to enter the premises.

### **Consent to entry**

**27.(1)** This section applies if an authorised officer intends to ask an occupier of a place to consent to the officer or another officer entering the place.

(2) Before asking for the consent, the officer must inform the occupier—

- (a) of the purpose of the entry; and
- (b) that the occupier is not required to consent.

(3) If the consent is given, the officer may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state that—

- (a) the occupier was informed—
  - (i) of the purpose of the entry; and
  - (ii) that the occupier is not required to consent; and

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- (b) the occupier gives an authorised officer consent to enter the place and exercise powers under this Act; and
- (c) the time and date the consent was given.

(5) If the occupier signs an acknowledgment of consent, the officer must immediately give a copy to the occupier.

(6) Subsection (7) applies to a court if—

- (a) a question arises, in a proceeding in or before the court, whether the occupier of a place consented to an authorised officer entering the place under this Act; and
- (b) an acknowledgment under this section is not produced in evidence for the entry; and
- (c) it is not proved that the occupier consented to the entry.

(7) The court may presume that the occupier did not consent.

### **Warrants to enter**

**28.(1)** An authorised officer may apply to a magistrate for a warrant to enter a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require additional information supporting the application to be given by statutory declaration.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against a transport Act; and
- (b) the evidence is, or may be within the next 7 days, at the place.

(5) The warrant must state—

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- (a) that an authorised officer may, with necessary and reasonable help and force, enter the place and exercise the officer's powers under this Act; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours when the place may be entered; and
- (e) the date, within 7 days after the warrant's issue, the warrant ends.

**Warrants—applications made other than in person**

**29.(1)** An authorised officer may apply for a warrant by phone, fax, radio or another form of communication if the officer considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the officer's remote location.

**(2)** Before applying for the warrant, the officer must prepare an application stating the grounds on which the warrant is sought.

**(3)** The officer may apply for the warrant before the application is sworn.

**(4)** After issuing the warrant, the magistrate must immediately fax a copy to the officer if it is reasonably practicable to fax a copy.

**(5)** If it is not reasonably practicable to fax a copy to the officer—

- (a) the magistrate must—
  - (i) tell the officer what the terms of the warrant are; and
  - (ii) tell the officer the date and time the warrant was issued; and
- (b) the officer must complete a form of warrant (“**warrant form**”) and write on it—
  - (i) the magistrate's name; and
  - (ii) the date and time the magistrate issued the warrant; and
  - (iii) the warrant's terms.

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(6) The facsimile warrant, or the warrant form properly completed by the officer, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.

(7) The officer must, at the first reasonable opportunity, send the magistrate—

- (a) the sworn application; and
- (b) if the officer completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) Subsection (10) applies to a court if—

- (a) a question arises, in a proceeding in or before the court, whether a power exercised by an authorised officer was not authorised by a warrant issued under this section; and
- (b) the warrant is not produced in evidence.

(10) The court must presume that the exercise of the power was not authorised by a warrant issued under this section, unless the contrary is proved.

### **General powers after entering places**

**30.(1)** This section applies to an authorised officer who enters a place with the occupier's consent or a warrant.

(2) The officer may, for monitoring or enforcing compliance with this Act—

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film the place or anything in the place; or
- (c) take samples of anything in the place; or
- (d) copy a document in the place; or
- (e) take the persons, equipment and materials the officer reasonably requires for exercising a power under this Act into the place; or

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(f) require a person in the place to give the officer reasonable help to exercise the powers mentioned in paragraphs (a) to (e).

(3) A person must comply with a requirement under subsection (2)(f), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(4) A requirement under subsection (2)(f) does not include a requirement to produce a document or give information.<sup>2</sup>

***Division 2—Powers for vehicles***

**Power to stop private vehicles**

**31.(1)** An authorised officer, who is not a police officer, may require the person in control of a private vehicle to stop the vehicle—

- (a) at a checkpoint—only if the vehicle is a type of vehicle that the officer is stopping at the checkpoint by reference to objective criteria that are part of a program approved under section 47;<sup>3</sup> or
- (b) if the officer reasonably believes the vehicle does not comply with a transport Act.

(2) A requirement may be made under subsection (1) in a way prescribed under a regulation.

(3) A person must comply with a requirement under subsection (1), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

*Example of a reasonable excuse—*

It is a reasonable excuse for a person not to comply with a requirement if—

- (a) the person reasonably believes that to immediately comply would endanger the person or someone else; and

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<sup>2</sup> For the power to require documents to be produced see section 49. For the power to require information see section 50.

<sup>3</sup> Section 47 (Power to set up checkpoints)



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- (b) the person complies with the requirement at the first reasonable opportunity.

(5) A regulation may impose restrictions on the stopping of private vehicles by authorised officers who are not police officers, including restrictions on stopping private vehicles at night.

### **Power to stop heavy vehicles**

**32.(1)** An authorised officer may require the person in control of a heavy vehicle to stop the vehicle to check whether the vehicle or person is complying with a transport Act.

- (2) The requirement may be made in a way prescribed under a regulation.

(3) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—120 penalty units.

### **Power to require vehicles to be moved**

**33.(1)** This section applies to a motor vehicle that is stationary on a road or has been stopped under section 31 or 32.

(2) To enable an authorised officer to exercise a power under a transport Act, the officer may require the person in control of the vehicle to move to a stated reasonable place.

*Example—*

The officer may require the person to move the vehicle onto a weighing or testing device.

- (3) However, the place must not be more than—

- (a) for a private vehicle—5 km from where the vehicle was stopped;  
or  
(b) for a heavy vehicle—25 km from where the vehicle was stopped.

(3A) Despite subsection (3), a stated reasonable place for a heavy vehicle

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may be any place along the vehicle's route to its destination or within 25 km of the route.

(4) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—

- (a) for a private vehicle—60 penalty units; or
- (b) for a heavy vehicle—120 penalty units.

(5) For a heavy vehicle, if the person does not comply with the requirement, the officer may move the vehicle to the required place.

### **Power to inspect vehicles**

**34.(1)** This section applies to a motor vehicle that—

- (a) is stationary on a road; or
- (b) has been stopped under section 31 or 32; or
- (c) is in a place an authorised officer has entered under section 26.

(2) To check whether the vehicle complies with a transport Act, an authorised officer may inspect or test it.

(3) To enable the officer to inspect or test the vehicle, the officer may do anything reasonable to be done for the inspection or test.

*Examples of what may be reasonable for an inspection or test—*

The officer may—

- (a) enter the vehicle; or
- (b) unlock, unfasten, open or remove any part of it; or
- (c) move its load.

(4) To avoid any doubt, the officer does not have the powers mentioned in section 35.<sup>4</sup>

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<sup>4</sup> Section 35 (Power to enter vehicles etc. other than for vehicle inspection)

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**Power to enter vehicles etc. other than for vehicle inspection**

**35.(1)** This section applies to an authorised officer who reasonably believes—

- (a) a vehicle in a place the officer has entered under section 26 is used, or is being used, to transport dangerous goods; or
- (b) a heavy vehicle is being, or has just been, used to transport dangerous goods; or
- (c) a vehicle is being, or has just been, used to commit an offence against a transport Act; or
- (d) a vehicle, or a thing in the vehicle, may provide evidence of an offence against a transport Act that is being, or has just been, committed; or
- (e) the driver of a heavy vehicle is required under a regulation to keep a document relating to driving hours.

**(2)** The officer may, for enforcing a transport Act—

- (a) enter the vehicle, using necessary and reasonable help and force;<sup>5</sup> or
- (b) search any part of the vehicle; or
- (c) inspect, measure, test, photograph or film the vehicle or anything in the vehicle; or
- (d) take samples of the vehicle or anything in the vehicle; or
- (e) copy a document in the vehicle; or
- (f) move the vehicle's load; or
- (g) take the persons, equipment and materials the officer reasonably requires into the vehicle.

**(3)** An authorised officer may not exercise the powers under subsection (2) in relation to the following things found in a vehicle—

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<sup>5</sup> In addition, to enable the vehicle to be entered, the officer may stop the vehicle under section 31 (Power to stop private vehicles) or 32 (Power to stop heavy vehicles).

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- (a) a personal possession;
- (b) for a private vehicle—a document that is not issued, or required to be kept, under a transport Act or a corresponding law.

### **Power to require vehicle inspections**

**36.(1)** If an authorised officer reasonably believes a vehicle may not comply with this Act, the officer may require its owner or registered operator to have it inspected at a stated reasonable time and place.

**(2)** The requirement—

- (a) must be made by notice in the approved form; or
- (b) if for any reason it is not practicable to give the notice—may be made orally and confirmed by notice in the approved form as soon as practicable.

**(3)** A person must comply with a requirement under subsection (1), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—60 penalty units.

### **Power to prohibit use of vehicles**

**37.(1)** If an authorised officer reasonably believes a vehicle is unsafe, the officer may, by notice in the approved form, require the owner, registered operator or person in control of the vehicle not to use it, or permit it to be used, on a road or public place until—

- (a) it is inspected at a stated reasonable place and found to comply with this Act; or
- (b) stated reasonable action is taken in relation to the vehicle to ensure it complies with this Act.

*Examples of action that may be reasonable under paragraph (b)—*

1. The vehicle's load be adjusted or moved.
2. Stated repairs be carried out to the vehicle and the vehicle be inspected at a stated place and found to comply with this Act.

**(2)** A person must not contravene, or attempt to contravene, a

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requirement under subsection (1), unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—

- (a) for a private vehicle—60 penalty units; and
- (b) for a heavy vehicle—120 penalty units.

(3) If the person in control of a vehicle who receives a notice is not also the owner or registered operator of the vehicle, the person must inform the owner or registered operator of the receipt of the notice as soon as it is practicable.

Maximum penalty for subsection (3)—

- (a) for a private vehicle—60 penalty units; and
- (b) for a heavy vehicle—120 penalty units.

### **Power to prohibit persons driving**

**38.(1)** This section applies to the person in control of a motor vehicle that is stationary on a road or has been stopped under section 31 or 32.<sup>6</sup>

(2) If an authorised officer reasonably believes the person would contravene this Act by driving a vehicle, the officer may, by notice in the approved form, require the person not to drive a vehicle in contravention of this Act.

(3) A person must not contravene, or attempt to contravene, a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—

- (a) for a private vehicle—60 penalty units; and
- (b) for a heavy vehicle—120 penalty units.

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<sup>6</sup> Section 31 (Power to stop private vehicles) or 32 (Power to stop heavy vehicles)

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### **Powers to enable effective and safe exercise of other powers**

**39.(1)** An authorised officer may require the person in control of a vehicle to give the officer reasonable help to enable the officer to effectively exercise a power under this Act in relation to the vehicle.

*Examples of requirements for effectively exercising powers—*

1. Requiring the vehicle to be held stationary on a weighing device to enable the vehicle to be weighed.
2. Requiring the vehicle's bonnet to be opened to enable the engine to be inspected.

**(2)** An authorised officer may require the person in control of a vehicle, or a person who is in or just left the vehicle, to do or not to do anything the officer reasonably believes is necessary—

- (a) to enable the officer to safely exercise a power under a transport Act in relation to the vehicle; or
- (b) to preserve the safety of the officer, the person or other persons.

*Examples of safety requirements—*

1. Requiring the persons in a vehicle to get out of the vehicle while the officer inspects the vehicle's undercarriage.
2. Requiring a person who has just left the vehicle to stand back from the carriageway of the road.
3. Requiring a person to remain in control of a vehicle for a reasonable time.

**(3)** A person must comply with a requirement under subsection (1) or (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—

- (a) for a private vehicle—60 penalty units; or
- (b) for a heavy vehicle—120 penalty units.

### ***Division 3—Power to seize evidence***

#### **Power to seize evidence**

**40.(1)** An authorised officer who enters a place under this part with the

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occupier's consent may seize a thing in the place if—

- (a) the officer reasonably believes the thing is evidence of an offence against a transport Act; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(2) An authorised officer who enters a place under this part with a warrant may seize the evidence for which the warrant was issued.

(3) An authorised officer may also seize anything else in a place mentioned in subsection (1) or (2) if the officer reasonably believes—

- (a) the thing is evidence of an offence against a transport Act; and
- (b) the seizure is necessary to prevent the thing being hidden, lost, destroyed or used to continue or repeat the offence.

(4) An authorised officer who enters a vehicle under this part may seize anything in the vehicle if the officer reasonably believes the thing is evidence of an offence against a transport Act.

### **Powers supporting seizure**

**41.(1)** Having seized a thing under this division, an authorised officer may—

- (a) move the thing from the place or vehicle where it was seized (the “**place of seizure**”); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

*Examples of restricting access to a thing—*

1. Sealing a thing and marking it to show access to it is restricted.
2. Sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted.

(2) If an authorised officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with it without an authorised officer's approval.

Maximum penalty—60 penalty units.

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(3) To enable a thing to be seized, an authorised officer may require the person in control of it to take it to a stated reasonable place by a stated reasonable time.

(4) The requirement—

- (a) must be made by notice in the approved form; or
- (b) if for any reason it is not practicable to give the notice—may be made orally and confirmed by notice in the approved form as soon as practicable.

(5) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

### **Receipt for seized things**

**42.(1)** As soon as practicable after an authorised officer seizes a thing, the officer must give a receipt for it to the person from whom it was seized.

(2) However, if for any reason it is not practicable to comply with subsection (1), the officer must leave the receipt at the place of seizure, in a reasonably secure way and in a conspicuous position.

(3) An authorised officer need not give a receipt for a seized thing if—

- (a) the thing is unattended when seized; and
- (b) the officer does not know who the owner of the thing is; and
- (c) the officer cannot find the owner after making reasonable inquiries (given the thing's value).

(4) The receipt must generally describe each thing seized and its condition.

### **Forfeiture of seized things**

**43.(1)** A seized thing is forfeited to the State if the chief executive or commissioner—

- (a) cannot find its owner after making reasonable inquiries (given the thing's value); or



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- (b) is unable, after making reasonable efforts, to return it to its owner;  
or
- (c) reasonably believes—
  - (i) possession of the thing is an offence against a transport Act;  
or
  - (ii) it is necessary to keep the thing to prevent it being used to  
commit an offence against a transport Act; or
  - (iii) the thing does not comply with a transport Act and cannot be  
repaired or otherwise changed to comply with a transport  
Act; or
  - (iv) the thing is inherently unsafe.

(2) If the chief executive or commissioner decides to forfeit a thing under subsection (1)(c), the chief executive or commissioner must inform the owner of the thing of the decision by written notice.

(3) Subsection (2) does not apply if the chief executive or commissioner can not find the owner after making reasonable inquiries (given the thing's value).

(4) The notice must state—

- (a) the reasons for the decision; and
- (b) the owner may—
  - (i) under section 65—ask for the decision to be reviewed and  
appeal against the reviewed decision; and
  - (ii) under the *Transport Planning and Coordination Act 1994*,  
part 5—ask for the decision or the reviewed decision to be  
stayed.

### **Dealing with forfeited things**

**44.(1)** On the forfeiture of a thing—

- (a) it becomes the State's property; and
- (b) it may be dealt with as the chief executive or commissioner  
considers appropriate.

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(2) The chief executive or commissioner must not deal with the thing until any review of, or appeal against, the decision to forfeit the thing is decided.

### **Access to seized things**

45. Until a seized thing is forfeited or returned, an authorised officer must allow its owner—

- (a) to inspect it; or
- (b) if it is a document—to copy it.

### **Return of seized things**

46.(1) If a seized thing has not been forfeited, the chief executive or commissioner must return it to its owner at the end of—

- (a) 6 months; or
- (b) if a proceeding for an offence involving it is started within the 6 months—the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), the authorised officer must return the seized thing to its owner immediately the officer stops being satisfied its retention as evidence is necessary.

### ***Division 3A—Additional seizure powers for certain vehicles for sale***

#### **Seizing certain vehicles for sale**

46A.(1) This section applies if—

- (a) an authorised officer reasonably believes a vehicle is for sale on a place that is not—
  - (i) the premises of a person licensed to conduct the business of a motor dealer under the *Auctioneers and Agents Act 1971*; or
  - (ii) a private dwelling or its curtilage; and

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- (b) a document specified under a regulation for the vehicle is—
  - (i) not displayed on the vehicle in the way required under the regulation; or
  - (ii) if a document is displayed on the vehicle as required under the regulation and the authorised officer has inspected the vehicle under section 34—in the reasonable opinion of the officer, false or misleading in a material particular; and
- (c) the authorised officer reasonably believes an offence that may be constituted by anything mentioned in paragraph (b) involving the vehicle has been committed; and
- (d) the authorised officer, after making reasonable inquiries—
  - (i) can not find the person (the **“seller”**) selling the vehicle, whether as owner or otherwise; or
  - (ii) if the seller is found, reasonably believes a name or address given by the seller is false; and
- (e) while making the inquiries, the authorised officer warned any person to whom the officer has made an inquiry about the vehicle that it may be seized if the authorised officer—
  - (i) can not find the seller; or
  - (ii) reasonably believes the things mentioned in paragraph (d)(ii).

(2) The authorised officer may seize the vehicle and move it from the place where it was seized.

(3) A person may reclaim the vehicle by—

- (a) satisfying an authorised officer the person claiming the vehicle is the owner; and
- (b) paying the reasonable costs of seizing, moving and storing the vehicle and the seizure notice under subsection (4).

(4) The chief executive must, as soon as possible after a vehicle is seized under this section, give notice (a **“seizure notice”**) of its seizure in a newspaper circulating in the locality where the vehicle was seized.

(5) The seizure notice must state the following—

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- (a) a description of the vehicle and any registration number displayed on it;
- (b) where and when it was seized;
- (c) a statement to the effect of subsection (3).

(6) If the vehicle is not reclaimed within 1 month after the seizure notice is published, the chief executive may sell the vehicle by public auction.

(7) The proceeds of the sale of the vehicle must be applied as follows—

- (a) firstly, in payment of the expenses of the sale;
- (b) secondly in payment of the costs of seizing, moving and storing the vehicle and the seizure notice;
- (c) thirdly, in payment of the balance to the owner, or if the owner cannot be found, into the consolidated fund.

(8) An authorised officer is taken to have made reasonable inquiries to find a person mentioned in subsection (1)(d) if the officer has not been able to find the person after making reasonable inquiries—

- (a) at an address indicated on or near the vehicle not more than 10 km from the vehicle; or
- (b) by making a telephone call to a phone number displayed on or near the vehicle.

(9) Sections 42 and 45 apply to a vehicle seized under this section with all necessary changes.

***Division 4—General powers***

**Power to set up checkpoints**

**47.(1)** The chief executive may approve a program under which authorised officers may set up checkpoints to inspect motor vehicles to ensure the vehicles comply with a transport Act.

**(2)** Under an approved program, an authorised officer may set up a checkpoint on a road, or elsewhere with its occupier's consent.

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### **Power to require name and address**

**48.(1)** This section applies if—

- (a) an authorised officer finds a person committing an offence against a transport Act; or
- (b) an authorised officer finds a person in circumstances that lead, or has information that leads, the officer to suspect, on reasonable grounds, the person has just committed an offence against a transport Act; or
- (d) a vehicle is stationary on a road or has been stopped under section 32.

**(2)** The officer may require the following person to state the person's name and address—

- (a) for paragraph (a) or (b)—the person mentioned in the paragraph;
- (b) for paragraph (c) or (d)—the person in control of the vehicle mentioned in the paragraph.

**(3)** When making the requirement, the officer must warn the person it is an offence to fail to state the person's name or address, unless the person has a reasonable excuse.

**(4)** The officer may require the person to give evidence of the correctness of the stated name or address if the officer suspects, on reasonable grounds, the stated name or address is false.

**(5)** A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

**(6)** A person does not commit an offence against subsection (5) if—

- (a) the person was required to state the person's name and address by an authorised officer who suspected the person had committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

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### **Power to require documents to be produced**

**49.(1)** An authorised officer may require a person to produce for inspection a document issued, or required to be kept, under a transport Act or a corresponding law.

**(2)** The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

**(3)** The officer may keep the document to make a note on it or copy it.

**(4)** If the officer copies it, the officer may require the person responsible for keeping the document to certify the copy as a true copy of the document.

**(5)** The person must certify the copy, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

**(6)** The officer must return the document to the person as soon as practicable after making the note or copying it.

### **Power to require information**

**50.(1)** In this section—

**“information offence”** means an offence against a transport Act that—

(a) involves—

(i) a heavy vehicle; or

(ii) a contravention of a regulation made under section 148; and

(b) is declared under a regulation to be an information offence.

**(2)** This section applies if an authorised officer reasonably believes—

(a) an information offence has been committed; and

(b) a person may be able to give information about the offence.

**(3)** The officer may require the person to give information about the offence.

**(4)** When making the requirement, the officer must warn the person it is

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an offence to fail to give the information, unless the person has a reasonable excuse.

(5) The person must give the information, unless the person has a reasonable excuse.

Maximum penalty—120 penalty units.

(6) It is a reasonable excuse for an individual to fail to give the information if giving the information might tend to incriminate the individual.

***Division 5—Remedial action notices***

**Power to give remedial action notices**

**50A.(1)** This section applies if an authorised officer reasonably believes a person—

- (a) has contravened a provision of this Act about the transport of dangerous goods in circumstances that indicate that it is likely the contravention will be repeated; or
- (b) is contravening a provision of this Act about the transport of dangerous goods.

(2) The authorised officer may give the person a written notice (a “**remedial action notice**”) requiring the person to remedy the cause of the contravention.

(3) The notice must state the following—

- (a) the provision the officer reasonably believes the person has contravened or is contravening;
- (b) the grounds for the belief;
- (c) that the person must remedy the contravention within a stated reasonable time.

(4) The notice may also state the steps the authorised officer reasonably believes are necessary to remedy the contravention, or avoid further contravention, of the provision.

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(5) If the notice relates to a vehicle, it may be given by securely attaching it to the vehicle in a conspicuous position.

(6) The person must comply with the notice.

Maximum penalty—the maximum penalty for the contravention of the provision about which the notice is given.

(7) A person must not remove a remedial action notice from a vehicle before the steps stated in the notice are taken.

Maximum penalty—135 penalty units.

(8) However, the person to whom the notice is given does not contravene subsection (7) if the person removes the notice from the vehicle and immediately reads it and reattaches it to the vehicle.

## **PART 4A—ADDITIONAL POWERS OF AUTHORISED OFFICERS TO PREVENT DANGEROUS SITUATION**

### **Application**

**51A.** This part applies only if an authorised officer reasonably believes a dangerous situation exists.

### **Additional power to require information or produce document**

**51B.(1)** This section applies if the authorised officer reasonably believes a person may be able to give information or produce a document that will help to prevent the dangerous situation.

(2) The officer may require the person to give the information or produce the document.

(3) The person must give the information or produce the document unless the person has a reasonable excuse.

Maximum penalty—



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- (a) if the contravention results in death or grievous bodily harm to a person—270 penalty units; or
- (b) otherwise—135 penalty units.

### **Self incrimination no excuse**

**51C.(1)** The fact that giving the information or providing the document might tend to incriminate the person is not a reasonable excuse for section 51B(3).

(2) However, the information or document is not admissible in evidence against the person, other than a corporation, in criminal proceedings apart from proceedings for an offence against sections 52 or 53.

### **Power to give directions in dangerous situations**

**51D.(1)** This section applies if the authorised officer reasonably believes a person is in a position to take steps to prevent the dangerous situation.

(2) The authorised officer may give the person a written notice (a “**dangerous situation notice**”) requiring the person to take the steps reasonably necessary to prevent the dangerous situation.

(3) The notice must state the following—

- (a) the situation the authorised officer believes is causing the danger;
- (b) the grounds for the belief;
- (c) the steps the person must take to prevent the danger;
- (d) that the person must take the steps within a stated reasonable time.

(4) If the notice relates to a vehicle, it may be given by securely attaching it to the vehicle in a conspicuous position.

(5) The person must comply with the notice.

Maximum penalty—

- (a) if the contravention results in death or grievous bodily harm to a person—270 penalty units; or
- (b) otherwise—135 penalty units.

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(6) A person must not remove a dangerous situation notice from a vehicle before the steps stated in the notice are taken.

Maximum penalty—135 penalty units.

(7) However, the person to whom the notice is given does not contravene subsection (6) if the person removes the notice from the vehicle and immediately reads it and reattaches it to the vehicle.

**Preventing injury and damage—taking direct action**

**51E.(1)** This section applies if the authorised officer reasonably believes—

- (a) a person given a remedial action notice under section 50A or dangerous situation notice has not complied with the notice; or
- (b) having regard to the nature of the dangerous situation, action under a remedial action or dangerous situation notice is inappropriate to prevent the danger.

(2) The authorised officer may take, or cause to be taken, the action the officer reasonably believes is necessary to prevent the danger.

(3) The action an authorised officer may take includes asking someone the officer reasonably believes has appropriate knowledge and experience to help the officer prevent the danger.

(4) If the person agrees to help, the person is taken to have the powers of an authorised officer to the extent reasonably necessary for the person to help prevent the danger.

## **PART 5—LEGAL PROCEEDINGS**

### *Division 1—Offences*

#### **False or misleading statements**

**52.(1)** In this section—

“**official**” means the chief executive, the commissioner, an authorised officer or an accredited person.

(2) A person must not state anything to an official for a transport Act that the person knows is false or misleading in a material particular.

Maximum penalty—60 penalty units.

(3) It is enough for a complaint against a person for an offence against subsection (2) to state that the statement made was false or misleading to the person’s knowledge.

#### **False or misleading documents**

**53.(1)** In this section—

“**official**” means the chief executive, the commissioner, an authorised officer or an accredited person.

(2) A person must not give, for a transport Act, an official a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—60 penalty units.

(3) Subsection (2) does not apply to a person if the person, when giving the document—

- (a) informs the official, to the best of the person’s ability, how it is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

(4) It is enough for a complaint against a person for an offence against

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subsection (2) to state that the information given was false or misleading to the person's knowledge.

### **Obstructing authorised officers or accredited persons**

**54.(1)** In this section—

“**obstruct**” includes hinder, intimidate, resist or threaten.

(2) A person must not obstruct an authorised officer or accredited person in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

### **Impersonating authorised officers or accredited persons**

**55.** A person must not pretend to be an authorised officer or accredited person.

Maximum penalty—60 penalty units.

### **Using documents voided for non-payment**

**56.(1)** This section applies to a person (the “**applicant**”) who pays the fee for a licence or other document under a transport Act by cheque or other method of payment.

(1A) However, this section does not apply to a licence or other document specified under a regulation.

(2) If the cheque or payment is not honoured on presentation or is later dishonoured—

- (a) the licence or document is void from the day it was issued; and
- (b) the applicant must, on demand by the chief executive or commissioner, immediately give the licence or document to the department or a police officer.

(3) If, after the demand—

- (a) the applicant fails to immediately give the licence or document to the department or a police officer; or

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- (b) uses, continues to use, or allows someone else to use, the licence or document; or
- (c) a person other than the applicant (the “**other person**”) uses, continues to use, or allows someone else to use, the licence or document;

the applicant and the other person commit an offence.

Maximum penalty—60 penalty units.

(4) It is a defence for the other person to prove he or she did not know a demand had been made under subsection (2)(b).

(5) If the State incurs expense because a cheque or payment is not honoured or is later dishonoured—

- (a) the applicant must reimburse the expense; and
- (b) the amount of the expense may be recovered as a debt payable by the applicant to the State.

### **Executive officers must ensure corporation complies with transport Act**

**57.(1)** The executive officers of a corporation must ensure the corporation complies with a transport Act.

(2) If a corporation commits an offence against a provision of a transport Act, each of the corporation’s executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the maximum penalty for the contravention of the provision by an individual.

(3) Evidence that a corporation has been convicted of an offence against a provision of a transport Act is evidence each of the corporation’s executive officers committed the offence of failing to ensure the corporation complies with the provision.

(4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the corporation’s conduct in relation to the offence—that the officer exercised

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reasonable diligence and took reasonable steps to ensure the corporation complied with the provision; or

- (b) the officer was not in a position to influence the corporation's conduct in relation to the offence.

### **Responsibility for acts or omissions of representatives**

**57A.(1)** This section applies in a proceeding for an offence against a transport Act.

**(2)** If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
- (b) the representative had the state of mind.

**(3)** An act for a person done, or omitted to be done, by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person unless the person proves—

- (a) if the person was in a position to influence the representative's conduct in relation to the act or omission—the person exercised reasonable diligence and took reasonable steps to prevent the act or omission; or
- (b) the person was not in a position to influence the representative's conduct in relation to the act or omission.

**(4)** In this section—

**“representative”** means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

### **Further liability provisions for extended liability offences**

**57B.(1)** This section only applies—

- (a) for an extended liability offence; and
- (b) to an influencing person.

**(2)** If the driver, or other person in control, of a heavy vehicle commits an extended liability offence, an influencing person is also taken to have committed the offence unless the influencing person proves—

- (a) if the influencing person was in a position to influence the conduct of the driver or other person in relation to the act or omission—the influencing person exercised reasonable diligence and took reasonable steps to prevent the act or omission; or
- (b) the influencing person was not in a position to influence the conduct of the driver or other person in relation to the act or omission.

**(3)** In this section—

**“extended liability offence”** means an offence against a transport Act that—

- (a) involves a heavy vehicle; and
- (b) is declared under a regulation to be an extended liability offence.

**“influencing person”** means the following persons—

- (a) the owner or registered operator of the vehicle;
- (b) if someone else controls or directly influences the loading or operation of the vehicle—the other person.

### *Division 2—Evidence and procedure*

#### **Proof of appointments unnecessary**

**58.** For a transport Act, it is not necessary to prove the appointment of the following persons—

- (a) the chief executive;

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- (b) the commissioner;
- (c) an authorised officer;
- (d) an accredited person;
- (e) a police officer.

### **Proof of signatures unnecessary**

**59.** For a transport Act, a signature purporting to be the signature of 1 of the following persons is evidence of the signature it purports to be—

- (a) the chief executive;
- (b) the commissioner;
- (c) an authorised officer;
- (d) an accredited person;
- (e) a police officer.

### **Evidentiary aids**

**60.(1)** In this section—

**“certificate”** means a certificate purporting to be signed by the chief executive or commissioner.

**(2)** A certificate stating any of the following matters is evidence of the matter—

- (a) a specified place was within a specified type of area declared under a transport Act;
- (b) a specified licence or other document under a transport Act or a corresponding law was or was not in force in relation to a specified person or vehicle;
- (c) a specified place was or was not a road;
- (d) a specified person was or was not recorded as the registered operator of a specified vehicle;
- (e) a specified thing was State or local government property;



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- (f) a specified sign—
  - (i) was or was not an official traffic sign; or
  - (ii) contained specified words; or
  - (iii) was on a specified place;
- (g) specified particulars of a specified conviction, disqualification, suspension, cancellation or licence or other condition under a transport Act or a corresponding law;
- (h) a specified vehicle was or was not inspected;
- (i) a specified vehicle was or was not inspected in accordance with a specified requirement of an authorised officer;
- (j) the results of a specified vehicle inspection;
- (k) a specified fee under a transport Act was or was not paid by a specified person;
- (l) a specified application under a transport Act was or was not received;
- (m) a specified vehicle was or was not of a specified type or was carrying specified goods;
- (n) the contents of a specified substance that was tested by a specified analyst;
- (o) that a specified copy of a licence or other document was a copy of a licence or other document issued, or required to be kept, under a transport Act or a corresponding law.

**(3)** A certificate—

- (a) may relate to a specified time or period; and
- (b) if it is issued for a particular period—has the effect mentioned in subsection (1) for the entire period.

**(4)** A regulation may provide for evidence of other matters to be provided by a certificate.

**(5)** A document, or a copy of a document, purporting to be made or given by a person under a transport Act containing personal particulars given by the person is evidence of the particulars.

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(6) Anything recorded by a photographic, mechanical, electronic or other device under a transport Act is evidence—

- (a) that the recording was made; and
- (b) of the accuracy of the recording; and
- (c) of the matters stated in the recording; and
- (d) of matters prescribed under a regulation.

(7) Evidence by an authorised officer of the contents of a document issued, required to be kept, under a transport Act or a corresponding law, that was examined by the officer while in someone else's possession, may be given by the officer without the document being produced.

*Example of subsection (7)—*

An authorised officer who examines a driver's log book may return the log book to the driver to enable the driver to continue driving. The officer may give evidence of the contents of the log book without producing it.

## **Instruments**

**61.(1)** In this section—

**“instrument”** means an instrument declared under a regulation to be an instrument for this section, and includes—

- (a) a speedometer; and
- (c) a weighing device.

(2) A certificate stating that, on a specified day or at a specified time on a specified day, a specified instrument—

- (a) was in a proper condition; or
- (b) had a specified level of accuracy;

is evidence of those matters on the specified day or at the specified time, and for any period, prescribed under a regulation, after that day.

(3) Evidence of the condition of the instrument, or the way in which it was operated, is not required unless evidence that the instrument was not in proper condition or was not properly operated has been given.

(4) A defendant who intends to challenge the condition of an instrument,

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or the way in which it was operated, must give the complainant or arresting police officer (if any) notice, in the approved form, of the intention to challenge.

(5) The notice must be given at least 14 working days before the return date of the summons or the appointed date for the hearing of the charge.

### **Proceedings for offences**

**62.(1)** A proceeding for an offence against a transport Act is a summary proceeding under the *Justices Act 1886*.

(2) The proceeding must start—

- (a) within 1 year after the offence was committed; or
- (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence was committed.

### **Black and white reproductions of words in colour**

**62A.** If a word appears in colour (other than black and white) in a statutory instrument under this Act, a copy of the instrument may for all purposes be printed showing the same word in black and white.

*Example—*

A statutory instrument may show a colour drawing of an official traffic sign. An official publication or reprint of the statutory instrument may show the same drawing in black and white.

## **PART 6—GENERAL**

### **Notice of damage**

**63.(1)** This section applies if—

- (a) an authorised officer damages anything when exercising or purporting to exercise a power under a transport Act; or

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(b) a person acting under the direction of an authorised officer damages anything.

(2) The officer must promptly give written notice of particulars of the damage to the following person—

(a) if the thing is a vehicle that has a registered operator—the registered operator;

(b) if the thing is anything else—the person who appears to be its owner.

(3) If the officer believes the damage was caused by a latent defect in the thing or circumstances beyond the officer's control, the officer may state it in the notice.

(4) If, for any reason, it is not practicable to comply with subsection (2), the officer must leave the notice where the damage happened, in a reasonably secure way and in a conspicuous position.

(5) This section does not apply to damage the officer reasonably believes is trivial.

### **Compensation**

**64.(1)** This section does not apply to the exercise of a power (including the making of a requirement) to which section 31(2)(a)<sup>7</sup> applies.

(2) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under a transport Act, including, for example, in complying with a requirement made of the person.

(3) Compensation may be claimed and ordered in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the compensation; or

(b) for an offence against this Act brought against the person claiming compensation.

(4) A court may order compensation to be paid only if satisfied it is just

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<sup>7</sup> Section 31 (Power to stop private vehicles)

to make the order in the circumstances of the particular case.

(5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

## **CHAPTER 4—REVIEW OF AND APPEALS AGAINST DECISIONS**

### **Review of and appeals against decisions**

**65.(1)** A person whose interests are affected by a decision (the “**original decision**”) described in schedule 3 may ask the chief executive or commissioner to review the decision.

(2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision of the Act under which the decision is made requires that the person be given a statement of reasons for the decision.

(3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—

- (a) applies to the review; and
- (b) provides—
  - (i) for the procedure for applying for the review and the way it is to be carried out; and
  - (ii) that the original decision may be stayed by the person by applying to the court mentioned in subsection (4).

(4) Also, after the chief executive or commissioner confirms or amends the original decision or substitutes another decision, the person may appeal against the confirmed, amended or substituted decision (the “**reviewed decision**”) to the court stated in schedule 3.

(5) The *Transport Planning and Coordination Act 1994*, part 5, division 3—

- (a) applies to the appeal; and

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- (b) provides—
  - (i) for the procedure for the appeal and the way it is to be disposed of; and
  - (ii) that the reviewed decision may be stayed by the person by applying to the court mentioned in subsection (4).

## CHAPTER 5—ROAD USE

### PART 1—LOCAL GOVERNMENT FUNCTIONS

#### **Local laws etc.**

**66.(1)** Subject to this chapter, a local government may not—

- (a) make a local law about anything provided in this chapter, including anything about which a regulation may be made under this chapter; or
- (b) exercise a power conferred by this chapter on someone else.

**(2)** However, a local government may exercise a power that is not inconsistent with this chapter.

**(3)** Despite subsection (1), a local government may make local laws with respect to the following matters—

- (a) the regulation of—
  - (i) the driving, leading, stopping or wheeling of vehicles or animals on a footpath, water-channel or gutter; and
  - (ii) the driving or leading of animals to cross a road; and
  - (iii) the seizure, removal, detention and disposal of a vehicle or animal mentioned in subparagraph (i) or (ii) found in circumstances constituting an offence against a local law;
- (aa) the regulation of the use of any part of a footpath for the purpose of providing food or drink or both to members of the public;

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- (ab) the regulation of the advertising upon any road of any business including by means of the distribution of any handbill or other printed or written matter;
- (b) the regulation of the washing or cleansing, painting, repairing, alteration or maintenance of vehicles in, on or over a road;
- (c) the regulation of the stacking, storing or exposure of goods in, on or over a road and the seizure, removal, detention and disposal of any goods so stacked, stored or exposed;
- (d) the regulation of roadside vending.
- (e) the regulation of lights, notices and signs—
  - (i) on a road; or
  - (ii) near a road if the lights, notices and signs endanger, or are likely to endanger, traffic;
- (f) the regulation of the amplification or reproduction of any sound by anything—
  - (i) on a road; or
  - (ii) near a road if the sound causes, or is likely to cause, anyone to gather on the road to endanger, hinder or obstruct traffic;
- (g) the seizure and disposal of anything used to make a sound mentioned in paragraph (f);
- (h) the regulation of the driving of vehicles and animals on a foreshore.

**(4)** Without in any way limiting the matters which are not included within the ordinary scope and meaning of the subject matter of the powers conferred by subsection (3)(a) such subject matter shall not include, in particular, any of the following matters—

- (a) the right of way of any vehicle or animal so driven, ridden, led or wheeled;
- (b) the qualification of a person to drive a motor vehicle;
- (c) the driving of or attempting to put in motion or occupying the driving seat of or being in charge of a motor vehicle whilst under the influence of liquor or a drug;

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- (d) the driving or being in charge of a horse or other animal or the driving or being in charge of a vehicle (other than a motor vehicle) or attempting to put in motion any vehicle (other than a motor vehicle) whilst under the influence of liquor or a drug;
- (e) the manner of driving of a vehicle or animal including the driving of the same dangerously or without due care and attention or without reasonable consideration for other persons or negligently, recklessly or at a speed in excess of the maximum speed at which the vehicle may lawfully be driven.

(5) A local law under subsection (3)(d) does not affect a requirement to obtain a licence under the *Hawkers Act 1984*.

(6) The local government may make a local law under subsection (3) for—

- (a) a road in its area that is not a declared road; and
- (b) a declared road in its area, with the chief executive's written agreement.

(7) If a local government makes a local law about a matter mentioned in subsection (3)(a) to (d), the provisions of this Act about the matter no longer apply to the whole or part of the local government's area to which the local law applies.

(8) The provisions do not revive on the repeal of the local law.

## **PART 2—OFFICIAL TRAFFIC SIGNS**

### **Definitions**

67. In this part and in chapter 5, part 6—

**“install”** means construct, make, mark, place or erect, or affix to or paint on any structure, and repair, maintain, manage and control.

**“on”** means on, in, into, over or near.

**“remove”** means remove, alter, discontinue, cancel, demolish or erase.



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“**structure**” includes any building, wall, fence, pillar, post or other structure, erection or device wheresoever situated and by whomsoever owned.

**Chief executive may install or remove official traffic signs**

**68.** The chief executive may, for the purposes of this or another Act—

- (a) install an official traffic sign on a road or off-street regulated parking area; and
- (b) remove an official traffic sign from a road or off-street regulated parking area.

**Local government may install or remove official traffic signs**

**69.(1)** A local government may install an official traffic sign in its area—

- (a) on a road that is not a declared road; or
- (b) on a declared road, with the chief executive’s written agreement; or
- (c) on an off-street regulated parking area.

**(2)** Under subsection (1)(b), a local government may install an official traffic sign that—

- (a) defines a traffic area; and
- (b) indicates that parking on declared roads within the traffic area is regulated.

**(3)** A local government may remove an official traffic sign installed by it.

**Notice to install or remove an official traffic sign**

**70.(1)** If, in the opinion of the chief executive, an official traffic sign should be installed on, or removed from, any road in an area which is not a declared road, the chief executive may serve notice on the local government for such area specifying the nature of the official traffic sign required to be installed or removed and the location at or from which such official traffic sign shall be installed or removed.

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(2) The notice shall specify a date not less than 14 days from the date of service of the notice on or before which the installation or removal of the official traffic sign specified shall be completed.

(3) If the local government does not comply with the terms of the notice within the time specified, the chief executive may install or remove the official traffic sign specified in the notice and recover any cost and expense incurred by the chief executive in so doing from the local government.

### **Installation of official traffic signs in case of danger**

71.(1) Where the chief executive, a superintendent, a holder of a prescribed office under the Crown, a chief executive officer of a local government, or a person authorised in that behalf by the chief executive, a superintendent, a holder of a prescribed office under the Crown, a local government or a chief executive officer of a local government, as the case may be, is satisfied in the circumstances of the case that a danger, hindrance or obstruction to traffic or other emergency exists or is likely to exist, or the use of a road or any part thereof or an off-street regulated parking area or any part thereof is prevented, hindered or obstructed, or likely to be prevented, hindered or obstructed, such person may install any official traffic sign which, in the person's opinion, may be necessary, required or desirable for the purpose of regulating, guiding or warning traffic.

(2) Any official traffic sign so installed may, unless otherwise directed by the chief executive pursuant to section 70 be maintained and continued for so long as the chief executive, superintendent, holder of a prescribed office under the Crown, chief executive officer of a local government, or person authorised as prescribed by subsection (1) is satisfied that the danger, hindrance or obstruction to traffic or other emergency exists or is likely to exist or the use of the road or the part thereof or the off-street regulated parking area or the part thereof is prevented, hindered or obstructed or likely to be prevented, hindered or obstructed.

### **Installation of official traffic signs by prescribed persons**

72.(1) Where a person is carrying out any works on any road or off-street regulated parking area with the approval of the chief executive or a local government, the person and any employee of the person acting with

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the person's authority, if satisfied in the circumstances of the case that a danger, hindrance or obstruction to traffic exists or is likely to exist, or that the use of the road or parking area or any part thereof is prevented, hindered or obstructed or likely to be prevented, hindered or obstructed, by reason of the carrying out of the works, may install any official traffic sign which in the person's opinion may be necessary or desirable for the purpose of regulating, guiding or warning traffic with respect to the works.

(1A) Any official traffic sign so installed may, subject to sections 68 and 69, be maintained and continued for so long as the person or employee is satisfied that the danger, hindrance or obstruction to traffic exists or is likely to exist or that the use of the road or off-street regulated parking area or the part thereof is prevented, hindered or obstructed or likely to be prevented, hindered or obstructed.

(2) Any person who obstructs another person in the exercise of that other person's powers under subsection (1) shall be guilty of an offence.

Maximum penalty for subsection (2)—40 penalty units or 6 months imprisonment.

**Obstruction of prescribed officer and destruction of official traffic signs to be an offence**

73.(1) Any person who—

- (a) obstructs the chief executive, a superintendent, a holder of a prescribed office under the Crown, or a chief executive officer of a local government in the exercise of powers under this part or chapter 5, part 6; or
- (b) obstructs any person acting under an authority given under section 71 in the exercise of the powers under this part or chapter 5, part 6 had by the person by virtue of such authority; or
- (c) without lawful authority demolishes, destroys, pulls down, erases, removes, defaces or otherwise damages or interferes with an official traffic sign;

shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

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(2) A person guilty of an offence against any provision of subsection (1) shall also be liable to pay the amount of the expenses of making good any damage occasioned by the offence.

(3) The court convicting the person of the offence may, whether an application or complaint is made in respect thereof or not, order the person to pay such amount or such amount may be recovered by either the chief executive or a local government or any person duly authorised by the chief executive or a local government, either generally or in the particular case, by action in any court of competent jurisdiction.

(4) Without limit to the power of a police officer or any other person thereunto authorised by some other provision of this Act to prosecute an offence against subsection (1)—

- (a) an offence against subsection (1) committed in relation to the chief executive or the holder of a prescribed office under the Crown, or any person acting under the authority of either of them, or in relation to an official traffic sign installed on a road by the said chief executive or holder of a prescribed office under the Crown, or any person acting under the authority of either of them, may be prosecuted by the chief executive or holder or by any person thereunto authorised by the chief executive; and
- (b) an offence against subsection (1) committed in relation to the chief executive officer of a local government or a local government or a person acting under the authority of the chief executive officer of a local government or local government, or in relation to an official traffic sign installed on a road or an off-street regulated parking area in its area by the local government may be prosecuted by the chief executive officer or by any person thereunto authorised by the chief executive officer.

### **Contravention of official traffic sign an offence**

**74.(1)** A person who contravenes an indication given by an official traffic sign commits an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (2) A local government may take proceedings for the imposition and

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enforcement of a penalty under subsection (1) for a contravention relating to an official traffic sign installed by it.

(2A) However, a local government may not act under subsection (2) if the traffic sign is about a matter mentioned in section 66(4), or for which a number of demerit points may be allocated against a person's traffic history under a regulation.

(3) The penalty recovered by the local government for the offence must be paid to the local government.

(4) Subsection (2) does not limit the right of another entity to take proceedings for the imposition and enforcement of a penalty under subsection (1) for a contravention relating to an official traffic sign.

### **Unlawful installation of official traffic signs**

75.(1) Any person who without lawful authority installs on a road or an off-street regulated parking area an official traffic sign or other thing in the nature of or similar to or which is likely to be mistaken for an official traffic sign shall be guilty of an offence, and any such sign or other thing may be removed by the chief executive or the local government (whether or not any proceeding is taken for an offence with respect thereto).

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) Upon convicting a person for an offence against any of the provisions of subsection (1) the court, in addition to any penalty which it may impose, may (whether an application or complaint is made in respect thereof or not) order the person to pay the costs of the removal of the official traffic sign or other thing in question to the chief executive or the local government, as the case may be.

### **Injury to official traffic signs**

76.(1) Where any injury is done to an official traffic sign the following persons, namely—

- (a) any person who negligently or wilfully causes such injury;
- (b) if that person is an agent or employee—the principal or employer of that person;

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shall each be answerable in damages to the chief executive or the local government (according to which of them installed such sign) for the whole injury, and such damages may be—

- (c) sued for by; or
- (d) recovered in a summary way under the *Justices Act 1886*, on complaint of;

the chief executive or the local government or any person authorised by the chief executive or the local government in that behalf, either generally or in the particular case, but the chief executive or the local government shall not be entitled by virtue of the provisions of this section to recover twice for the same cause of action.

(2) Where the owner of any vehicle pays any money in respect of any injury caused through the wilful act or negligence of the driver of that vehicle to any official traffic sign, the owner shall be entitled to recover the money so paid, with costs, from that driver.

## **PART 3—DRIVING OF VEHICLES AND ANIMALS**

### **Restricted release of Queensland driver licence and traffic history information**

77.(1) The chief executive may, and may only, release information about a person's Queensland driver licence or traffic history to—

- (a) on receiving an application in the approved form—
  - (i) the person; or
  - (ii) with the person's written consent—another person; or
- (b) the commissioner; or
- (c) a person who issues driver licences under a corresponding law to this Act; or
- (d) an entity that, under an agreement between the State and other governments, maintains a database containing information about driver licences and traffic histories.

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(2) Before releasing information to a person or entity under subsection (1)(c) or (d), the chief executive must be satisfied any release of the information by the person or entity will be limited to circumstances similar to those mentioned in subsection (1).

### **Driving of motor vehicle without a driver licence prohibited**

**78.(1)** A person shall not at any time drive a motor vehicle on a road unless at that time the person is the holder of a driver licence authorising the person to drive that vehicle on that road.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) A person shall not at any time permit or allow another person to drive a motor vehicle on a road if at that time the person knows that that other person is not the holder of a driver licence authorising that other person to drive that vehicle on that road.

Maximum penalty—40 penalty units or 6 months imprisonment.

(3) A person who is guilty of an offence against subsection (1) and who at the time of the commission of such offence is disqualified—

- (a) by this Act; or
- (b) by an order made under this or any other Act;

from holding or obtaining a driver licence is liable to a penalty not exceeding 34 penalty units or to imprisonment for a term not exceeding 18 months.

(4) In determining the punishment to be imposed on a person who is guilty of an offence against subsection (1) in respect of which, at the time of its commission, the person was disqualified by this Act or by an order made under this or any other Act from holding or obtaining a driver licence, the justices shall have regard to—

- (a) the whole of the circumstances of the case, including circumstances of aggravation or mitigation; and
- (b) the interest of the public; and
- (c) the criminal and traffic history of the offender; and
- (d) any matters before them in relation to the medical history of the offender or the offender's physical or mental capacity that are

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considered by them to be relevant in the circumstances; and

- (e) whether the driving of the motor vehicle by the offender was associated with the commission or the attempted commission of some other offence and, if so, the nature of that offence; and
- (f) such other matters that are considered by them to be relevant in the circumstances.

(5) Notwithstanding that, at the time of the commission of an offence against subsection (1), the person who committed the offence is disqualified by this Act or by an order made under this or any other Act from holding or obtaining a driver licence, the justices before whom the person is convicted of the offence, in addition to any punishment they may impose upon the person on conviction, shall order that the person shall, on and from the date of the conviction, be disqualified absolutely from holding or obtaining a Queensland driver licence, and the person shall thereupon be so disqualified under and in accordance with that order.

**Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood**

**79.(1)** Any person who whilst under the influence of liquor or a drug—

- (a) drives a motor vehicle, tram, train or vessel; or
- (b) attempts to put in motion a motor vehicle, tram, train or vessel; or
- (c) is in charge of a motor vehicle, tram, train or vessel;

is guilty of an offence and liable to a penalty not exceeding 28 penalty units or to imprisonment for a term not exceeding 9 months.

**(1A)** If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted under that subsection, the person is liable in respect of that offence to a penalty not exceeding 34 penalty units or to imprisonment for a term not exceeding 18 months.

**(1B)** If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender or has been summarily convicted of an



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offence against any provision of the Criminal Code, section 328A, the offender is liable in respect of the first mentioned offence to a penalty not exceeding 34 penalty units or to imprisonment for a term not exceeding 18 months.

**(1C)** If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been twice previously convicted—

- (a) under subsection (1); or
- (b) upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender; or
- (c) summarily of an offence against any provision of the Criminal Code, section 328A;

or has been previously convicted—

- (d) under subsection (1) and upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender; or
- (e) under subsection (1) and summarily of an offence against any provision of the Criminal Code, section 328A; or
- (f) upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender and summarily of an offence against any provision of the Criminal Code, section 328A;

the justices shall in respect of that offence impose, as the whole or part of the punishment, imprisonment.

**(1D)** If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted of an offence under subsections (2), (2A), (2B), (2D) or (2J), the offender is liable in respect of the first mentioned offence to a penalty not exceeding 30 penalty units or to imprisonment for a term not exceeding 1 year.

**(1E)** If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been twice previously convicted of an offence under subsections (2), (2A), (2B), (2D) or (2J), the offender is liable in respect of the first mentioned offence to a penalty not exceeding 34 penalty units or to imprisonment for a term not exceeding 18 months.

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**(2)** Any person who whilst the concentration of alcohol in the person's blood equals or exceeds 50 mg of alcohol per 100 mL of blood but is less than 150 mg of alcohol per 100 mL of blood—

- (a) drives a motor vehicle, tram, train or vessel; or
- (b) attempts to put in motion a motor vehicle, tram, train or vessel; or
- (c) is in charge of a motor vehicle, tram, train or vessel;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

**(2A)** Any person who has not attained the age of 25 years, who is the holder of a learner, probationary or provisional licence or is not the holder of a driver licence, and who whilst the concentration of alcohol in the person's blood exceeds 0 mg of alcohol per 100 mL of blood but is less than 50 mg of alcohol per 100 mL of blood—

- (a) drives a motor vehicle (other than a motor vehicle to which subsection (2B) applies); or
- (b) attempts to put such motor vehicle in motion; or
- (c) is in charge of such motor vehicle;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

**(2B)** Any person who whilst the concentration of alcohol in the person's blood exceeds 0 mg of alcohol per 100 mL of blood but is less than 50 mg of alcohol per 100 mL of blood—

- (a) drives a motor vehicle to which this subsection applies; or
- (b) attempts to put such motor vehicle in motion; or
- (c) is in charge of such motor vehicle;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

**(2C)** Subsection (2B) applies to the following motor vehicles—

- (a) a truck, a bus, an articulated motor vehicle, a B-double, a road train;
- (b) a vehicle carrying a placard load of dangerous goods;

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- (c) a tow truck which is licensed or should be licensed under the *Tow Truck Act 1973* while it operates as a tow truck under that Act;
- (d) a pilot or escort vehicle that is escorting an oversize vehicle;
- (e) a vehicle that has, or is required to have, a taxi service licence or limousine licence under the *Transport Operations (Passenger Transport) Act 1994*;
- (f) a vehicle while it is being used by a driver trainer to give driver training.

**(2D)** Any person who whilst the concentration of alcohol in the person's blood exceeds 0 mg of alcohol per 100 mL of blood but is less than 50 mg of alcohol per 100 mL of blood—

- (a) drives a tram, a train or a vessel to which this subsection applies;  
or
- (b) attempts to put in motion a tram, a train or a vessel to which this subsection applies; or
- (c) is in charge of a tram, a train or a vessel to which this subsection applies;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

**(2E)** Vessels to which subsection (2D) apply are air cushion vehicles and class I passenger vessels (not including 'Hire and Drive' Vessels) as defined in section 1, part 3, clause 6.1 of the Uniform Shipping Laws Code.

**(2F)** If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been previously convicted under subsection (2), (2A), (2B), (2D) or (2J), the person is liable in respect of that offence to a penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 6 months.

**(2G)** If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been twice previously convicted under subsections (2), (2A), (2B), (2D) or (2J), the person is liable in respect of that offence to a penalty not exceeding 28 penalty units or to imprisonment for a term not exceeding 9 months.

**(2H)** If within the period of 5 years prior to conviction for an offence

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under subsections (2), (2A), (2B), (2D) or (2J) the offender has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or has been summarily convicted of an offence against any provision of the Criminal Code, section 328A or has been previously convicted under subsection (1), the person is liable in respect of the first mentioned offence to a penalty not exceeding 30 penalty units or to imprisonment for a term not exceeding 1 year.

**(2I)** If within the period of 5 years prior to conviction for an offence under subsections (2), (2A), (2B), (2D) or (2J) the offender has been previously convicted under those subsections and—

- (a) has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person; or
- (b) has been summarily convicted of an offence against any provision of the Criminal Code, section 328A; or
- (c) has been previously convicted under subsection (1);

the person is liable in respect of the first mentioned offence to a penalty not exceeding 34 penalty units or to imprisonment for a term not exceeding 18 months.

**(2J)** A person who is the holder of a restricted licence, while the concentration of alcohol in the person's blood is more than 0 mg of alcohol per 100 mL of blood but is less than 50 mg of alcohol per 100 mL of blood, must not—

- (a) drive a motor vehicle; or
- (b) attempt to put a motor vehicle in motion; or
- (c) be in charge of a motor vehicle.

Maximum penalty—20 penalty units or 6 months imprisonment.

**(3)** Where upon the hearing of a complaint of an offence against subsection (1) the court is satisfied that at the material time the concentration of alcohol in the blood of the defendant equalled or exceeded 150 mg of alcohol per 100 mL of blood, the defendant shall be conclusively presumed to have been at that time under the influence of liquor.

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(4) Subject to subsection (3), where upon the hearing of a complaint of an offence against subsection (1) the court is satisfied—

- (a) as to all the elements of the offence charged other than the element of the defendant's being under the influence of liquor or a drug at the material time;
- (b) that at the material time the concentration of alcohol in the defendant's blood equalled or exceeded 50 mg of alcohol per 100 mL of blood or that at the material time the defendant was a person to whom subsection (2A), (2B), (2D) or (2J) referred and the concentration of alcohol in the defendant's blood exceeded 0 mg of alcohol per 100 mL of blood;

the court shall convict the defendant of the offence under subsection (2), (2A), (2B), (2D) or (2J) that is established by the evidence.

(4A) Where in the circumstances provided for in subsection (4), the court is satisfied that an offence under subsection (2) and an offence under subsection (2A), (2B), (2D) or (2J) are both established by the evidence, the court shall convict the defendant of the offence under subsection (2).

(6) Where upon the hearing of a complaint of an offence against subsection (1)(c), (2)(c), (2A)(c), (2B)(c) or (2J)(c) in respect of a motor vehicle the court is satisfied beyond reasonable doubt by evidence on oath that at the material time—

- (a) the defendant—
  - (i) by occupying a compartment of the motor vehicle in respect of which the offence is charged other than the compartment containing the driving seat of that motor vehicle; or
  - (ii) not being in that motor vehicle, by some action;

had manifested an intention of refraining from driving that motor vehicle whilst the defendant was under the influence of liquor or a drug or, as the case may be, whilst the concentration of alcohol in the defendant's blood equalled or exceeded, or exceeded as the case may be the lower concentration referred to in subsection (2), (2A), (2B) or (2J), whichever subsection is material to the complaint; and

- (b) the defendant—

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- (i) was not under the influence of liquor or a drug to such an extent; or, as the case may be,
- (ii) was not, by virtue of the concentration of alcohol in the defendant's blood influenced thereby to such an extent;  
as to be incapable of understanding what the defendant was doing or as to be incapable of forming the intention referred to in paragraph (a); and
- (c) the motor vehicle in respect of which the offence is charged was parked in such a manner as not to constitute a source of danger to other persons or other traffic; and
- (d) the defendant had not previously been convicted of an offence under subsection (1), (2), (2A), (2B), (2D) or (2J) within a period of 1 year prior to the date in respect of which the defendant is charged;

the court shall not convict the defendant of the offence charged.

**(7)** Any person who whilst under the influence of liquor or a drug drives or is in charge of any horse or other animal on a road, or drives or is in charge of any vehicle (other than a motor vehicle) on a road, or attempts to put in motion any vehicle (other than a motor vehicle) on a road, is guilty of an offence.

Maximum penalty for subsection (7)—40 penalty units or 9 months imprisonment.

**(8)** A complaint for an offence against any provision of subsection (1) or (7) shall not be bad for uncertainty or duplicity by reason that it charges the alleged offender with being under the influence of 'liquor or a drug'.

**(8A)** If upon the hearing of such a complaint the evidence led and admitted (including evidence (if any) for the defence) establishes—

- (a) that the person so charged was under an influence which was that of liquor or a drug, or both liquor and a drug; and
- (b) all other elements of the offence;

the person shall be convicted of the offence notwithstanding that the particular such influence is not established by the evidence.

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(9) Where a person charged with an offence against any provision of subsection (1), (2), (2A), (2B), (2D) or (2J) in relation to a motor vehicle does not appear personally before a Magistrates Court at any time and place when and where the person is required to appear, the court shall then and there order that any and every Queensland driver licence held by the person be from that time suspended until the time when the charge is heard and determined or otherwise disposed of.

(9A) Subsection (9) applies subject to subsection (10).

(10) A Magistrates Court has and may exercise a discretion not to make an order pursuant to subsection (9) where it is satisfied on medical or other evidence placed before the court that the person's failure to appear before it was occasioned by any medical or other circumstance rendering the person physically incapable of appearing before the court.

(10A) In subsection (10)—

**“medical or other evidence placed before the court”** means—

- (a) the oral testimony of at least 1 doctor adduced before the court; or
- (b) at least 1 certificate placed before the court purporting to be a medical certificate by a doctor; or
- (c) both such testimony and certificate; or
- (d) such other evidence as is considered by the court to be sufficient in the circumstances to satisfy the court that the person was physically incapable of appearing before the court.

(11) Subsections (1) to (2J) apply to and with respect to any person—

- (a) who is in charge of a motor vehicle on a road or elsewhere;
- (b) who drives a motor vehicle on a road or elsewhere;
- (c) who on a road or elsewhere attempts to put a motor vehicle in motion;
- (d) who drives or is in charge of or attempts to put in motion a tram or train on a road or elsewhere;
- (e) who drives or is in charge of or attempts to put in motion a vessel that is being used, or is apparently about to be used, in navigation.

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(12) The Criminal Code, section 24 does not apply to an offence under this section.

### **Provisions with respect to breath tests and laboratory tests**

**80.(1)** In this section—

**“authorised police officer”** means any police officer authorised by the commissioner pursuant to subsection (8G) to operate a breath analysing instrument.

**“breath analysing instrument”** means an instrument—

- (a) for finding out the concentration of alcohol in a person’s blood by analysing a specimen of the person’s breath; and
- (b) approved under a regulation.

**“breath test”** means a test to obtain an indication of the concentration of alcohol in a person’s blood that is performed on a specimen of the person’s breath using a device approved under a regulation.<sup>8</sup>

(1A) If a person is required under this section to provide a specimen of breath for a breath test or analysis or a specimen of blood for a laboratory test, the person is taken not to have provided the specimen unless it—

- (a) is sufficient to enable the test or the analysis to be carried out; and
- (b) is provided in a way that enables the objective of the test or analysis to be satisfactorily achieved.

(2) A police officer may require any person found by the officer or who the officer suspects on reasonable grounds was during the last preceding 2 hours—

- (a) driving a motor vehicle, tram or train on a road or elsewhere; or
- (b) attempting to put in motion a motor vehicle, tram or train on a road or elsewhere; or
- (c) in charge of a motor vehicle, tram or train on a road or elsewhere; or

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<sup>8</sup> As to devices previously approved by gazette notice, see the *Statutory Instruments Act 1992*, section 20C.



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- (d) driving or in charge of or attempting to put in motion a vessel being used or apparently about to be used in navigation;

to provide a specimen of breath for a breath test by the person.

**(2A)** Where a motor vehicle, tram, train or vessel is involved in an incident resulting in injury to or death of any person or damage to property a police officer may require any person who the officer suspects on reasonable grounds—

- (a) was driving or attempting to drive the motor vehicle, tram or train on a road or elsewhere; or
- (b) was in charge of the motor vehicle, tram or train on a road or elsewhere; or
- (c) was driving or in charge of or attempting to drive the vessel;

at the time of the incident to provide a specimen of breath for a breath test by the person.

**(2B)** Subsection (2C) applies if—

- (a) a police officer requires a person to provide a specimen of breath for a breath test by the person under subsection (2) or (2A); and
- (b) the person—
  - (i) is taken not to have provided the specimen of breath under subsection (1A); or
  - (ii) provides the specimen of breath; but—
    - (A) the device used for the test is or becomes defective precluding its satisfactory operation; or
    - (B) for any reason it is not possible to use or continue using the device to conduct the breath test; or
    - (C) for any other reason it is not possible to complete the breath test.

**(2C)** Under subsection (2) or (2A), the police officer may require the person to provide as many specimens of breath as the officer considers reasonably necessary to carry out the breath test.

**(3)** A police officer who is exercising a power conferred on the officer by

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subsection (2) or (2A) may require the person in question to provide the specimen of breath—

- (a) at the time when and the place where the officer makes the requirement including at any police station where the person may then be; or
- (b) at the police station nearest to that place or at some other police station conveniently located as soon as practicable after the police officer makes the requirement if the police officer believes on reasonable grounds that it is reasonable for such person to be taken to a police station for the purpose, having regard to the circumstances of the case; or
- (c) without limiting paragraph (b), as soon as practicable after the police officer makes the requirement, at a place at which the police officer believes on reasonable grounds there is located a device approved by the Minister pursuant to this section for carrying out breath tests, if the officer does not have such a device with him or her.

**(4)** A requirement shall not be made under subsection (2) or (2A) unless it is made as soon as practicable and within 2 hours after the occurrence of the event whereby a police officer is authorised by that subsection to make the requirement.

**(5)** If a person required by a police officer under subsection (2) or (2A) to provide at a police station or other place a specimen of breath for a breath test by the person fails to go voluntarily to the police station or other place for that purpose any police officer, using such force as is necessary, may take the person to the police station or, as the case may be, other place for that purpose.

**(5A)** Subject to subsection (5B), if a person required by a police officer under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person, either—

- (a) fails to provide the specimen; or
- (b) fails to provide the specimen in the manner directed by the police officer who makes the requirement;

the person commits an offence against this Act.

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Maximum penalty—40 penalty units or 6 months imprisonment.

**(5B)** A person referred to in subsection (5A) is not guilty of an offence pursuant to that subsection if—

- (a) immediately after the requirement is made, the person produces to the police officer a certificate in the approved form from a doctor stating that—
  - (i) because of a stated illness or disability, the person is incapable of providing a specimen of breath; or
  - (ii) the provision of the specimen could adversely affect the person's health; or
- (b) the person satisfies the justices that the requisition to provide the specimen was not lawfully made or that the person was, by reason of the events that occurred, incapable of providing the specimen or that there was some other reason of a substantial character for the person's failure to provide the specimen other than a desire to avoid providing information that might be used in evidence.

**(6)** If—

- (a) it appears to a police officer in consequence of a breath test carried out by the officer on a specimen of breath of any person that the concentration of alcohol in the person's blood equals or exceeds 50 mg of alcohol per 100 mL of blood; or
- (aa) it appears to a police officer in consequence of a breath test carried out by the officer on a specimen of breath of any person that the concentration of alcohol in the person's blood exceeds 0 mg of alcohol per 100 mL of blood and the police officer suspects on reasonable grounds that the person is a person to whom section 79(2A), (2B), (2D) or (2J) refers; or
- (b) a person required by a police officer under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person—
  - (i) fails to provide the specimen; or
  - (ii) fails to provide the specimen in the manner directed by the police officer who makes the requirement; or

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- (iii) declines to wait for such time as is reasonable in the circumstances to enable the test to be carried out satisfactorily; or
  - (ba) a police officer reasonably suspects that a person who produces a certificate under subsection (5B)(a) is, because of the external signs exhibited by the person, affected by liquor or a drug;
- any police officer, using such force as is necessary, may—
- (c) take the person to a police station, hospital or other place authorised under this section; or
  - (ca) take the person to a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath; or
  - (d) if the person is already at a police station—detain the person there or take the person—
    - (i) to such other police station as is convenient and reasonable in the circumstances; or
    - (ii) to a vehicle or vessel, such as is convenient and reasonable in the circumstances, where facilities are available for the analysis by a breath analysing instrument of a specimen of breath; or
  - (e) if the person is already at a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath—detain the person there or take the person—
    - (i) to another such vehicle or vessel as is convenient and reasonable in the circumstances; or
    - (ii) to a police station such as is convenient and reasonable in the circumstances;

for the purposes of subsections (8) to (8L).

**(8)** Any person who—

- (a) is arrested for an offence against section 79 or 83; or
- (b) is arrested for any indictable offence in connection with or arising out of the driving of a motor vehicle by the person (including any

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offence against any provision of the Criminal Code, section 328A); or

- (c) is, for the purposes of subsections (8) to (8L), detained at or taken to a police station, or detained at or taken to a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath, or taken to a hospital or other place authorised under this section;

may, while at a police station, vehicle, vessel, hospital or other place authorised under this section as aforesaid, be required by any police officer to provide a specimen of the person's breath for analysis by a breath analysing instrument or, according as such officer requires, a specimen of the person's blood for a laboratory test.

**(8A)** A person to whom subsection (8) applies may be detained at a police station, vehicle, vessel, hospital or other place as aforesaid for the purposes of subsections (8) to (8L) by a police officer.

**(8B)** Any person referred to in subsection (8) may, for the purposes of subsections (8) to (8L), be taken—

- (a) to a police station; or
- (b) to a police station, vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath; or
- (c) to a hospital; or
- (d) where there are reasonable grounds for believing that a doctor is available at any other place—to that place;

and such person may be taken to more than 1 of such places if the purposes of those subsections cannot be carried out or effected at a place to which the person has been first taken.

**(8C)** Where any person whom a police officer may require under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person is at a hospital for treatment, that person may, subject to the approval of a doctor who is familiar with the person's injuries and apparent state of health at the time, be required by any police officer to provide at the hospital a specimen of the person's breath for analysis by a breath analysing instrument or, according as such officer requires, a specimen of the

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person's blood for a laboratory test.

**(8D)** A requisition shall not be made under subsection (8C) unless it is made as soon as practicable and within 2 hours after the occurrence of the event whereby a police officer is authorised under subsection (2) or (2A) to require the person to provide a specimen of breath for a breath test by the person.

**(8E)** If a person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis forthwith upon being so required produces to the police officer who made the requisition a doctor's certificate mentioned in subsection (5B)(a), such police officer shall not require a specimen of breath of such person but shall require a specimen of the person's blood.

**(8F)** A person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis shall do so, when directed by the doctor or authorised police officer operating or who is to operate the breath analysing instrument, by placing the person's mouth over the mouthpiece of the instrument and blowing directly and continuously (and without escape of breath otherwise) through that mouthpiece into the instrument until told to stop by the doctor or authorised police officer operating the instrument.

**(8G)** The commissioner may, by writing under the commissioner's hand, authorise any police officer to be an authorised police officer to operate a breath analysing instrument on being satisfied that such officer is competent to operate a breath analysing instrument.

**(8H)** An authorised police officer shall continue as such notwithstanding that the writing whereby the officer was made such has been lost, mislaid or destroyed or otherwise cannot be produced and there may be issued to the officer as prescribed by subsection (8G) a fresh instrument of authority which shall be deemed to have been effective on and from the date when the instrument that it replaces took effect.

**(8I)** A certificate purporting to be signed by the commissioner that the police officer named therein is authorised by the commissioner to operate a breath analysing instrument shall, in the absence of proof to the contrary, be proof that the officer named therein is so authorised.

**(8J)** The authorised police officer operating or who is to operate a breath

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analysing instrument in any particular case shall not be the police officer—

- (a) who has arrested the person concerned for an offence referred to in subsection (8); or
- (b) who requires the person to provide the specimen of breath for a breath test or analysis.

**(8K)** A person who is required pursuant to subsection (8) or (8C) to provide a specimen of blood for a laboratory test shall do so by permitting such specimen to be taken by a doctor indicated by the police officer who made the requisition when and as directed by and to the satisfaction of the doctor, the doctor being hereby authorised to take such specimen whether or not the person consents to the taking.

**(8L)** Subsection (8M) applies if—

- (a) a person has been required to provide, under subsection (8) or (8C), a specimen of the person's breath for analysis by a breath analysing instrument or a specimen of the person's blood for a laboratory test and—
- (b) the person—
  - (i) is taken under subsection (1A) not to have provided the specimen of breath or a specimen of blood; or
  - (ii) provides a specimen of breath for analysis by a breath analysing instrument; but—
    - (A) the breath analysing instrument is or becomes defective precluding its satisfactory operation to analyse the breath specimen; or
    - (B) for any reason it is not possible to use or continue using the breath analysing instrument for the purpose of analysing the breath specimen; or
    - (C) the breath analysing instrument indicates to the authorised police officer operating the instrument that alcohol or some other substance is present in the mouth of the person supplying the breath specimen; or
    - (D) for any other reason it is not possible to complete the analysis.

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**(8M)** Under subsection (8) or (8C), the police officer is authorised to require the person to provide as many specimens of breath or blood as the officer considers reasonably necessary to carry out the analysis or test.

**(9)** Where a person—

- (a) is arrested for any offence referred to in subsection (8); or
- (b) is, for the purposes of subsections (8) to (8L), detained at or taken to a police station, vehicle or vessel, or taken to a hospital or other place authorised under this section;

and whilst at a police station, vehicle, vessel, hospital or other place authorised under this section as aforesaid is required by a police officer to provide a specimen of the person's breath for analysis by a breath analysing instrument, the police officer making the requisition may—

- (c) if the police officer who arrested, detained or took as aforesaid the person believes on reasonable grounds that at the time of the arrest, detaining or taking the person exhibited external signs indicating that the person was affected by liquor or a drug; and
- (d) if the analysis by the breath analysing instrument of the specimen of breath provided in accordance with the requisition indicates either that there is no alcohol in the person's blood or that the concentration of alcohol in the person's blood is such that it does not reasonably explain the external signs exhibited and observed;

require the person to provide a specimen of the person's blood for a laboratory test and, subject to the direction of a doctor, a specimen of the person's urine for a laboratory test.

**(9A)** The police officer making the requisition may detain the person at a police station, vehicle, vessel, hospital or other place authorised under this section for a period of time that is reasonable in the circumstances to enable a doctor to attend there in connection with the provision by the person of a specimen of blood or urine or, as the case requires, such police officer may take the person to a place where, in the reasonable belief of such officer, a doctor is available for the purposes of the provision by the person of a specimen of the person's blood.

**(9B)** A person who is required pursuant to subsection (9) to provide a specimen of the person's blood for a laboratory test shall do so by



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permitting such specimen to be taken by a doctor indicated by the police officer who made the requisition when and as directed by and to the satisfaction of the doctor, the doctor being hereby authorised to take such specimen whether or not the person consents to the taking.

**(9C)** A person who is required pursuant to subsection (9) to provide a specimen of the person's urine for a laboratory test shall do so when and as directed by a doctor.

**(11)** A person who, upon a requisition duly made by a police officer under subsection (8) or (8C), fails to provide as prescribed a specimen of the person's breath for analysis or, as the case may be, a specimen of the person's blood for a laboratory test or a person who, upon a requisition duly made by a police officer under subsection (9), fails to provide as prescribed a specimen of the person's blood for a laboratory test is guilty of an offence which shall be deemed to be an offence against the appropriate provision of section 79(1) and the offender is liable to the same punishment in all respects (including disqualification from holding or obtaining a Queensland driver licence) as the person would be in the case of the offence being actually one committed by the person against the provision.

**(11A)** A person referred to in subsection (11) is not guilty of an offence pursuant to that subsection if the person satisfies the justices that the requisition to provide the specimen was not lawfully made or that the person was, by reason of the events that occurred, incapable of providing the specimen or that there was some other reason of a substantial character for the person's failure to provide the specimen other than a desire to avoid providing information that might be used in evidence.

**(14)** For this section, the concentration of alcohol in a person's blood may be expressed as—

- (a) a specified number of milligrams of alcohol per 100 mL of blood;  
or
- (b) a percentage that expresses the number of milligrams of alcohol per 100 mL of blood.

*Example—*

The concentration of alcohol in a person's blood may be expressed as 63 mg of alcohol per 100 mL of blood or as 0.063%.

**(15)** As soon as practicable after a specimen of breath provided pursuant

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to a requisition has been analysed by means of a breath analysing instrument, the doctor or authorised police officer operating such instrument shall sign 2 copies of a certificate in writing stating the concentration of alcohol indicated by the analysis to be present in the blood of the person whose breath has been analysed, the date and time at which the analysis was made, and shall deliver—

- (a) 1 copy of such certificate to the police officer who made the requisition; and
- (b) the other copy to the person whose breath has been analysed (or to another person on behalf of that person upon request by that other person).

**(15B)** Where a person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis fails to do so as prescribed by that subsection, the doctor or authorised police officer operating or to operate the breath analysing instrument shall, as soon as practicable thereafter, sign 2 copies of a certificate in writing stating—

- (a) the full name of the person concerned; and
- (b) the name of the police officer who made the requisition; and
- (c) the name of the operator of the breath analysing instrument; and
- (d) the name and patent number or name and model number appearing on the breath analysing instrument; and
- (e) that the person concerned failed to provide as prescribed by that subsection a specimen of breath when required;

and shall deliver—

- (g) 1 copy of such certificate to the police officer who made the requisition; and
- (h) the other copy to the person who failed to provide as prescribed the specimen of breath when required (or to another person on behalf of that person upon request by that other person).

**(15D)** Evidence by a doctor or an authorised police officer or by a certificate purporting to be signed by a doctor or an authorised police officer—

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- (a) that an instrument operated by the doctor or officer for analysing the breath of any person named by the doctor or officer on any occasion stated by him or her was a breath analysing instrument; and
- (b) that such instrument was on the occasion in question in proper working order and properly operated by the doctor or officer; and
- (c) that in relation to such instrument all regulations made pursuant to this section with respect to any instrument which is a breath analysing instrument were complied with;

shall be evidence of those matters and until the contrary is proved shall be conclusive such evidence.

**(15E)** The matters referred to in subsection (15D) may be stated in the certificate referred to in subsection (15) or in a separate certificate.

**(15F)** A certificate referred to in subsection (15B) shall, upon its production in any proceeding, be accepted as evidence—

- (a) that a requisition to provide a specimen of the person's breath for analysis was made to the person concerned by the police officer named therein as the police officer making the requisition; and
- (b) that the person concerned failed to provide as prescribed by subsections (8) to (8L) a specimen of breath when required; and
- (c) that an approved breath analysing instrument was available at the place where and at the time when the requisition was made for the purpose of analysing a specimen of breath provided in accordance with the requisition;

and until the contrary is proved shall be conclusive such evidence.

**(15G)** Evidence by a doctor or an authorised police officer or by a copy of a certificate referred to in subsection (15) purporting to be signed by a doctor or an authorised police officer of the concentration of alcohol indicated to be present in the blood of a person by a breath analysing instrument operated by such doctor or authorised police officer shall, subject to subsection (15H), be conclusive evidence of the concentration of alcohol present in the blood of the person in question at the time (being in the case of such certificate the date and time stated therein) the breath of that person was analysed and at a material time in any proceedings if the analysis was

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made not more than 2 hours after such material time, and at all material times between those times.

**(15H)** The defendant may negative such evidence as aforesaid if the defendant proves that at the time of the operation of the breath analysing instrument it was defective or was not properly operated.

**(16)** As soon as practicable after a specimen of blood has been provided for a laboratory test pursuant to subsections (8) to (8L) or a specimen of blood or urine has been provided for a laboratory test pursuant to subsections (9) to (9C), the police officer who required such specimen shall deliver the same to the laboratory of an analyst.

**(16A)** The specimen must be delivered to the analyst's laboratory in the way prescribed by regulation.

**(16B)** A certificate purporting to be signed by an analyst and stating—

- (a) that there was received at the laboratory of the analyst from the police officer named in the certificate a specimen of the blood of the person named in the certificate provided by that person on the date and at the place and time stated in the certificate; and
- (b) that the analyst made a laboratory test of such specimen on the date and at the place stated in the certificate; and
- (c) that—
  - (i) the concentration of alcohol in the person's blood indicated by the laboratory test was a specified number of milligrams of alcohol in the blood per 100 mL of blood; or
  - (ii) a specified drug or metabolite of a specified drug was indicated by the laboratory test to be present in the person's blood;

shall be evidence of those matters and until the contrary is proved shall be conclusive such evidence.

**(16C)** Where a person who is required pursuant to subsection (8), (8C) or (9) to provide a specimen of the person's blood for a laboratory test fails to do so as prescribed by the subsection under which the requisition is made, the doctor by whom the specimen is to be taken shall, as soon as practicable thereafter, sign 2 copies of a certificate in writing stating—

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- (a) the full name of the person concerned; and
- (b) the name of the police officer who made the requisition; and
- (c) that the person concerned failed to provide a specimen of blood when required;

and shall deliver—

- (e) 1 copy of such certificate to the police officer who made the requisition; and
- (f) the other copy to the person who failed to provide the specimen of blood when required (or to another person on behalf of that person upon request by that other person).

**(16E)** A certificate referred to in subsection (16C) shall, upon its production in any proceeding, be accepted as evidence—

- (a) that a requisition to provide a specimen of the person's blood for a laboratory test was made to the person concerned by the police officer named therein as the police officer making the requisition; and
- (b) that the person concerned failed to provide as prescribed by the subsection under which the requisition was made a specimen of the person's blood when required;

and until the contrary is proved shall be conclusive such evidence.

**(16F)** Evidence by an analyst or by a certificate referred to in subsection (16B) of the concentration of alcohol indicated to be present in, or of the drug or metabolite of the drug indicated to be present in, the blood of a person by a laboratory test of a specimen of the blood of that person shall, subject to subsection (16G), be conclusive evidence of the presence of the concentration of alcohol in, or the drug or the metabolite of the drug in, the blood of that person at the time (being in the case of such certificate the date and time stated therein) when the person provided the specimen and at a material time in any proceedings if the specimen was provided not more than 2 hours after such material time, and at all material times between those times.

**(16G)** The defendant may negative such evidence as aforesaid if the defendant proves that the result of the laboratory test of that specimen of

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blood was not a correct result.

**(16H)** The court shall on the application of the complainant adjourn the hearing as necessary to enable the production in evidence of the certificate of the analyst and if within 3 days after providing the specimen the defendant has given to the police officer in charge of the police station at which or nearest to the hospital or other place where the specimen of blood for the laboratory test was provided a notice in writing that the defendant requires a copy of the certificate to be given to the defendant at the address stated in the notice shall, at the request of the defendant, adjourn the hearing as necessary to ensure that such copy has been given to the defendant at such address not less than 3 days before the production of the certificate in evidence.

**(16I)** Such copy may be given either personally or by sending it by registered post or certified mail.

**(16J)** The person who gives the copy (whether personally or by sending it by registered post or certified mail) may attend before any justice of the peace having jurisdiction in the State or part of the State or part of the Commonwealth where the person gives the copy and depose on oath and in writing endorsed on a copy of the certificate to the giving thereof.

**(16K)** Such deposition shall, upon production to the court, be evidence of the matters contained therein and, until the contrary is proved, shall be conclusive such evidence.

**(16L)** Nothing contained in subsections (16H) to (16K) precludes the court in its discretion from dealing with a charge of an offence against section 79(1) on the application of the defendant notwithstanding that at that time the result of the laboratory test of the specimen of the blood of the defendant is not known if—

- (a) the defendant pleads guilty to the offence; and
- (b) the court is satisfied that the facts available to be put forward by the prosecution, and unchallenged by the defendant, are sufficient to enable it to deal properly with the matter.

**(18)** A certificate purporting to be signed by a doctor that on a date and at a place and time stated therein the doctor took a specimen of blood for a laboratory test of a person named therein shall, upon its production in any proceeding, be accepted as evidence of those matters and until the contrary is proved shall be conclusive such evidence.

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**(18A)** Where by any provision of this section a certificate of or purporting to be signed by a doctor, an authorised police officer or an analyst is made evidence of any matter, a certificate purporting to be signed by a doctor, an authorised police officer or an analyst, as the case may be, as to that matter shall, upon its production in any proceeding, be accepted as evidence—

- (a) that the signature thereto is that of the person by whom the certificate purports to be made; and
- (b) of all matters contained therein including the status, authority or qualification of the person by whom the certificate purports to be made;

and until the contrary is proved shall be conclusive such evidence.

**(19)** If a police officer sends a specimen of blood to an analyst's laboratory in a way prescribed by regulation, in any proceeding—

- (a) evidence of that fact given by the officer; and
- (b) a certificate, produced in evidence, purporting to be signed by the analyst certifying that the specimen of blood was received at the analyst's laboratory from the officer;

is sufficient evidence of compliance with subsection (16A).

**(20)** A person who, being thereunto required pursuant to subsection (8), (8C) or (9), has provided a specimen of blood for a laboratory test may when the person provides the specimen or immediately after providing it and where the person provides it (or another person on behalf of that person may when or immediately after the person provides the specimen and where the person provides it) request the police officer or the doctor, as the case may be, who required the specimen in question to give to such person a specimen of blood.

**(20A)** Upon such request, subject to the person concerned then and there providing a second specimen of blood, the police officer or doctor in question shall give such second specimen to such person or to the person requesting it on the person's behalf.

**(22)** Subsection (22AA) applies if—

- (a) the analysis by means of a breath analysing instrument of a

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specimen of breath of a person required by a police officer to be provided pursuant to subsection (8) or (8C) indicates that the concentration of alcohol in that person's blood equals or exceeds 50 mg of alcohol per 100 mL of blood or in the case of a person to whom section 79(2A), (2B), (2D) or (2J) refers, that the concentration of alcohol in that person's blood exceeds 0 mg of alcohol per 100 mL of blood; or

- (b) a person so required fails to provide as prescribed by subsections (8) to (8L) such specimen; or
- (ba) a person has been arrested for an offence under section 79(1) but has not been required by a police officer to provide a specimen of breath for analysis or a specimen of blood for a laboratory test under subsection (8) or (8C)—
  - (i) because the person is violent; or
  - (ii) because of the external signs exhibited by the person, the police officer reasonably believes the person is so affected by alcohol or a drug as to be unable to provide the specimen; or
  - (iii) because of the remoteness of the area—
    - (A) a breath analysing instrument is not available to analyse a specimen of the person's breath; or
    - (B) a doctor is not available to take a specimen of blood from the person for a laboratory test; or
- (c) a person who is required by a police officer pursuant to subsection (8) or (8C) to provide a specimen of the person's blood for a laboratory test permits a specimen of the person's blood to be taken for the purpose and thereupon such police officer requires that person to provide a specimen of breath for a breath test by the officer (the officer being hereby authorised to require such a specimen of breath for a breath test to be provided), and—
  - (i) it appears to the police officer in consequence of the breath test carried out by the officer that the device by means of which the test is carried out indicates that the concentration of alcohol in that person's blood equals or exceeds 50 mg of



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alcohol per 100 mL of blood or in the case of a person to whom section 79(2A), (2B), (2D) or (2J) refers, that the concentration of alcohol in that person's blood exceeds 0 mg of alcohol per 100 mL of blood; or

- (ii) the person fails to provide such specimen of breath; or
- (d) a person who is required by a police officer pursuant to subsection (8), (8C) or (9) to provide a specimen of the person's blood for a laboratory test fails to provide such specimen; or
- (e) the doctor taking a specimen of a person's blood for a laboratory test pursuant to this section certifies in writing to the police officer who made the requisition for the provision of the specimen of blood that, in respect of the person concerned, the case is a proper one for the suspension of that person's Queensland driver licence for a period of 24 hours.

**(22AA)** The person's Queensland driver licence is suspended for 24 hours from when—

- (a) the analysis mentioned in subsection (22)(a) was made; or
- (b) the requirement mentioned in subsection (22)(b), (c)(ii) or (d) was made; or
- (c) the arrest mentioned in subsection (22)(ba) was made; or
- (d) the breath test of the specimen of the person's breath mentioned in subsection (22)(c)(i) was carried out; or
- (e) the certificate in writing mentioned in subsection (22)(e) was given.

**(22A)** The police officer who required the specimen shall sign and deliver to the person concerned (or to another person on behalf of that person at the request of that other person) a statement in writing that the Queensland driver licence of the person concerned is suspended as prescribed by subsection (22) for the period of 24 hours commencing at the time stated therein.

**(22B)** It is immaterial, in any of the cases referred to in subsection (22), whether the person concerned is arrested or not.

**(22C)** Notwithstanding any other provision of this Act, an appeal shall

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not lie in respect of the suspension of a Queensland driver licence pursuant to subsection (22).

**(22D)** Any person who whilst the person's Queensland driver licence is suspended pursuant to subsection (22) drives a motor vehicle on a road or elsewhere is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 1 year.

**(23)** Where pursuant to this section a police officer may in the performance, exercise or carrying out of the officer's functions, powers or duties under this section take a person to a hospital or police station for the taking of a specimen and the police officer believes on reasonable grounds that a doctor is not available at the hospital or to go to the police station, the officer may, whether the person concerned is under arrest or not, take such person to a place where to the officer's knowledge or in the officer's reasonable belief a doctor is available for the taking of a specimen.

**(24)** Evidence of the presence of the concentration of alcohol in, or the drug or the metabolite of the drug in, the blood of a person at a time material to the time of an offence as hereinafter mentioned obtained in accordance with any of the provisions of this section is admissible upon the trial upon indictment of that person of any offence in connection with or arising out of the driving of a motor vehicle by the person or upon any hearing of a charge summarily against the person of an offence against any provision of the Criminal Code, section 328A, and shall not be excluded by reason only that such evidence was compulsorily obtained or otherwise obtained in accordance with this section.

**(24A)** Evidence admissible pursuant to subsection (24)—

- (a) may be given in the same manner, whether by a witness or by a certificate, as it may be given pursuant to the provisions of this section, other than that subsection, in respect of an offence against this Act; and
- (b) is admissible in the same circumstances and in all respects to the same extent as it would be admissible pursuant to the provisions of this section, other than subsection (24), in respect of an offence against this Act and, subject to paragraph (c), shall have the same evidentiary value in relation to the same matters and times as are provided for by the provisions of this section, other than that

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subsection, in respect of such evidence; and

- (c) where such evidence indicates a concentration of alcohol in that person's blood equal to or exceeding 150 mg of alcohol per 100 mL of blood, shall be conclusive evidence that the person was adversely affected by alcohol at all times in relation to which such evidence has evidentiary value pursuant to this section.

**(26)** If a defendant proposes to lead evidence to prove in any proceeding—

- (a) pursuant to subsection (15H), that at the time of the operation of a breath analysing instrument it was defective or was not properly operated; or
- (b) pursuant to subsection (16G), that the result of a laboratory test of a specimen of blood referred to in subsection (16F) was not a correct result; or
- (c) pursuant to subsection (18) or (18A), that the signature referred to therein is not the signature of the doctor, authorised police officer or analyst by whom the certificate referred to therein purports to be signed or that any matter contained in the said certificate is not correct;

the defendant shall give notice thereof to the complainant not less than 14 clear days before the return date of the summons or the appointed date for the hearing of the charge.

**(27)** The notice must—

- (a) be written; and
- (b) be signed by the defendant or the defendant's solicitor; and
- (c) for a notice under subsection (26)(a)—state the grounds on which the defendant intends to rely to prove that the breath analysing instrument was defective or was not properly operated.

*Example of paragraph (c)—*

A claim that the breath analysing instrument was defective because it mistook the presence of mouthwash in the defendant's mouth for the presence of alcohol in the defendant's blood.

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### **Notices to offenders for certain first offences**

**81.(1)** If—

- (a) a police officer believes on reasonable grounds that a person has committed an offence against section 79(2), (2A), (2B), (2D) or (2J); and
- (b) the concentration of alcohol in the person's blood is less than 100 mg of alcohol per 100 mL of blood;

the police officer may serve a notice on the person.

(2) The notice may be served on the person only if the person has not within 5 years before the alleged offence been convicted of an offence against section 79 or 80(11).

(3) The notice must—

- (a) be in a form approved by the commissioner; and
- (b) be identified by a serial number; and
- (c) specify the full name and address of the person; and
- (d) specify the time, date and place of the commission of the alleged offence; and
- (e) clearly indicate the nature of the alleged offence; and
- (f) state the alleged concentration of alcohol in the person's blood; and
- (g) specify the day of its issue; and
- (h) state that, if the person does not wish the matter to be dealt with by a court, the person may pay to the department the amount of the prescribed penalty specified in the notice within 28 days after issue of the notice; and
- (i) state that if the person acts in accordance with paragraph (h) the person—
  - (i) will be disqualified from holding or obtaining a Queensland driver licence for the prescribed period; and
  - (ii) must surrender to a superintendent every Queensland driver licence held by the person on the day after the day on which

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the disqualification takes effect.

(4) Subject to subsections (12) and (14), if the notice under subsection (1) is served and, within 28 days after the issue of the notice, the amount of the prescribed penalty is paid in accordance with the notice and received by the department—

- (a) any liability of the person to a penalty in relation to the alleged offence is discharged and no further proceedings may be taken in relation to the alleged offence; and
- (b) if the alleged offence is in relation to a motor vehicle, the person is disqualified from holding or obtaining a Queensland driver licence for the prescribed period starting from—
  - (i) the end of 28 days after the day of issue of the notice; or
  - (ii) if the person makes an application under subsection (7) and the court refuses to direct the issue of a restricted licence to the person—the day of the refusal;

whichever is the later; and

- (c) the person is taken, for the purposes of another offence against section 79 or 80(11), to have been convicted of the alleged offence on the day on which the amount is received by the department.

(5) A person who, under this section, is disqualified from holding or obtaining a Queensland driver licence must on the day after the day on which the disqualification takes effect, surrender every Queensland driver licence held by the person to a superintendent.

(6) Section 130 (Delivery of cancelled or suspended licences, or licences for endorsement), other than subsection (1), applies, with all necessary modifications and any prescribed modifications, to a person who is disqualified from holding or obtaining a Queensland driver licence under this section and to any licence held by the person.

(7) If, under this section, a person is disqualified from holding or obtaining a Queensland driver licence from a particular day, the person may, before that day, apply to a court in accordance with the regulations for an order directing that the person be issued with a restricted licence.

(8) A person who applies under subsection (7) must immediately give a

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copy of the application to the department.

**(9)** An applicant—

- (a) must attend the court; and
- (b) if required by the court—must give evidence in respect of matters relevant to the application; and
- (c) is liable to cross-examination.

**(10)** Witnesses may also be called and cross-examined.

**(11)** Section 87 (Issue of restricted licence to disqualified person), other than subsections (1) and (2), applies, with all necessary modifications and any prescribed modifications, in relation to an application under subsection (7) as if it were an application under section 87(1).

**(12)** If the commissioner is of the opinion that—

- (a) an offence in respect of which a notice under subsection (1) was issued to a person is not an offence in respect of which such a notice could be issued; or
- (b) prescribed circumstances exist in relation to the alleged offence;

the commissioner may withdraw the notice by serving on the person a withdrawal notice in a form approved by the commissioner.

**(13)** The commissioner must give written reasons in the notice for the decision to withdraw under subsection (12).

**(14)** The commissioner may withdraw a notice issued under subsection (1) for the purpose of—

- (a) issuing a fresh notice; or
- (b) taking no further action;

in respect of the offence alleged in the withdrawn notice.

**(15)** If a notice is withdrawn—

- (a) the period (if any) of disqualification specified in the notice up to the withdrawal is valid; and
- (b) under subsection (12)—the person may, with the approval of the commissioner, be proceeded against in relation to the alleged

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offence; and

(c) any penalty paid by the person is to be refunded.

**(16)** A court that convicts a person of an offence alleged in a notice under subsection (1) after the notice has been withdrawn under subsection (12) or (14) must take into account any period of disqualification of the person that resulted from the operation of the notice that had passed before the withdrawal of the notice.

**(17)** If more than 1 notice is served on a person under subsection (1) in relation to the same alleged offence, the total period of disqualification of the person is not to exceed the period prescribed in relation to the offence alleged in the last or latest notice.

**(18)** If a notice under subsection (1) is served on a person and the prescribed penalty is not paid within 28 days after the day of issue of the notice, nothing in this section prejudices the institution or prosecution of a proceeding for the alleged offence to which the notice relates.

### **Offenders may be ordered to attend training programs**

**82.(1)** This section applies if a person (the “**offender**”) is convicted before a court at a place prescribed under a regulation of an offence under section 79.

**(2)** Whether or not any other order is made against the offender, the court may order the offender to attend and complete a training program while the offender is disqualified from holding or obtaining a Queensland driver licence.

**(3)** The training program is to be—

- (a) approved by the chief executive; and
- (b) conducted by a person prescribed under a regulation.

**(4)** A written notice of the day, time and place of the program that the offender is to attend, is to be given to the offender by a person prescribed under a regulation.

### **Careless driving of motor vehicles**

**83.** Any person who drives a motor vehicle on a road or elsewhere without due care and attention or without reasonable consideration for other persons using the road or place shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

### **Dangerous driving of vehicles (other than motor vehicles) etc.**

**84.(1)** Any person who drives a vehicle (other than a motor vehicle), a tram, a train or an animal on a road dangerously shall be guilty of an offence and shall be liable to a penalty not exceeding 4 penalty units or to imprisonment for a term not exceeding 6 months.

**(1A)** If the offender has been previously convicted under subsection (1) the offender shall be liable to a penalty not exceeding 8 penalty units or to imprisonment for a term not exceeding 1 year.

**(1B)** If the offender has been twice previously convicted under subsection (1), the court shall, upon conviction, impose imprisonment as the whole or part of the punishment.

**(1C)** For the purpose of determining whether or not the provisions of subsections (1) to (1B) require imprisonment to be imposed as the whole or part of the punishment for an offence (the **“latest offence”**) against subsection (1), not more than 1 previous conviction for an offence against the subsection incurred by the offender earlier than the period of 10 years immediately preceding the date of the offender’s conviction for the latest offence shall be taken into account.

**(1D)** In this section—

**“drives a vehicle (other than a motor vehicle), a tram, a train or an animal dangerously”** includes the driving of a vehicle (other than a motor vehicle), a tram, a train or an animal at a speed or in a manner dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road and the amount of traffic which is on the road at the time or which might reasonably be expected to be on the road.

**(2)** Any person who drives a vehicle (other than a motor vehicle), a tram,



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a train, or an animal on a road without due care and attention or without reasonable consideration for other persons using the road shall be guilty of an offence.

Maximum penalty for subsection (2)—40 penalty units or 6 months imprisonment.

### **Racing and speed trials on roads**

**85.(1)** Any person who organises or promotes or takes part in—

- (a) any race between vehicles or animals on a road; or
- (b) any attempt to establish or break any vehicle or animal speed record on a road; or
- (c) any trial of the speed of a vehicle or animal on a road; or
- (d) any competitive trial designed to test the skill of any vehicle driver or the reliability or mechanical condition of any vehicle on any road where a prize or trophy or other benefit or advantage in excess of the value of \$100 may be won by a competitor;

shall be guilty of an offence, unless the prior permission in writing of the commissioner to the holding or making of the race, attempt, or trial has been obtained.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) The commissioner shall have power to grant or refuse permits under this section.

(3) The commissioner may in any such permit impose any conditions the commissioner deems necessary in the interests of public safety or convenience.

(4) Any such permit or conditions may be of general or limited application.

(5) Where any person organising, promoting, or taking part in any such race, attempt, or trial contravenes or fails to comply with any condition imposed as aforesaid, that person shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

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### **Disqualification of drivers of motor vehicles for certain offences**

**86.(1)** A person who is convicted of an offence in relation to a motor vehicle against section 79(1) shall, if during the period of 5 years prior to conviction the person has not been previously convicted—

- (a) under section 79(1); or
- (b) under section 79(2), (2A), (2B), (2D) or (2J); or
- (c) upon indictment, of any offence in connection with or arising out of the driving of a motor vehicle by the person; or
- (d) summarily of an offence against any provision of the Criminal Code, section 328A;

be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or obtaining a Queensland driver licence.

**(1A)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(1), the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.

**(1B)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 79(1), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.

**(1C)** If within the period of 5 years prior to such conviction the person has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of the Criminal Code, section 328A, the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.

**(1D)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or more than once summarily of an offence against any

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provision of the Criminal Code, section 328A or has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person and summarily of an offence against any provision of the Criminal Code, section 328A, the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.

**(1E)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(1) and has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of the Criminal Code, section 328A, the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.

**(1F)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction and without any specific order for a period of 9 months from the date of such conviction from holding or obtaining a Queensland driver licence.

**(1G)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.

**(2)** A person who is convicted of an offence in relation to a motor vehicle against section 79(2), (2A), (2B), (2D) or (2J) shall, if during the period of 5 years prior to conviction the person has not been previously convicted—

- (a) under section 79(2), (2A), (2B), (2D) or (2J); or
- (b) under section 79(1); or
- (c) upon indictment, of any offence in connection with or arising out of the driving of a motor vehicle by the person; or
- (d) summarily of an offence against any provision of the Criminal Code, section 328A;

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be disqualified by such conviction—

- (e) in a case where at the time of the commission of the offence the person convicted was, in respect of the motor vehicle, not the holder of a driver licence or was the holder of a learner, probationary, provisional or restricted licence—for a period of not less than 3 months and not more than 9 months from the date of such conviction from holding or obtaining a Queensland driver licence;
- (f) in any other case—for a period of not less than 1 month and not more than 9 months from the date of such conviction from holding or obtaining a Queensland driver licence.

**(2A)** The period of disqualification shall be determined by the court which, in making its determination, shall have regard to the concentration of alcohol in the blood of the defendant and the danger, real or potential, to the public in the circumstances of the case.

**(2B)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction for a period of not less than 3 months and not more than 18 months from the date of such conviction from holding or obtaining a Queensland driver licence.

**(2C)** The period of disqualification shall be determined by the court which, in making its determination, shall have regard to the concentration of alcohol in the blood of the defendant and the danger, real or potential, to the public in the circumstances of the case.

**(2D)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or obtaining a Queensland driver licence.

**(2E)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(1) or upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any

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provision of the Criminal Code, section 328A, the person shall be disqualified by such conviction and without any specific order for a period of 9 months from the date of such conviction from holding or obtaining a Queensland driver licence.

**(2F)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 79(2), (2A), (2B), (2D) or (2J) and—

- (a) has been previously convicted of an offence under section 79(1);  
or
- (b) has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of the Criminal Code, section 328A;

the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.

**(3)** A person who is convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of the Criminal Code, section 328A shall, subject to the provisions of subsections (3A) to (3F), be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or obtaining a Queensland driver licence.

**(3A)** If within the period of 5 years prior to such conviction the person has been previously convicted—

- (a) of an offence (whether of the same or of a different kind) of either of the classes referred to in subsection (3);
- (b) under section 79(1);

the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.

**(3B)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence (whether of the same or of a different kind) of either of the classes referred to in

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subsection (3) or has been previously convicted of an offence (whether of the same or of a different kind) of each of the classes referred to in subsection (3), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.

**(3C)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 79(1), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.

**(3D)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence (whether of the same or of a different kind) of either of the classes referred to in subsection (3) and has been previously convicted of an offence under section 79(1), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a Queensland driver licence.

**(3E)** If within the period of 5 years prior to such conviction the person has been previously convicted under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction and without any specific order for a period of 9 months from the date of such conviction from holding or obtaining a Queensland driver licence.

**(3F)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 79(2), (2A), (2B), (2D) or (2J), the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a Queensland driver licence.

**(4)** A person who is convicted of an offence under section 80(22D) shall be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or obtaining a Queensland driver licence.

**(5)** In the case of any conviction referred to in this section in respect of which a person is disqualified by such conviction and without any specific order for a period of time specified from holding or obtaining a Queensland

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driver licence, the judge before whom such person is so convicted upon indictment or the justices by whom such person is so convicted may order that from the date of conviction such person shall be disqualified absolutely or for a longer period than the period specified in the person's case from holding or obtaining a Queensland driver licence, and the person shall thereupon be so disqualified under and in accordance with that order.

**(5A)** Where a person ordered to attend a training program or defensive driving course referred to in section 82 fails to comply with the order, the chief executive may by notice given to the person call upon the person to appear and show cause before a Magistrates Court constituted under the *Justices Act 1886* at a time and place specified in the notice why the person should not be disqualified from holding or obtaining a Queensland driver licence for a period of 1 month in addition to the period for which the person is or was so disqualified by his or her conviction or the order of the judge or justices.

**(5B)** Where a person called upon to appear and show cause pursuant to subsection (5A)—

- (a) fails to appear at the time and place specified or at any time or place to which the show-cause proceeding may be adjourned; or
- (b) having appeared, fails to show cause to the satisfaction of the court;

the person shall thereby, without any specific order being made, be disqualified from holding or obtaining a Queensland driver licence for a period of 1 month in addition to the period for which the person is or was so disqualified by the person's conviction or the order of the judge or justices.

**(5C)** The additional period of 1 months disqualification shall commence—

- (a) if it is incurred during the period for which the person is disqualified from holding or obtaining a Queensland driver licence by the person's conviction or the order of the judge or justices—upon the expiration of that period; or
- (b) if it is incurred after the expiration of the period for which the person is disqualified from holding or obtaining a Queensland driver licence by the person's conviction or the order of the judge

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or justices—upon the date of the person’s failure whereby the person has incurred the additional period of disqualification.

(6) Any disqualification pursuant to this section shall be in addition to any punishment to which the person convicted may be liable upon the person’s conviction.

(8) The provisions of this section apply notwithstanding anything contained in any other Act.

### **Issue of restricted licence to disqualified person**

**87.(1)** Where a person is convicted by a court of an offence under section 79 or 80(5A) and—

- (a) by order of the court, is disqualified from holding or obtaining a Queensland driver licence; or
- (b) by operation of law and without specific order, is disqualified from holding or obtaining a Queensland driver licence;

the court may, where it has received an application from the person, make an order directing that the person be issued with a restricted licence.

(2) An application for an order under this section may be made—

- (a) at the proceedings in which the conviction is recorded against the applicant by reason of which the applicant is disqualified from holding or obtaining a Queensland driver licence; and
- (b) in a case where the court makes an order disqualifying the applicant from holding or obtaining a Queensland driver licence—before the court makes that order;

and not otherwise.

(2A) An application shall be made in the approved form and in respect of every application—

- (a) the applicant shall, if required by the court so to do, submit himself or herself as a witness; and
- (b) other persons may be called as witnesses;

to give evidence in respect of all matters relevant to the application and shall



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be liable to cross-examination with respect thereto.

**(3)** An order under this section may be made—

- (a) at the proceedings in which the conviction is recorded against the applicant by reason of which the applicant is disqualified from holding or obtaining a Queensland driver licence; and
- (b) in a case where the court makes an order disqualifying the applicant from holding or obtaining a Queensland driver licence—in conjunction with that order;

and not otherwise.

**(3A)** To remove doubt, it is declared that if a court makes an order under subsection (1) directing that a person be issued with a restricted licence, the person—

- (a) is disqualified from holding or obtaining a Queensland driver licence, other than the restricted licence; and
- (b) may not drive a motor vehicle during the period of the disqualification unless the person applies for and obtains the restricted licence the court ordered be issued.

**(4)** A court that grants an application shall make an order directing that a restricted licence be issued to the applicant during the period of the applicant's disqualification subject to restrictions specified in the order—

- (a) which shall restrict the use of the restricted licence by the applicant to specified circumstances directly connected with the applicant's means of earning the applicant's livelihood; and
- (b) which may include, but are not limited to—
  - (i) the class of vehicle which may be driven;
  - (ii) the purpose for which a vehicle may be driven;
  - (iii) the times at which or period of time during which a vehicle may be driven.

**(4A)** An order under this section may relate only to a restricted licence that is of the same class as the probationary, provisional or open licence which is held by the applicant for the order immediately prior to the disqualification in respect of which his or her application is made.

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- (5) An application for an order under this section shall not be granted—
- (a) unless the applicant satisfies the court that hears the application that—
    - (i) the applicant is a fit and proper person to hold a restricted licence, having regard to the safety of other road users and the public generally; and
    - (ii) a refusal would cause extreme hardship to the applicant or the applicant's family by depriving the applicant of the applicant's means of earning the applicant's livelihood;
  - (b) if the applicant's provisional or open licence has been suspended or cancelled, or the applicant has been disqualified from holding or obtaining a Queensland driver licence, within 5 years before the application is made;
  - (c) in a case where the applicant has been previously convicted—
    - (i) under section 79 or 80(5A) or the Criminal Code, section 328A; or
    - (ii) elsewhere than in Queensland of any offence which if committed in Queensland would be an offence under section 79 or 80(5A);within a period of 5 years prior to the conviction that results in the disqualification in respect of which the application is made;
  - (d) in a case where the disqualification in respect of which the application is made resulted from a conviction of the applicant—
    - (i) for an offence committed whilst the applicant was engaged in an activity directly connected with the applicant's means of earning the applicant's livelihood; or
    - (ii) for an offence committed when the applicant was driving a motor vehicle the applicant was not authorised, under a provisional or open licence, to drive; or
    - (iii) for an offence committed at a time when the applicant was the holder of a restricted licence issued pursuant to an order made under this section;

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- (da) if the disqualification for which the application is made resulted from the applicant's conviction for an offence against section 79(2A), (2B), (2D) or (2J);
- (db) if—
  - (i) the disqualification for which the application is made resulted from the applicant's conviction for an offence against section 79(2); and
  - (ii) the applicant is a person to whom section 79(2A), (2B), (2D) or (2J) would have applied apart from the fact that the concentration of alcohol in the person's blood equalled or exceeded 50 mg of alcohol per 100 mL of blood;
- (e) unless the disqualification for which the application is made resulted from the applicant's conviction for an offence committed when the applicant held a provisional or open licence (other than a corresponding document);
- (f) unless the applicant is the holder of a provisional or open licence (other than a corresponding document) immediately prior to the disqualification in respect of which the application is made;
- (g) unless, when the offence was committed, the concentration of alcohol in the applicant's blood was less than 150 mg of alcohol per 100 mL of blood.

**(5A)** For subsection (5)(a)(ii), if the applicant is not self-employed, the applicant must produce to the court an affidavit made by the applicant's employer confirming the applicant would be deprived of the applicant's means of earning a living if the application is refused.

**(5B)** In subsection (5)(b), the reference to a suspension, cancellation or disqualification does not include—

- (a) a suspension, cancellation or disqualification that was set aside on appeal; or
- (b) a suspension, cancellation or disqualification because of the applicant's mental or physical disability; or
- (c) a suspension that resulted from non-payment of a penalty; or
- (d) a suspension under section 79(9); or

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(e) a 24 hour suspension under section 80(22AA).

**(6)** Where—

- (a) an order is made under this section by a court directing the issue of a restricted licence to an applicant in conjunction with an order disqualifying the applicant from holding or obtaining a Queensland driver licence; and
- (b) the provision of this Act that empowers a court to impose the disqualification specifies a maximum period of time for which a disqualification may be imposed;

for the purpose of making the order disqualifying the applicant, the maximum period for which the court may impose the disqualification shall be deemed to be twice that specified in the provision.

**(6A)** A court, in considering whether an order disqualifying the applicant from holding or obtaining a Queensland driver licence should be made under section 86(5), and in considering the terms of any other disqualification order it proposes to make, shall have regard to any order it proposes to make under this section as a circumstance indicating that the disqualification imposed should be for a longer period of time than if it made no order under this section.

**(7)** Where an order is made under this section and the person in respect of whom the order is made makes an application to a superintendent for a restricted licence under and in accordance with this Act, the superintendent shall issue to the person a restricted licence subject to the restrictions imposed by the court by the order made under this section, and such other terms, provisions, conditions, limitations or restrictions, consistent with the order, as are specified on the licence in accordance with this Act.

**(8)** A restricted licence issued pursuant to an order under this section—

- (a) shall be issued in the first instance for such period as is prescribed by regulation and thereafter shall be renewed from time to time for such period as is prescribed by regulation until the period of disqualification in respect of which the order under this section was made expires; and
- (b) in a case where it is renewed during that period of disqualification—shall, subject to section 88(7), be renewed

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subject to the restrictions specified in the order last made whether under this section or section 88.

**(8A)** A restricted licence issued or renewed pursuant to an order made under this section shall remain in force until it expires or is cancelled, surrendered or suspended in accordance with this Act.

**(9)** The power of the Governor in Council to make regulations in respect of a restricted licence includes the power to make regulations in respect of the restricted licence provided for under this section including regulations in respect of its cancellation or suspension notwithstanding that it is issued or renewed pursuant to an order of the court.

**(10)** Any person who, being the holder of a restricted licence issued pursuant to an order made under this section, drives a motor vehicle otherwise than in accordance with the restrictions to which the licence is subject as a consequence of that order or an order under section 88 commits an offence and shall be liable to a penalty not exceeding 20 penalty units.

**(10A)** In addition to any other penalty imposed—

- (a) if the restricted licence issued to the person is still current at the time of the conviction—it is by virtue of the conviction thereby cancelled without specific order; and
- (b) the person shall by virtue of the conviction be disqualified from holding or obtaining a Queensland driver licence for a period of 3 months from the expiration of the disqualification in respect of which the order was made under this section or, where the conviction is later than the expiration of that disqualification, for 3 months from the date of conviction.

**(11)** For the purposes of this section, the proceedings in which a conviction is recorded shall be taken to continue until the court has completed the exercise of its jurisdiction to sentence the defendant in respect of the conviction, notwithstanding that the proceedings have been adjourned.

### **Variation of conditions**

**88.(1)** Where subsequent to a court making an order under section 87 or this section in respect of a person and the issuing to the person of a restricted licence the circumstances connected with the person's means of

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earning the person's livelihood have altered, the person may apply to a Magistrates Court exercising jurisdiction at the place where the person resides for an order varying the restrictions to which the restricted licence is subject as a consequence of the order made under section 87 or this section.

(2) An application shall be made in the approved form and in respect of every application—

- (a) the applicant shall, if required by the court so to do, submit himself or herself as a witness; and
- (b) other persons may be called as witnesses;

to give evidence in respect to all matters relevant to the application and shall be liable to cross-examination with respect thereto.

(3) Written notice of the application setting forth the time and place at which the application is to be heard shall be given by the applicant, at least 14 days prior to the date of hearing, to the commissioner or to a police officer authorised by the commissioner to receive such notices.

(4) The commissioner is entitled to be represented at the hearing of the application.

(4A) A police officer may appear and act at the hearing of the application on behalf of the commissioner.

(5) A court to which an application is made under subsection (1) may, if it considers that the justice of the case requires that it do so and having regard to the restrictions referred to in section 87(4), make an order varying the restrictions to which the restricted licence is subject as a consequence of an order made under section 87 or this section.

(6) A superintendent to whom—

- (a) a copy of an order made under this section (“**the order**”) certified by the clerk of the court which made the order to be a true copy; and
- (b) the restricted licence to which the order relates;

are produced shall vary the restrictions to which the restricted licence is subject by reason of an order made under section 87 or a prior order made under this section so that they accord with those imposed by the court by the order.

(7) Until a superintendent, pursuant to subsection (6), varies the restrictions to which the restricted licence is subject, those restrictions shall continue to apply to the holder of the licence notwithstanding the making of an order or, as the case may be, a further order under this section.

**Power to disqualify person from holding or obtaining Queensland driver licence though acquitted of certain indictable offences**

**89.(1)** Where upon the trial of any person charged upon indictment with an offence in connection with or arising out of the driving of a motor vehicle by the person the judge presiding at the trial is satisfied that upon the evidence such person should, in the interest of the public, be prohibited from driving a motor vehicle either absolutely or for a period, the judge may, notwithstanding that such person is found not guilty by the jury, order that the person shall from the date of the order be disqualified absolutely from holding or obtaining a Queensland driver licence, or be so disqualified for such period as the judge shall specify in the order.

(2) An order under this section may be made by the judge before the judge discharges the defendant upon the conclusion of the trial, or the judge may discharge the defendant and adjourn the matter of whether or not the judge will make such order to a later date when the judge may receive such evidence in addition to the evidence given at the trial as the judge considers necessary under the circumstances.

**Power to disqualify person from holding or obtaining Queensland driver licence though complaint dismissed**

**90.(1)** Where upon the hearing of a complaint against any person of an offence against any provision of the Criminal Code, section 328A, or of an offence in relation to a motor vehicle against section 79, 83 or 85, the justices determining the complaint are satisfied that upon the evidence such person should, in the interest of the public, be prohibited from driving a motor vehicle either absolutely or for a period, the justices may, notwithstanding that they dismiss the complaint, order that the person shall from the date of the order be disqualified absolutely from holding or obtaining a Queensland driver licence, or be so disqualified for such period as the justices shall specify in the order.

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(2) An order under this section may be made by the justices when they dismiss the complaint or the justices may dismiss the complaint and adjourn the matter of whether or not they will make such order to a later date when the justices may receive such evidence in addition to the evidence given upon the hearing of the complaint as they consider necessary under the circumstances.

**Chief executive to be advised of persons disqualified from holding Queensland driver licences etc.**

91. When, by or under this Act, a person is disqualified or has been ordered by a judge of the Supreme Court or District Court or justices to be disqualified from holding or obtaining a Queensland driver licence either absolutely or for a period, then—

- (a) in the case where no order with respect to such disqualification was made by the judge of the Supreme Court or District Court before whom the person was convicted—particulars of the conviction; or
- (b) in the case where an order with respect to such disqualification was made by a judge of the Supreme Court or District Court upon the trial or conviction of that person—a copy of such order; or
- (c) in the case where no order with respect to such disqualification was made by the justices who convicted the person—a copy of the minute or memorandum of the conviction made and signed by such justices; or
- (d) in the case where the order with respect to such disqualification has been made by justices—a copy of such order;

shall be transmitted by the registrar of the Supreme, Circuit, or District Court or the clerk of the court concerned to the chief executive.



## **PART 4—ROAD INCIDENTS**

### **Duties and liabilities of drivers involved in road incidents**

**92.(1)** The driver of any vehicle, tram or animal involved on any road, or of any motor vehicle involved elsewhere than on a road, in an incident resulting in injury to or death of any person or damage to any property (including any animal in the charge of any person) shall—

- (a) immediately stop the vehicle, tram or animal;
- (c) if any person is injured—
  - (i) remain at or near the scene of the incident and immediately render such assistance as the driver can to the injured person;
  - (ii) make reasonable endeavours to obtain such medical and other aid as may reasonably be required for the injured person;
- (i) if any property is damaged to an extent apparently in excess of an amount fixed by regulation for the purpose of this paragraph and no police officer is present at the scene of the incident—as soon as possible report in person full particulars of the incident at the police station that is nearest to the scene of the incident;
- (j) if any person is dead or apparently dead—exhibit proper respect for the person’s body and take whatever steps are reasonably practicable to have the body removed to an appropriate place.

Maximum penalty—

- (a) if death or injury is caused to any person—20 penalty units or imprisonment for 1 year; or
- (b) otherwise—10 penalty units or 6 months imprisonment.

**(2)** Notwithstanding subsection (1)(c)(i), a person may leave the scene of the incident where the person’s leaving is solely for the purpose of obtaining medical or other aid for the injured person.

**(4)** If in determining a complaint for an offence against subsection (1) in respect of an incident whereby any person is injured the court is satisfied that the defendant showed a callous disregard for the needs of the injured

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person the court shall impose, as the whole or part of the sentence, a period of imprisonment.

(5) A person who—

- (a) in purported compliance with subsection (1) furnishes any false or misleading information; or
- (b) reports the happening of an incident such as is referred to in subsection (1) to a police officer knowing the report to be false;

commits an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

(6) In any proceedings for an offence against this section the averment in the complaint—

- (a) that any incident specified therein had not been reported at the police station that was nearest to the scene of the incident within or prior to any time or date specified in the averment;
- (b) that a police officer was or was not present at the scene of any incident specified therein at any time or during any period specified in the averment;

shall be evident of the matter so averred.

(7) The incident may be specified by reference to the approximate time and place thereof or to the person or persons involved or otherwise so as to sufficiently identify it.

(8) Nothing in this section shall prejudice or affect the provisions of the Criminal Code or any Act relating to traffic or transport and, notwithstanding an order of disqualification for any specified period made under the *Penalties and Sentences Act 1992*, section 187, upon a conviction of any person for an offence against this section resulting from any road incident hereinbefore mentioned in this section, if that person is subsequently convicted upon indictment of any offence in connection with or arising out of the same road incident, the judge of the Supreme Court or District Court before whom that person is so convicted, in addition to any sentence the judge may impose, may order that the offender shall, from the date of the conviction upon indictment, be disqualified absolutely from holding or obtaining a Queensland driver licence.

### **Scheme to facilitate supply of information as to road incidents**

**94.(1)** The commissioner or the chief executive, may authorise a scheme to facilitate the supply of information in the possession of a police officer or contained in a writing prepared by a police officer, as to the facts relating to any incident whereby, owing to the presence on a road of a vehicle, tram, train or animal, death or injury has been caused to any person, or damage has been caused to any property (including any animal in the charge of any person) to any person who or whose property has been involved in that incident, or to the agent, servant or other representative of that person, and to any insurer or other person having a bona fide interest in that incident.

**(2)** Any such scheme may provide for the payment of fees for the supply of that information on any basis or bases set out in the scheme.

**(3)** The State, the Minister, the commissioner, a police officer, the chief executive or someone else authorised by the chief executive is not civilly or criminally liable for supplying information under a scheme.

## **PART 5—POWERS AND FUNCTIONS OF POLICE OFFICERS**

### **Diversion of traffic**

**96.(1)** The commissioner or the chief executive may order the closure of any road, permanently or temporarily (notice whereof shall, if practicable, be given in some newspaper circulating in the locality concerned) against any class or description of traffic, provided that another road or route is available for that traffic.

**(2)** Where the purpose of a closure is a private commercial purpose or other prescribed purpose, an order for the closure of a road under subsection (1) may be made upon application under that subsection to the commissioner or the chief executive and not otherwise.

**(3)** The application must be in writing and accompanied by the fee prescribed under a regulation.

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(4) Upon receiving an application the commissioner or the chief executive, as the case may be, shall refuse the application or grant it and make an order for the closure of a road subject to such conditions, as the commissioner or the chief executive thinks fit, which may include but are not necessarily limited to the payment of fees and expenses in connection with the closure.

(5) If the chief executive is of opinion that it is expedient for the proper execution of this Act, or otherwise is in the public interest, the chief executive may temporarily prohibit, divert or direct all or any part of the traffic in or from any road, and may take any measure and give or cause to be given any direction, signal or order which the chief executive considers necessary or desirable for the safe and effective regulation of traffic in the locality where that road is situated.

(6) Any person who contravenes or fails to comply with any prohibition, direction, signal or order made or given under this section shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

(7) The chief executive may carry out such construction works as are necessary to give effect to the closure of any road ordered under subsection (1).

### **Removal of things from roads**

**100.(1)** Subsections (3) to (11) apply if the chief executive officer of a local government considers on reasonable grounds that a vehicle, tram or animal in the local government's area has been abandoned on a road by the person who last drove or used it, or that—

- (a) a vehicle, tram or animal in the local government's area has been—
  - (i) left on a road unattended whether temporarily or otherwise for a time or in a place, condition, way or circumstances where its presence is hazardous; or
  - (ii) found on a road in a place, condition, way or circumstances where its presence is hazardous or in contravention of this Act; and

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- (b) the driver of the vehicle, tram or animal—
  - (i) can not readily be located; or
  - (ii) has failed to immediately remove the vehicle, tram or animal when required by the local government to do so.

(2) For subsection (1), the presence of a vehicle, tram or animal on a road is **“hazardous”** if it is causing, or is likely to cause, danger, hindrance or obstruction to traffic or is preventing, hindering or obstructing, or is likely to prevent, hinder or obstruct, the use of the road or a part of the road for a lawful purpose.

(3) The local government may remove the vehicle, tram or animal from the road and detain it at a place for safe keeping.

(4) As soon as practicable after removal of the vehicle, tram or animal, the chief executive officer of the local government concerned shall cause notice in writing to be given to the owner thereof, if the owner can be ascertained, of such removal and of the place at which the vehicle, tram or animal is then detained.

(5) Such notice shall, if practicable, be served upon the owner personally, but if it is not so served within 14 days from the date of such removal it may be given by public advertisement in a newspaper circulating in the locality in which the vehicle, tram or animal was found.

(6) If within 1 month from the date of service or advertisement of such notice the owner of the vehicle, tram or animal or a person acting on the owner’s behalf or a person claiming a right to the possession of the vehicle, tram or animal, has not obtained possession of the vehicle, tram or animal in accordance with the provisions of subsection (10), the chief executive officer of the local government may—

- (a) by notice published in a newspaper circulating in the locality in which the vehicle, tram or animal was found, advertise that it will offer the vehicle, tram or animal for sale by public auction at the place and time stated in the advertisement;
- (b) at the time on the day stated in the advertisement (which day shall be not earlier than 14 days after the date when the advertisement was published) and at the place stated in the advertisement, offer the vehicle, tram or animal for sale by public auction unless the

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owner thereof or a person acting on the owner's behalf or a person claiming a right to possession thereof has sooner obtained possession of the vehicle, tram or animal in accordance with the provisions of subsection (10);

- (c) if no offer for the vehicle, tram or animal is received at such auction—dispose of the same in such manner and on such terms as the chief executive officer of the local government may determine.

(7) The proceeds of the sale or disposal of the vehicle, tram or animal shall be applied as follows—

- (a) firstly, in payment of the expenses of the sale or disposal;
- (b) secondly, in payment of the cost of removal and detention of the vehicle, tram or animal and the service and advertisement of any notice served or advertised under subsection (5);
- (c) thirdly, in payment of the balance of such proceeds to the owner of the vehicle, tram or animal or, if after reasonable inquiry, the owner cannot be ascertained, into the general fund of the local government.

(8) The local government may deal with any goods, equipment or thing contained in, on or about the vehicle, tram or animal at the time of its removal in the same manner as it may deal with the vehicle, tram or animal pursuant to this section.

(9) However, any perishable goods in or on the vehicle, tram or animal at the time of its removal may be disposed of in the way the chief executive officer of the local government concerned shall direct and the proceeds (if any) of such disposal shall be applied in accordance with the provisions of subsection (7).

(10) The chief executive officer of the local government must not deliver possession of the vehicle, tram or animal to the owner thereof, or to another person acting on the owner's behalf, or to any other person claiming a right to the possession thereof unless the following provisions have been complied with—

- (a) the owner, or person acting on the owner's behalf, or other person claiming a right to possession of the vehicle, tram or animal shall

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have applied in writing signed by the applicant to the chief executive officer of the local government concerned for the release from such detention of the vehicle, tram or animal;

- (b) the applicant shall have furnished proof to the satisfaction of the chief executive officer of the applicant's ownership or of the applicant's right to possession of the vehicle, tram or animal and, in the case of the applicant's being a person acting on behalf of the owner, shall have furnished proof to the satisfaction of the chief executive officer of the applicant's authority to act on behalf of such owner;
- (c) the applicant shall have paid all expenses incurred by the local government concerned in connection with the removal and detention of the vehicle, tram or animal and the service, or advertisement, of any notice served or advertised in relation to such removal and detention or intended sale of the vehicle, tram or animal;
- (d) the applicant has signed a receipt for the delivery of the vehicle, tram or animal to the applicant.

**(11)** Any person who takes delivery, or obtains possession of or removes or attempts to remove from the detention of a local government a vehicle, tram or animal removed and detained pursuant to the provisions of subsection (3) except in accordance with the provisions of subsection (10) shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

**(12)** Under a local law, a local government may provide for the removal, safe storage or disposal of a vehicle, tram or animal in the local government's area that a person authorised under the local law considers on reasonable grounds—

- (a) has been abandoned on a road; or
- (b) has been left as described in subsection (1)(a)(i); or
- (c) has been found as described in subsection (1)(a)(ii).

**(13)** If a local law provides for a matter mentioned in subsection (12), subsections (3) to (11) no longer apply in the local government's area.

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(14) Subsections (3) to (11) in their application in the local government's area are not revived by the repeal of the local law.

(15) In this section—

“**vehicle**” includes any part of a vehicle.

## **PART 6—REGULATED PARKING**

### **Who may regulate parking**

**101.(1)** A local government may, under a local law, regulate parking in its area—

- (a) on a road, other than a declared road; or
- (b) on a declared road, with the chief executive's written agreement; or
- (c) on an off-street regulated parking area.

(1A) The chief executive may regulate parking on an off-street regulated parking area.

(2) The regulation of parking may include—

- (a) specifying the times when a vehicle may or must not be parked; and
- (b) requiring the payment of a fee for a vehicle to be parked; and
- (c) specifying the types of vehicles that may or must not be parked; and
- (d) specifying the purposes for which a vehicle may or must not be parked; and
- (e) specifying where its regulation of parking applies.

### **Parking regulation involves installing official traffic signs**

**102.(1)** The chief executive or a local government may install official



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traffic signs indicating how parking is regulated.

(2) An official traffic sign may apply to parking—

- (a) at or near the place where the sign is installed, for example, a particular parking space, road or off-street regulated parking area; or
- (b) for a sign installed by a local government—throughout an area consisting of the whole or part of the local government’s area (a **“traffic area”**).

(3) A local government may install an official traffic sign applying to parking throughout a traffic area only if—

- (a) a local law has declared the traffic area and defined its boundaries; and
- (b) the sign is installed on the road at every road entry to the traffic area.

(4) An official traffic sign applying to parking throughout a traffic area—

- (a) may only indicate the following matters about how parking is regulated throughout the traffic area—
  - (i) the times when a person may only park for a maximum specified time;
  - (ii) the times when a person may only park by paid parking at a place where the local government has provided for paid parking; and
  - (iii) the types of vehicle a person may park; and
- (b) for parking for which another official traffic sign is installed within the traffic area—applies subject to the other official traffic sign.

*Example of subsection (4)(b)—*

An official traffic sign installed within a traffic area may allow a longer or shorter parking time than that allowed by the official traffic sign for the entire traffic area.

(5) Subsection (4)(a) does not limit the matters that may be indicated on an official traffic sign mentioned in subsection (4)(b).

(6) A person parking anywhere within a traffic area is taken to have

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notice of the contents of the official traffic sign installed at the road entries to the traffic area.

(7) If an official traffic sign is installed at or near a place so that a person parking at the place is likely to see the sign, the person is taken to have notice of the contents of the sign.

(9) This section does not limit a local government's power to install an official traffic sign under a provision other than this part or under another law.

### **Examples of how parking may be regulated**

**103.(1)** This section does not limit section 101 or 102 and its object is to state common examples of how parking may be regulated.

(2) Official traffic signs may define or indicate—

- (a) where paid parking is authorised; or
- (b) spaces on roads or off-street parking areas that are designated parking spaces; or
- (c) loading zones; or
- (d) for roads or off-street parking areas—where parking is only allowed for a specified maximum time.

(3) Under a local law, a local government may specify for a place or a traffic area—

- (a) the hours and days when parking is only allowed for a specified maximum time; and
- (b) the fixed hours for paid parking; and
- (c) for specified designated parking spaces—the maximum time for which a vehicle may be paid parked; and
- (d) parking fees for paid parking; and
- (e) a system (the “**authorised system**”) for the payment of a parking fee for paid parking including, for example, by the use of a coin, token, card or credit card; and
- (f) the denomination or number of coins to be inserted in a parking

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meter or parkatarea in payment of a parking fee.

(4) Under a local law, a local government may—

- (a) allow a vehicle to park contrary to an indication on an official traffic sign regulating parking by time or payment of a fee, if the vehicle displays—
  - (i) a parking permit for people with disabilities; or
  - (ii) a permit issued by the local government; and
- (b) define the persons that may be issued with a permit; and
- (c) specify the fee for a permit.

(5) Under a local law, a local government may—

- (a) allow a vehicle to park in a loading zone if the vehicle displays a commercial vehicle identification label issued by the local government; and
- (b) define the vehicles that may be issued with a commercial vehicle identification label of the type specified by the MUTCD; and
- (c) specify the fee for a commercial vehicle identification label issued by the local government.

### **Off-street regulated parking areas**

**104.(1)** An “**off-street regulated parking area**” is an area of land, including any structure on the land, that—

- (a) is controlled by the chief executive or a local government; and
- (b) is specified as an off-street regulated parking area under—
  - (i) a regulation; or
  - (ii) for a local government—a local law.

(2) Land controlled by the chief executive or a local government includes land over which the chief executive or local government may exercise control for the purposes of this part under an arrangement with a person who owns, or has an interest in, the land.

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*Example—*

The chief executive may, under an arrangement with the owner of a shopping centre, regulate the use of the shopping centre's public parking area that has been specified to be an off-street regulated parking area under a regulation.

(3) An agreement to give effect to the arrangement for the area must provide for the matters prescribed under a regulation.

### **Paid parking**

**105.(1)** Fixed hours start for a designated parking space after a local government has—

- (a) specified under a local law the fixed hours when only paid parking is allowed in designated parking spaces in the traffic area or place where the space is located; and
- (b) installed the appropriate official traffic signs for the space.

(2) A person may park a vehicle in a designated parking space during the fixed hours only if—

- (a) the person does not park the vehicle in the space for longer than the maximum time indicated on the official traffic sign installed in relation to the space; and
- (b) the person pays the parking fee for the space as prescribed immediately on parking the vehicle.

(3) The person may pay the parking fee—

- (a) if a parking meter or parkatarea is installed for the space—by inserting coins of the number and denomination appropriate to the parking fee in the parking meter or parkatarea; or
- (b) if an authorised system applies in relation to the space—by doing what is required by the system.

(4) Nothing in this section prevents a person from making more than 1 payment while a vehicle is parked in a designated parking space, if the total time of continuous paid parking does not exceed the maximum time indicated on the official traffic sign installed in relation to the space.

(5) A local government may install a parking meter or parkatarea for a

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designated parking space if it is installed in a way—

- (a) specified by the MUTCD; or
- (b) approved by the chief executive.

### **Paid parking offences**

**106.(1)** During the fixed hours, a person must not park a vehicle in a designated parking space—

- (a) unless—
  - (i) a parking meter or parkatarea installed for the space indicates that the parking fee has been paid; or
  - (ii) the person has done what is required by an authorised system that applies in relation to the space; or
- (b) for a time longer than the maximum time indicated on the official traffic sign installed for the space; or
- (c) if another vehicle is parked in the space; or
- (d) so that the vehicle is not wholly within the space, unless the vehicle—
  - (i) is longer than the length of the space; and
  - (ii) is parked within a space in relation to which a parkatarea is installed; and
  - (iii) is engaged in loading or unloading goods; and
  - (iv) is as nearly as practicable wholly within the space.

Maximum penalty—40 penalty units.

**(2)** A person who parks a vehicle in a designated parking space when a parking meter or parkatarea installed in relation to the space indicates that the parking fee has not been paid does not commit an offence against subsection (1)(a) if the person immediately pays the parking fee in accordance with section 105(3).

**(3)** If—

- (a) a person commits an offence against subsection (1)(b) in a

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designated parking space; and

- (b) an infringement notice, under the *Justices Act 1886*, part 4A<sup>9</sup> for the offence is attached to the vehicle; and
- (c) the vehicle in relation to which the offence is committed remains parked in the space after the notice is affixed;

the person commits a separate and further offence under subsection (1)(b) for each further time (equal to the maximum time indicated on the official traffic sign installed in relation to the space) that the vehicle remains parked in the space during the fixed hours.

### **Owner responsible for offence**

**107.** Subject as hereinafter provided, where any offence is committed in relation to the parking or stopping of any vehicle, the person who at the time of the commission of the breach was the owner of the vehicle shall be deemed to have committed that offence and may be proceeded against and shall be punishable accordingly.

### **Local laws about minor traffic offences**

**108.(1)** A local government may, under a local law, prescribe an amount as the infringement notice penalty for a minor traffic offence committed in the local government's area.

**(2)** For the *Justices Act 1886*, part 4A—

- (a) the minor traffic offence is an infringement notice offence; and
- (b) the penalty is the infringement notice penalty for the offence; and
- (c) the chief executive officer of the local government is the administering authority for the infringement notice and the infringement notice offence.

**(3)** If the local government prescribes a penalty for a minor traffic offence, the penalty applies to the exclusion of another infringement notice penalty under the *Justices Act 1886*, part 4A for the minor traffic offence committed in its area.

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(4) In this section—

**“minor traffic offence”** means—

- (a) an offence against this part; or
- (b) an offence, prescribed under a regulation, that relates to the parking or stopping of a vehicle.

### **Agreement with local government on costs of administration**

**109.(1)** The commissioner may, with the approval of the Minister, enter into an agreement with the local government whereby the local government shall pay to the commissioner an annual or other periodic sum in respect of the costs incurred in the carrying out of duties under this part by police officers.

(2) If the commissioner and the local government cannot agree upon such payment, the Governor in Council may, by regulation, determine that the local government shall pay to the commissioner, in respect of the costs incurred in the carrying out of duties under this part by police officers, such annual or other periodic sum as the auditor-general certifies to be fair and reasonable.

(3) The Governor in Council may, by regulation, revoke or from time to time vary any such determination, but no such variation shall be made unless the auditor-general certifies that it is fair and reasonable.

(4) The local government shall make to the commissioner payments in accordance with such determination (or, if such determination shall have been varied, such determination as varied for the time being).

### **Notice restricting parking in special circumstances**

**110.(1)** If the chief executive is satisfied special circumstances exist justifying a restriction on parking in a traffic area or designated parking space, the chief executive may, by notice published in a newspaper circulating generally in the locality concerned—

- (a) prohibit the parking of vehicles in the area or designated parking space for a stated time; and

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(b) direct the owner or driver of any vehicle parked in the area or designated parking space to remove the vehicle from the area.

(2) If the owner or driver of a vehicle parked in a traffic area or designated parking space cannot be readily located, or, if located, fails to remove the vehicle from the area or parking space when directed to do so, the chief executive may remove the vehicle from the area or parking space.

(3) Section 100 applies to a vehicle mentioned in subsection (2).

### **Parking permits for people with disabilities**

**111.(1)** The chief executive may issue a permit to—

- (a) a person whose ability to walk is impaired (a “**person with a disability**”); or
- (b) an organisation for a specified vehicle, if the chief executive is satisfied that the organisation transports persons with disabilities in the vehicle.

(2) The chief executive may issue the permit subject to conditions stated on it.

## **PART 7—DETECTION DEVICES**

### *Division 1—Radar speed detection devices*

#### **Use of radar speed detection devices**

**112.** When using a radar speed detection device, a police officer must comply with Australian Standard 2898.2 (as in force at the time).



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***Division 2—Photographic detection devices***

**Definitions for div 2**

**113.** In this division—

**“camera-detected offence”** means a prescribed offence in respect of which—

- (a) the infringement notice under the *Justices Act 1886*, part 4A; or
- (b) the complaint or summons;

indicates that the offence was detected by a photographic detection device.

**“corresponding transport law”**, to a transport Act or a provision of a transport Act, means a law of the Commonwealth or another State that provides for the same matter as—

- (a) for a transport Act—the Act or a provision of the Act; or
- (b) for a provision of a transport Act—the provision.

**“owner”** means—

- (a) if the vehicle is registered—
  - (i) if there is a responsible operator—the responsible operator at the time the alleged offence happened unless subparagraph (iii) or (iv) applies; or
  - (ii) if there was no responsible operator at the time—the person in whose name the vehicle is registered under a transport Act or a corresponding transport law at the time the alleged offence happened unless subparagraph (iii) or (iv) applies; or
  - (iii) if the vehicle is bailed for more than 14 days—the bailee at the time the alleged offence happened; or
  - (iv) if the vehicle is used under a hiring agreement (not being a hire purchase agreement)—the person who contracted to use the vehicle; or
- (b) if the vehicle is unregistered—

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- (i) if there is a responsible operator—the responsible operator immediately before expiry of the registration unless subparagraph (iii) or (iv) applies; or
- (ii) if there was no responsible operator immediately before expiry—the person in whose name the vehicle was registered under a transport Act or a corresponding transport law immediately before the expiry unless subparagraph (iii) or (iv) applies; or
- (iii) if the vehicle is bailed for more than 14 days—the bailee at the time the alleged offence happened; or
- (iv) if the vehicle is used under a hiring agreement (not being a hire purchase agreement)—the person who contracted to use the vehicle.

**“photographic detection device”** means a device of a type approved by regulation as a photographic detection device.

**“prescribed offence”** means an offence prescribed by regulation for this part that is an offence against this Act or another transport Act.

**“responsible operator”** means a person nominated as responsible operator under this Act or a person corresponding to a responsible operator under a corresponding transport law.

**“transport Act”** means an Act administered by the Minister or the *Motor Accident Insurance Act 1994*.

### **Offences detected by photographic detection device**

**114.(1)** If a prescribed offence happens and the offence is detected by a photographic detection device, a person is taken to have committed the offence if the person was the owner of the vehicle that was involved in the offence at the time the offence happened even though the actual offender may have been someone else.

**(2)** If the actual offender is someone else, subsection (1) does not affect the liability of the actual offender but the owner and the actual offender can not both be punished for the offence.

**(3)** It is a defence for a person charged with a camera-detected offence

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under subsection (1) to prove that—

- (a) the person was not the driver of the vehicle at the time the offence happened; and
- (b) the person—
  - (i) subject to subsection (5), has notified the commissioner or chief executive of the name and address of the person who drove the vehicle at the time the offence happened; or
  - (ii) did not know and could not, with reasonable diligence, have ascertained the name and address of the person who drove the vehicle at the time the offence happened.

**(4)** For subsection (3)(b)(i) and (ii), the person must notify the commissioner or chief executive about the matters specified and other relevant information in the approved form.

**(5)** The defence under subsection 3(b)(i) is not available unless notice under subsection (3)(b)(i) is given to the commissioner or chief executive by the person within 4 months of the first given of—

- (a) written notice from the commissioner or chief executive to the owner alleging a camera-detected offence; or
- (b) an infringement notice under the *Justices Act 1886*, part 4A.

**(6)** For subsection (3)(b)(ii) a person must prove that—

- (a) at the time the offence happened, the person—
  - (i) exercised reasonable control over the vehicle's use; and
  - (ii) had in place a reasonable way of finding out the name and address of the driver of the vehicle at any given time having regard to—
    - (A) the number of drivers; and
    - (B) the amount and frequency of use; and
    - (C) whether the vehicle was driven for business or private use; and
- (b) after the offence happened, the person made proper search and enquiry to ascertain the name and address of the person who

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drove the vehicle at the time the offence happened.

(7) Subsection (6) does not apply if the person is able to prove that at the time the offence happened the vehicle—

- (a) was stolen or illegally taken; or
- (b) had already been sold or otherwise disposed of.

(8) A person who falsely nominates another person under subsection (3)(b)(i) as the driver of the vehicle at the time the offence happened, commits an offence.

Maximum penalty—40 penalty units.

(9) A notification purporting to have been given for a body corporate by a director, manager or secretary of the body corporate is to be taken to have been given by the body corporate.

### **Limitation of prosecution period extended in particular circumstances**

**115.(1)** Subsection (2) applies if a conviction or an enforcement order against a person for a camera-detected offence is set aside because the person can not be proved to be the driver of the vehicle at the time the prescribed offence happened.

(2) If a conviction or an enforcement order is set aside, despite any other Act, proceedings for a camera-detected offence may be started against another person within 3 months of the setting aside of the conviction or enforcement order.

(3) For this section, a conviction without recording the conviction, is taken to be a conviction.

### **Notice accompanying summons**

**116.(1)** A notice, complaint or summons served on a person for a camera-detected offence must be accompanied by written information about—

- (a) if the person has been nominated under section 114(3)(b)(i) as the person who drove the vehicle at the time the offence happened—the particulars of the nomination; and

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- (b) the provisions of section 114; and
- (c) the right to examine and challenge an image from a photographic detection device under section 118.

(2) A statement in a deposition made for the *Justices Act 1886*, section 56(3)(b) that the notice was served as required by subsection (1) is evidence of that fact.

(3) The *Justices Act 1886*, section 56(5) applies to the deposition.

### **Use of penalties collected for camera detected offences**

**117.(1)** All money collected for penalties imposed for camera detected offences in excess of the administrative costs of collection must be used for the following purposes—

- (a) road safety education and awareness programs;
- (b) road accident injury rehabilitation programs;
- (c) road funding to improve the safety of the sections of State-controlled roads where accidents most frequently happen.

(2) In this section “**State-controlled road**” means a road or route or part of a road or route declared to be a State-controlled road under the *Transport Infrastructure Act 1994*.

### **Photographic evidence—inspection and challenges**

**118.(1)** This section applies to a person who has been charged with a camera-detected offence and wants to examine a copy of the image from a photographic detection device on which the offence is based.

(2) The person must ask the commissioner, at least 21 days before the charge is heard, to make a copy of the image from a photographic detection device available for examination.

(3) The commissioner must make reasonable arrangements to allow the examination at least 14 days before the charge is heard.

(4) If the person intends to challenge the image from a photographic

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detection device at a hearing, the person must give the commissioner written notice of the intention at least 7 days before the day fixed for the hearing.

### **Notice of dispute about traffic control device or sign**

**119.** If a person intends to dispute that a traffic control device or sign was functioning without defect or was visible, the person must give the commissioner written notice of the intention, specifying the device or sign, at least 7 days before the day fixed for the hearing.

### **Evidentiary provisions**

**120.(1)** This section applies to a proceeding for a camera-detected offence.

**(2)** An image produced by the prosecution purporting to be certified by the commissioner stating that the image was properly taken by a photographic detection device at a specified location and time is evidence of the following matters—

- (a) the image was taken at the specified location and time;
- (b) the accuracy of the image;
- (c) the things depicted in the image;
- (d) any requirements prescribed by a regulation about the operation and testing of a photographic detection device were complied with for the specified device at all material times.

**(3)** If an image produced under subsection (2) is one in a series of images also produced under subsection (2)—

- (a) the image may be numbered; and
- (b) the time it was taken may be identified by reference to another image in the series.

**(4)** A marking or writing made by a photographic detection device on an image is taken to have the meaning prescribed under a regulation and is evidence of what it is taken to mean.

**(5)** In a proceeding for a camera-detected offence a document purporting

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to be issued or signed by the chief executive of an entity responsible for the registration of motor vehicles under a law of this or another State stating that at a specified time or during a specified period a person was the owner of a vehicle is evidence of those matters.

(6) 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.

### **Application of the Justices Act, pt 4A**

**121.(1)** The *Justices Act 1886*, part 4A, applies to camera-detected offences subject to this part.

(2) If there is any inconsistency between the *Justices Act 1886*, part 4A and this part, the provisions of this part prevail.

(3) Without limiting subsection (1) or (2), for the *Justices Act 1886*, part 4A—

- (a) **“owner”** means the owner as defined in this part; and
- (b) a reference to **“person in charge”** or **“user”** is, if the context permits, taken to be a reference to the driver of the vehicle; and
- (c) a reference to **“illegal user declaration”**, **“known user declaration”**, **“sold vehicle declaration”** or **“unknown user declaration”** or declaration generally is taken to be a reference to the appropriate approved form for section 114; and
- (d) the *Justices Act 1886* sections 98G(2), 98H(5), 98I(5) and 98J(2) are subject to section 114 and in particular section 114(6) applies instead of the *Justices Act 1886*, section 98J(2)(b).

## **PART 8—PROCEEDINGS AND EVIDENCE**

### **Records**

**123.(1)** A responsible person who issues an instrument under this Act

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must keep a record of the particulars of the instrument at—

- (a) if the instrument is issued by the chief executive—an office of the department decided by the chief executive; or
- (b) otherwise—an office of the Queensland Police Service decided by the commissioner.

(2) However, a record of particulars of a person’s Queensland driver licence must—

- (a) be kept at an office of the department decided by the chief executive; and
- (b) include the person’s traffic history.

(3) The person who has custody of the record is—

- (a) for a record mentioned in subsection (1)—the person in charge of the office where the record is kept; or
- (b) for a record mentioned in subsection (2)—the chief executive.

(4) An extract from or copy of any entry of any particulars of the record that is, or purports to be, certified by the person who has custody of the record as being an extract from or copy of the record, is for a court and all other purposes, evidence of the particulars contained in the record, without requiring the production of the record.

(5) In this section—

**“instrument”** means an appointment, approval, authorisation, cancellation, demand, determination, direction, licence, notification, order, suspension or surrender.

**“issues”** includes gives or makes.

**“responsible person”** means—

- (a) the chief executive; or
- (b) the commissioner; or
- (c) a superintendent.



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### **Facilitation of proof**

**124.(1)** In any proceeding under or for the purpose of this Act—

- (a) it shall not be necessary to prove the appointment of the chief executive, the commissioner, a superintendent or of a police officer;
- (b) a signature purporting to be that of the chief executive, the commissioner, a superintendent or the person having the custody of the particulars of Queensland driver licences shall be taken to be the signature it purports to be until the contrary is proved;
- (c) it shall not be necessary to prove the limits of any district or part of a district, or that any road or place is within a district or part thereof, or the authority of the chief executive, the commissioner, superintendent, or a police officer to do any act or take any proceedings, but this shall not prejudice the right of any defendant to prove the limits of the district or part of the district or the extent of such authority;
- (e) proof that a person applied for or obtained a licence for a vehicle shall be evidence that such person was the owner of such vehicle and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such ownership;
- (f) a document purporting to be a copy of a licence and certified as a true copy by the person having custody of the record relating to the licence is evidence of the licence; or
- (fa) particulars of a conviction, disqualification, suspension or cancellation stated on a licence, or on a document purporting to be a copy of a licence certified in the way stated in paragraph (f), is evidence that—
  - (i) the holder of the licence, or the holder of the licence of which the document purports to be a copy, was convicted or disqualified; or
  - (ii) the licence was suspended or cancelled; or
- (g) a document purporting to be signed by the chief executive, the commissioner or a superintendent and stating that at any specified time there was or was not in force a licence under this Act as

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described therein issued to a specified person, or in respect of a specified vehicle, or for a specified purpose (or a document purporting to be signed by the officer ordinarily having the custody of the particulars of Queensland driver licences and stating that at any specified time there was or was not in force a Queensland driver licence under this Act issued to a specified person), or, in the case of either document as aforesaid, stating that any such licence was or was not issued subject to terms, conditions, or restrictions, or was or was not issued subject to the terms, conditions, and restrictions set out in that document shall, upon its production in evidence, be evidence of the matter or matters in that document, and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;

- (ga) a certificate purporting to be signed by the chief executive stating a person's traffic history at a stated date is evidence of the matters stated in it; or
- (j) against the owner of a vehicle, tram, or animal for permitting or allowing such vehicle, tram, or animal to be used or driven by a person not authorised under this Act by an appropriate driver licence or otherwise to use or drive that vehicle, tram, or animal, proof that such person used or drove that vehicle, tram, or animal shall be evidence that the owner of such vehicle, tram, or animal permitted or allowed such use or driving, and in the absence of evidence in rebuttal thereof shall be conclusive evidence that the owner of such vehicle, tram, or animal permitted or allowed such use or driving;
- (k) any certificate purporting to be signed by the chief executive, the commissioner, a superintendent, chief executive officer of a local government or a clerk of the court or other person having custody of records relating to payments of moneys payable under this Act of the receipt or non-receipt of any notice, application, or payment or of any other thing required by this Act to be given or made shall, upon its production in evidence, be evidence of the matter or matters certified to therein, and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matter or matters;

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- (l) any certificate purporting to be signed by the chief executive or the chief executive's delegate as to any inspection made by any inspector appointed under this Act of any vehicle, whether such inspection was carried out at the direction of any police officer or not, shall, upon its production (and provided that a copy thereof has been made available a reasonable time before the hearing of the proceedings to any party, if requested), be evidence of the matter or matters stated therein and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matter or matters, appointment, or authority, and the appointment of the chief executive or the authority of the delegate giving the certificate to give it and the appointment of the inspector who made such inspection shall be presumed until the contrary is proved;
- (n) any certificate or document—
- (i) purporting to be issued under regulations about motor vehicle registrations made under this Act or a law of another State or a Territory corresponding to the regulations (a **“corresponding law”**); or
  - (ii) purporting to be signed by the chief executive, an entity responsible for registering motor vehicles under a corresponding law, or a person authorised by the chief executive or entity;
- which states that on any date or during any period the motor vehicle specified in the certificate or document was registered in the name of the person specified therein shall be received in evidence, and shall be evidence that the person specified in the certificate or document was the owner of the motor vehicle specified therein at the time or during the period specified therein, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such ownership;
- (na) any certificate or document referred to in paragraph (n) shall be presumed to have been duly issued or given until the contrary is proved;
- (o) a certificate purporting to be signed by the chief executive, the

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commissioner or a superintendent stating that the records of the chief executive, commissioner or superintendent, as the case may be, show that any person was the licensee of any vehicle licensed under this Act at any time shall be received in evidence and shall be evidence that such person was such licensee at such time, and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence that such person was such licensee at that time;

- (oa) a document purporting to be signed by the commissioner or chief executive stating that the document is a true copy of a plan of installation of a photographic detection device at a place, showing any features of the installation, road infrastructure, road boundaries or road markings is evidence of the things shown in the document;
- (p) a certificate purporting to be signed by the chief executive, the commissioner or a superintendent certifying that any stop watch, other watch, or speedometer specified therein had been tested and found correct at a time and on a date specified therein shall be prima facie evidence that that stop watch, other watch, or speedometer was correct at that time and thereafter for the balance of the day of that date and on each of the 60 days following that date;
- (pa) a certificate purporting to be signed by the commissioner stating a specified radar speed detection device has been—
  - (i) tested in accordance with Australian Standard 2898.1 (as in force at a specified time); and
  - (ii) found to produce accurate results at the specified time;is evidence the device was producing accurate results at the time of testing and for 1 year after the time;
- (pb) a certificate purporting to be signed by a police officer stating a specified radar speed detection device was used by the officer—
  - (i) at a specified time; and
  - (ii) in accordance with Australian Standard 2898.2 (as in force at the time);is evidence of the matters specified;

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- (pc) a certificate purporting to be signed by the commissioner stating a specified vehicle speedometer accuracy indicator (commonly known as a chassis dynamometer) has been—
- (i) tested; and
  - (ii) found to produce accurate results at the specified time;  
is evidence the indicator was producing accurate results at the time of testing and for 60 days after the time;
- (pd) a certificate purporting to be signed by the commissioner, chief executive or a superintendent certifying that a laser speed detection device has been—
- (i) tested at a specified time—
    - (A) in accordance with the appropriate Australian Standard that is in force at the time; or
    - (B) if there is no appropriate standard—in accordance with the manufacturer’s specifications; and
  - (ii) found to produce accurate results at the specified time;  
is evidence of the matters stated and evidence the device was producing accurate results at the time of testing and for 1 year after the time;
- (pe) a certificate purporting to be signed by a police officer stating that a specified laser speed detection device was used by the officer—
- (i) at a specified time; and
  - (ii) in accordance with—
    - (A) the appropriate Australian Standard that is in force at the time; or
    - (B) if there is no appropriate standard—the manufacturer’s specifications;  
is evidence of the matter stated;
- (pf) a certificate purporting to be signed by the commissioner, chief executive or a superintendent certifying that a photographic detection device has been—

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- (i) tested at a specified time in accordance with paragraph (pa) or (pd); and
- (ii) found to produce accurate results at the specified time;  
is evidence of the matters stated and evidence the photographic detection device was producing accurate results at the time of testing and for 1 year after the time;
- (q) the burden of proof that any person, vehicle, tram, train, vessel, or animal was at any time exempt from any provision of this Act or that any such provision was not at any time applicable to any person, vehicle, tram, train, vessel, or animal shall be on the defendant;
- (r) the allegation or averment in any complaint that—
  - (i) any person is or is not or was or was not at any time or date mentioned in the complaint—
    - (A) the owner of any vehicle, tram, train, vessel, or animal;  
or
    - (B) the holder of a licence or any particular class or description of licence; or
    - (C) of, or under, or over a specified age; or
    - (D) the holder of a driver licence authorising the holder to drive a motor vehicle on the road therein specified; or
  - (ii) any thing is or was a vehicle, tram, train, vessel, or animal or of a particular class or description thereof; or
  - (iii) any place or thing is or was a road or a part of a road or an off-street regulated parking area or a part of such an area; or
  - (iv) any way is or was a tramway or railway; or
  - (v) any distance referred to therein is or was a specified distance or is or was greater or less than a specified distance; or
  - (vi) any indication or prescribed indication is or was given by an official traffic sign;

shall be evidence of the matter or matters so averred or alleged, and in the absence of evidence in rebuttal thereof shall be

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conclusive evidence of such matter or matters;

- (s) the allegation or averment in any complaint that any sign, signal, light, marking, or other device—
  - (i) is or is not, or was or was not, an official traffic sign; or
  - (ii) is or is not, or was or was not, lawfully constructed, made, marked, placed, erected, affixed, or painted in, into, or on or near any specified road or off-street regulated parking area, or that such sign, signal, light, marking, or other device is or is not, or was or was not, for any purpose specified in the complaint; or
  - (iii) does or does not contain, or has or has not contained, any specified work, figure, warning, direction, indication, or symbol;

shall be evidence of the matter or matters so alleged or averred and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;

- (t) any person who appears, acts, or behaves as the driver, rider, or person having the possession, custody, care, or management of any vehicle, tram, train, vessel, or animal, or who uses or drives, or attempts to use or drive the same shall be presumed to be the person in charge thereof whether the person is or is not the real person in charge, and it is immaterial that by reason of circumstances not known to such person it is impossible to drive or otherwise use the same;
- (ta) evidence that a number plate showing a particular registration number was attached to a motor vehicle at a particular time is evidence that the motor vehicle is the motor vehicle noted in the register of vehicles as then having that registration number;
- (tb) a certificate purporting to be signed by the commissioner, chief executive or a superintendent certifying that a breath analysing instrument has been—
  - (i) tested at a specified time—
    - (A) in accordance with the appropriate Australian Standard that is in force at the time using devices or substances

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certified or otherwise authenticated under the *National Measurements Act 1960* (Cwlth); or

(B) if there is no appropriate standard—in accordance with the manufacturer’s specifications using devices or substances certified or otherwise authenticated under the *National Measurements Act 1960* (Cwlth); and

(ii) found to produce accurate results at the specified time;

is evidence of the matters stated and evidence the breath analysing instrument was producing accurate results at the time of testing and for 1 year after the time;

(u) evidence of the condition of a breath analysing instrument, as defined in section 80, or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced;

(v) evidence of the condition of a parking meter or parkatarea is not required unless evidence that the parking meter or parkatarea was not in proper condition has been given.

**(2)** Subsection (1)(r) and (s) shall apply to any matter alleged or averred thereunder although—

(a) evidence in support of such matter or of any other matter is given; or

(b) any matter so alleged or averred is a mixed question of law and fact, but in that case the allegation or averment shall be evidence of the fact only.

**(3)** This section shall not lessen or affect any onus of proof otherwise falling on the defendant.

**(4)** A defendant who intends to challenge—

(a) the accuracy of a radar speed detection device or vehicle speedometer accuracy indicator; or

(b) the time at, or way in, which the radar speed detection device was used;

at the hearing and determination of a charge against the defendant under this



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Act must give written notice of the challenge to the prosecution.

(5) The notice must be—

- (a) signed by the defendant; and
- (b) given at least 14 days before the day fixed for the hearing.

### **When offences not to be dealt with summarily**

**125.** Where a person is charged with an act or omission which is both an offence under this Act and an indictable offence, the justices shall abstain from dealing with the case summarily if they are of opinion that the charge is a fit subject for prosecution by indictment and thereupon shall commit the alleged offender for trial.

## **PART 9—GENERAL**

### **Fraud and unlawful possession of licences**

**126.(1)** A person shall not—

- (d) without lawful excuse (the proof of which shall be upon the person) have in the person's possession—
  - (i) any licence; or
  - (ii) any article resembling a licence and calculated to deceive; or
  - (iii) any document which was formerly a licence, but which is void, cancelled, suspended, or surrendered; or
- (e) forge, or without lawful excuse (the proof of which shall be upon the person) use, lend, or permit or allow to be used by any other person any licence; or
- (f) unless the person is authorised by or under this Act or is a person acting under the direction of the chief executive or the commissioner or a judge of the Supreme Court or District Court or justices, make or cause or permit or allow to be made any

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endorsement or any addition or alteration or erasure whatsoever on or from a licence.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) Any licence obtained by any false statement or misrepresentation shall be null and void.

### **Effect of disqualification**

**127.(1)** Where under this or any other Act a judge of the Supreme Court or District Court or justices orders or order that any person shall be disqualified absolutely from holding or obtaining a licence of any kind, class or description (other than a Queensland driver licence), each subsisting such licence held by that person shall, by virtue of such order, be and be deemed to be cancelled on and from the date upon which that person became so disqualified.

(2) Where under this or any other Act a judge of the Supreme Court or District Court or justices orders or order that any person shall be disqualified for a specified period from holding or obtaining a licence of any kind, class or description (other than a Queensland driver licence), each subsisting such licence held by that person shall by virtue of the order, where such licence—

- (a) would expire during the period of disqualification so ordered, be and be deemed to be cancelled on and from the date upon which that person became so disqualified; or
- (b) would not expire during the period of disqualification so ordered, be and be deemed to be suspended on and from the date upon which that person became so disqualified and thereafter until the expiration of the period of disqualification specified in the order.

**(2A)** Where under this or any other Act a judge of the Supreme Court or District Court or justices orders or order that any person shall be disqualified absolutely or for a specified period from holding or obtaining a Queensland driver licence, each subsisting Queensland driver licence held by that person shall, by virtue of such order, be and be deemed to be cancelled on and from the date upon which that person became so disqualified.

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(3) Where under any provision of this Act a conviction for an offence disqualifies any person from holding or obtaining a Queensland driver licence for any period therein specified and no order of disqualification has been made upon such conviction, each and every subsisting Queensland driver licence held by that person shall, by virtue of such conviction, be and be deemed to be cancelled on and from the date of such conviction.

(4) Suspension under this Act of any licence—

- (a) shall, whilst such licence is so suspended, have the same effect as the cancellation of the licence; and
- (b) shall, whilst such licence is so suspended, disqualify the person who held that licence from holding or obtaining a licence of the same kind, class, or description; and
- (c) (if the period of such suspension is less than the period during which that licence ordinarily would have remained in force) shall not, upon the termination of that suspension, extend the period during which that licence thereafter remains in force beyond the period during which that licence would have remained in force if it had not been so suspended.

(5) Any cancellation or suspension of a Queensland driver licence shall apply and extend to such licence and to every other Queensland driver licence authorising the person in question to drive any vehicle.

(6) A person shall not apply for or obtain a Queensland driver licence or licence of any other kind, class, or description at a time when the person is disqualified—

- (a) by this Act; or
- (b) by an order made under this or any other Act (including any Act of a State or Territory or any other country);

from holding or obtaining a driver licence or, as the case may be, licence of that other kind, class, or description.

(7) The provisions of subsection (6) do not apply to a person who in accordance with this Act applies for or obtains a restricted licence pursuant to an order made under section 87.

(8) A person who applies for or obtains a licence in contravention of

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subsection (6) shall be guilty of an offence.

Maximum penalty—

- (a) for a Queensland driver licence—20 penalty units or 18 months imprisonment; or
- (b) for another licence—40 penalty units.

**(10)** In determining the punishment to be imposed on a person who is guilty of an offence under subsection (8) where the licence applied for or obtained in contravention hereof is a Queensland driver licence, the justices shall have regard to—

- (a) the whole of the circumstances of the case, including circumstances of aggravation or mitigation; and
- (b) the interest of the public; and
- (c) the criminal and traffic history of the offender; and
- (d) all matters before them in relation to the medical history of the offender or the offender's physical or mental capacity that are considered by them to be relevant in the circumstances; and
- (e) such other matters that are considered by them to be relevant in the circumstances.

**(11)** Notwithstanding that, at the time of the commission of an offence under subsection (8) where the licence applied for or obtained in contravention hereof is a Queensland driver licence, the person who committed the offence is disqualified by this Act or by an order made under this or any other Act from holding or obtaining a Queensland driver licence, the justices before whom the person is convicted of the offence, in addition to any punishment they may impose upon the person on conviction, shall order that the person shall, on and from the date of the conviction, be disqualified absolutely from holding or obtaining a Queensland driver licence, and the person shall thereupon be so disqualified under and in accordance with that order.

**(12)** Any Queensland driver licence or licence of any other kind, class, or description, obtained by any person or issued to the person at any time when the person is disqualified—

- (a) by this Act; or

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- (b) by an order made under this or any other Act (including any Act of a State or Territory or any other country);

from holding or obtaining a driver licence or, as the case may be, licence of that other kind, class, or description shall be absolutely void and of no legal effect whatsoever.

(13) The provisions of subsection (12) do not apply to a restricted licence obtained by any person or issued to the person pursuant to an order made under section 87.

(14) Subsection (12) shall be read so as not to affect the liability (if any) of that person to punishment under any other provision of this Act or under any other Act in respect of anything done or omitted to be done by the person in relation to the obtaining of the licence in question.

### **Effect of disqualification on subsequent issue of Queensland driver licence**

128. Where the Queensland driver licence of a person is cancelled or deemed to be cancelled in accordance with the provisions of section 127 and that person subsequently makes application for a Queensland driver licence (other than a learner licence or a restricted licence applied for pursuant to an order made under section 87), the superintendent may cause the person to be tested as prescribed and issue a probationary licence to the person.

### **Effect of cancellation pursuant to regulations**

129.(1) Where pursuant to the regulations a Queensland driver licence is cancelled and the regulations require that the person who held the Queensland driver licence shall not be issued with another Queensland driver licence unless the person has obtained permission from the chief executive or commissioner to apply for a Queensland driver licence, then, until that permission is given and the time arrived at which the application may be made, the cancellation of that Queensland driver licence shall disqualify the person from holding or obtaining a Queensland driver licence of the same class or description as that which was cancelled.

(2) Subsection (1) shall not apply to disqualify a person from holding or obtaining a Queensland driver licence where the licence is cancelled at the

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request of the person who held the licence.

(3) In any proceedings the onus of proving that a Queensland driver licence was cancelled at the request of the person who held the licence shall be upon the person relying on that fact.

**Delivery of cancelled or suspended licences, or licences for endorsement**

**130.(1)** Where any licence is or is deemed to be cancelled or suspended or is surrendered or is required for the purpose of making an endorsement thereon under this Act the licensee shall forthwith deliver that licence—

- (a) if any person is appointed by the regulations to whom a licence of that kind, class, or description is to be delivered upon its cancellation, suspension, or surrender, or for its endorsement—to that person; or
- (b) where any person has not been so appointed by the regulations and—
  - (i) where such licence is cancelled or suspended consequent on a conviction on indictment, or by or consequent on an order made by a judge of the Supreme Court or District Court—to the registrar of the Supreme Court, Circuit Court, or District Court which recorded the conviction or made the order; or
  - (ii) where such licence is cancelled or suspended consequent on a conviction, or by or consequent on an order, by justices—to the clerk of the court which recorded the conviction or made the order; or
  - (iii) in any other case—to the chief executive or the superintendent who is the officer in charge of the police station in the police division in which the address of the licensee, as indicated on the licence in question, is situated.

(2) Any person who fails to deliver any licence as required by subsection (1) shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2A) If such default in delivering any licence is continued by any person

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who has been convicted of the offence of failing to deliver that licence as required by subsection (1), then that person shall be deemed to commit a continuing offence and shall be liable to a penalty of 1 penalty unit for each and every day during which such offence is so continued.

**(2B)** However, the continuing offence in respect of the non-delivery of such licence shall not be deemed to commence until the expiration of 14 days from the date of conviction as aforementioned.

**(3)** The person to whom any licence is delivered pursuant to the provisions of this section shall make an endorsement containing such particulars relating to its cancellation, suspension, or surrender, or the other purpose for which the endorsement is required to be made thereon, as may be prescribed and shall transmit such licence to the commissioner unless, in the case of a licence continuing in force, the commissioner is authorised by the regulations to return such licence to the licensee.

**(4)** Subject to this Act, where any licence is deemed to be cancelled under this Act by reason of the disqualification of any person from holding or obtaining a licence or the suspension of a licence, the commissioner shall keep the licence so deemed to be cancelled until such disqualification has expired or been removed or, as the case may be, such suspension has terminated, and the person entitled to the licence has made a demand in writing for its return to the person.

**(5)** Where any person (whether the person is at the time the holder of a licence or not) has been disqualified—

- (a) by this Act; or
- (b) by an order made under this or any other Act;

from holding or obtaining any licence (other than a Queensland driver licence), every licence of that kind, class, or description which the person may then hold or may subsequently obtain shall be endorsed with such particulars relating to the person's disqualification as may be prescribed.

**(6)** On the issue of a new licence (other than a Queensland driver licence) to any person, the prescribed particulars endorsed or required to be endorsed on any previous licence of that kind, class, or description held by the person shall be copied or made on to the new licence unless the person has previously become entitled under the provisions of this Act to have that new licence issued to the person free from such endorsements.

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(7) Any person who, having failed to deliver in accordance with this Act for endorsement the person's licence required hereby to be delivered for the purpose of making an endorsement thereon hereunder and not previously becoming entitled under the provisions of this Act to have a licence issued to the person free from such endorsement, applies for or obtains a new licence of the same kind, class, or description as that which was required to be endorsed without giving sufficient particulars to enable any and every required endorsement to be made on the new licence shall be guilty of an offence.

Maximum penalty for subsection (7)—40 penalty units or 6 months imprisonment.

**Appeals with respect to issue of licences etc.**

**131.(1)** Any person aggrieved by the refusal of the chief executive or commissioner or of a superintendent to issue or renew a licence, or by the suspension or cancellation of a licence by the chief executive or commissioner, or by the imposition of a condition in respect of a licence by or by direction of the chief executive or commissioner or a superintendent may appeal against such refusal, suspension, cancellation or imposition to the court.

(1A) Notwithstanding the provisions of the *Justices Act 1886*, the decision upon the appeal of the court shall be final and binding and without appeal.

(1B) Except where the reason, or 1 of the reasons, for the chief executive or commissioner suspending or cancelling the appellant's licence is the mental or physical disability of the appellant, upon and by virtue of the commencement of the appeal the cancellation or suspension in question shall be suspended pending the determination of the appeal but, subject to the decision of the court upon the appeal, that cancellation or suspension shall take effect from the date of the determination of the appeal for that portion of the period for which it was made which had not expired when the appeal was commenced.

(1C) Subsections (1) to (1B) shall be read and construed so that an appeal hereunder shall not lie under subsection (1)—

- (a) in respect of the cancellation or suspension of a Queensland driver



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licence by reason of the disqualification from holding or obtaining that licence of the licensee upon conviction or by order of a judge of the Supreme Court or District Court or of the court; or

- (b) in respect of the cancellation or suspension of a licence by or at or pursuant to the order or direction of a judge of the Supreme Court or District Court or of the court under any provision of this Act or under any other Act or law; or
- (c) in respect of the refusal to issue or renew a licence or a suspension or cancellation of a licence or the imposition of a condition in respect of a licence if provision is made elsewhere in this Act for or in respect of such an appeal.

**(2)** A person in respect of whom an order has been made under this or any other Act that the person shall be disqualified absolutely or for a period in excess of 2 years from holding or obtaining a Queensland driver licence or licence of any other kind, class, or description may, at any time after the expiration of 2 years from the date of the order, and subject as hereinafter provided, from time to time apply to—

- (a) if the order was made by a judge of the Supreme Court or District Court—a judge of the Supreme Court or District Court; or
- (b) if the order was made by a Magistrates Court—
  - (i) if the person resides in Queensland—the Magistrates Court exercising jurisdiction at the place where the person resides; or
  - (ii) if the person resides elsewhere—the Magistrates Court, central division of the Brisbane district;

to remove the disqualification.

**(2A)** Notice of any such application shall be given to the commissioner or to any police officer authorised by the commissioner to receive such notices, who shall be entitled to appear and be heard and to give and produce evidence at the hearing of such application for or against the granting of the application.

**(2B)** The notice required by subsection (2A) to be given shall be given at least 28 clear days prior to the date of hearing of such application.

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**(2C)** Upon hearing any such application the judge of the Supreme Court or District Court or justices constituting the court may, as is thought proper, having regard to the character of the person disqualified and the person's conduct subsequent to the order, the nature of the offence, and any other circumstances of the case, either by order remove the disqualification as from such date as may be specified in the order or refuse the application.

**(2D)** Where an application under subsection (2) is refused, a further application hereunder shall not be entertained if made within 1 year after the date of the refusal.

**(2E)** If an order is made under subsection (2) for the removal of a disqualification, the judge or justices shall further order that particulars of the order for removal be endorsed on each and every licence (if any) previously held by the applicant and cancelled as a result of the disqualification, and on every licence of that kind, class, or description which the applicant may subsequently obtain (unless in the case of any licence the applicant may subsequently obtain the applicant becomes entitled under the provisions of this Act to have that licence issued to the applicant free from such endorsement), and the judge or justices shall in any case have power to order the applicant to pay the whole or any part of the costs of the application.

**(2F)** Particulars of the result of any application made under subsection (2) shall be transmitted by the registrar of the Supreme Court or District Court or the clerk of the court concerned to the commissioner.

**(3)** A person who by virtue of an order of a judge of the Supreme Court or District Court or justices made under this or any other Act is disqualified from holding or obtaining a licence may appeal against the order in the same manner as against a conviction recorded against the person by that judge or the justices and the Supreme Court or District Court in determining the appeal may, as is thought proper, having regard to the circumstances of the case, either by order remove the disqualification as from such date as may be specified in that order or dismiss the appeal.

**(3AA)** A memorandum of the determination of the appeal shall be transmitted by the registrar of the Supreme Court or, as the case may be, District Court to the commissioner.

**(3A)** Where a person has, following upon a conviction, been disqualified

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from holding or obtaining a Queensland driver licence and has commenced an appeal against that conviction, that disqualification shall, upon the commencement of that appeal, and without further order in that behalf, be suspended pending the determination of that appeal.

**(3B)** However, subject to any decision of a court upon that appeal, that portion of the period of disqualification which had not expired when such suspension began to operate shall take effect from the date of determination of that appeal.

**(4)** Where on an appeal a conviction against any person for an offence against this or any other Act is quashed, any disqualification of that person from the holding or obtaining of a licence by that conviction without any specific order of disqualification having been made by a judge of the Supreme Court or District Court or justices shall thereupon be removed without any specific order being required for that purpose and without further or other authority than this Act.

**(5)** Where under the authority of this or any other Act an order is made by a judge of the Supreme Court or District Court or justices disqualifying a person from holding or obtaining any licence such order shall be valid and effective notwithstanding that no application was made for that purpose or that the person so disqualified was not present or was not called upon to show cause against the making thereof.

### **Appeals against licence cancellation under regulations**

**132.** The regulations may provide for any appeal (including to the court or otherwise, which appeal may be stated to be final) against the cancellation of a Queensland driver licence pursuant to the regulations solely on the grounds that such cancellation would cause extreme hardship to the person or the person's family by depriving the person of the person's means of earning the person's livelihood.

### **Occupiers of garages etc. to keep register of repairs**

**133.(1)** The occupier of every garage or other premises where motor vehicles are repaired or painted for reward shall keep a register in writing, and shall enter therein in respect of every motor vehicle to which repairs are

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or painting is effected at such garage or premises—

- (a) the make, model, engine number, chassis number, registered number and colour of such motor vehicle; and
- (b) the name and address of the person leaving such motor vehicle and of the owner thereof; and
- (c) the date and time of receiving such motor vehicle at such garage or premises; and
- (d) the nature of the repairs or painting, including colour of painting carried out; and
- (e) such further particulars as may be prescribed.

(2) Such register shall be kept at the premises where such repairs are or painting is carried out for the period of 3 years after the day the work is carried out.

(3) Every such occupier who—

- (a) fails to keep such a register; or
- (c) makes or causes or permits to be made any false, incorrect, or misleading entry in such register; or
- (d) fails to make any entry required by this Act to be made in such register;

shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

(4) The occupier of a garage or other premises shall not be convicted of an offence against this section in relation to repairs effected to a motor vehicle at such garage or other premises if the court is satisfied—

- (a) that, at the time when such repairs were effected, particulars as required by subsection (1)(a) of that motor vehicle and the name and address of the owner thereof were recorded in the aforementioned register; and
- (b) that such motor vehicle was delivered at such garage or other premises for the purpose of being so repaired by, or with the authority of, the person recorded in such register as the owner thereof; and

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- (c) that such register containing particulars as specified in paragraph (a) was available for inspection at the time when the repairs in question were effected and at all times thereafter to and including the date of the hearing of the complaint for the offence.

**Alteration and defacing of numbers etc.**

**134.** Any person who—

- (a) alters, defaces, or removes any number on the engine or chassis of any motor vehicle being or purporting to be the number of such engine or chassis without the permission in writing of the commissioner; or
- (b) places on the engine or chassis of any motor vehicle any number purporting to be, or which is likely to be taken to be, the number of such engine or chassis, without previously—
- (i) delivering to the commissioner a notice in writing signed by such person and stating that the number is to be placed on such engine or chassis and containing particulars of such number and the registration number of the vehicle under this Act; and
- (ii) receiving permission in writing from the commissioner to place such number on such engine or chassis, as the case may be; or
- (c) without lawful excuse, the proof of which shall lie upon the person, has in the person's possession or under the person's control any motor vehicle upon which the engine number or chassis number has been altered, or defaced, or from which any engine number or chassis number has been removed, or upon which any number has been placed in contravention of this section;

shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

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### **Unlawfully interfering with, or detaining, vehicles etc.**

**135.(1)** A person must not, without the owners consent—

- (a) drive or otherwise use a vehicle on a road; or
- (b) wilfully interfere with—
  - (i) any mechanism or other part of, or equipment attached to, a vehicle or tram on a road or elsewhere; or
  - (ii) the harness or other equipment attached to an animal on a road; or
- (c) detain a vehicle parked or stopped on a road or elsewhere by—
  - (i) attaching an immobilising device to the vehicle; or
  - (ii) placing an immobilising device near the vehicle.

*Example of paragraph (c)(ii)—*

By locking in an upright position, a moveable steel post (commonly called a “parking sentinel”) that is secured to the ground at the entrance of a parking space where the vehicle is parked or stopped.

**Maximum penalty—**40 penalty units or 6 months imprisonment.

**(1A)** For subsection (1)(c), the owner’s consent must be given expressly.

**(2)** Subsection (1) does not apply to a police officer exercising the officer’s powers or performing the officer’s functions, or a person acting under a lawful direction of a police officer.

**(3)** Subsection (1)(c) does not apply to the sheriff or another person authorised by law to execute a warrant of execution against the vehicle.

**(4)** This section does not limit the exercise of a power over a vehicle that a person may have as the holder of a security interest in the vehicle.

**(5)** The common law remedy of distress damage feasant in relation to trespass on land by a vehicle is abolished to the extent that it is inconsistent with subsection (1)(c).

**(6)** However, subsection (5) does not limit a right a person may have to remove, or cause to be removed, from land a vehicle parked or stopped on the land.

**(7)** Subsection (6) does not apply to a person who has detained a vehicle

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in contravention of subsection (1)(c).

(8) In this section—

“**detain**” includes immobilise.

“**immobilising device**”, for a vehicle, means—

- (a) wheel clamps; or
- (b) another device that effectively detains the vehicle.

“**interfere with**” includes damage, destroy and remove.

“**owner**” of a vehicle includes a person in lawful possession of the vehicle.

“**security interest**” see the *Motor Vehicles Securities Act 1986*, section 5(1).<sup>10</sup>

### **Agreements for detaining vehicles**

**136.(1)** An agreement, whether entered into before or after 12 December 1997 is of no legal effect to the extent to which it authorises, or purports to authorise, a person to—

- (a) do an act in contravention of section 135; or
- (b) remove a vehicle detained in contravention of section 135 from any land.

(2) A party to an agreement that is of no legal effect wholly or partly because of subsection (1)—

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<sup>10</sup> The *Motor Vehicles Securities Act 1986*, section 5—

“**security interest**” means an interest in a motor vehicle by way of security for or in respect of a liability, whether present, contingent or future created or otherwise arising in or under or in connection with a bill of sale, mortgage, charge, lien, hire-purchase agreement, lease or instrument having a like effect to any of them and includes the interest of—

- (a) an owner within the meaning of the *Hire-purchase Act 1959* in respect of the liability of the hirer within the meaning of that Act;
- (b) a lessor in respect of the liability of a lessee.

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- (a) is not entitled to recover any money for providing services under the agreement from—
  - (i) the owner or occupier of the land to which the agreement relates or purports to relate; or
  - (ii) any other person; and
- (b) must repay to the person from whom it was received—
  - (i) any money received before the commencement of this section, for services that were to be provided after the commencement; and
  - (ii) any money received after the commencement of this section for the services.

**(3)** If a party does not repay money required by subsection (2)(b) to be repaid, the person entitled to be repaid may recover the money from the party as a debt.

### **Injurious matter on roads**

**137.(1)** Any person who deposits or drops or causes or suffers to be deposited or dropped on any road any matter, substance, or thing likely to cause injury, damage, or danger to any person, vehicle, tram, train, or animal, and being any wood, stone, sand, gravel, nail, tack, scrap iron, glass, wire, tin, bottle, thorn, clipping, oily or sticky substance, or other matter, substance or thing whatsoever, shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

**(1A)** However, it shall be a defence to a charge under this section if the defendant proves that the defendant had taken reasonable precautions to prevent the matter, substance or thing from being so deposited or dropped.

**(2)** Any person who deposits or drops or causes or suffers to be deposited or dropped upon any road any matter, substance or thing referred to in subsection (1) shall immediately upon becoming aware thereof remove or cause to be removed from such road all of such matter, substance or thing, and if the person fails to do so the person shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.



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**(3)** If any damage or injury (other than normal wear and tear) is caused to any road in consequence of the use or passage thereon of a vehicle, tram, or animal, or of anything carried, drawn, or propelled by a vehicle, tram, or animal, and such damage or injury is of such a nature that it may endanger any person, vehicle, tram, or animal using or being used upon such road, the driver of the vehicle, tram, or animal by the use or passage of which such damage or injury was caused or which carried, drew, or propelled the thing by the use or passage of which such damage or injury was caused shall immediately place a mark or sign on or near the place where the damage or injury has been caused of such a nature and in such a manner that it will act as a conspicuous warning of danger to any person approaching that place.

**(3A)** The driver as aforesaid shall also report the damage or injury to the superintendent who is the officer in charge of the nearest police station as soon as reasonably practicable after the causing thereof.

**(3B)** A person who fails to comply with subsection (3) or (3A) in any respect shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

**(4)** The provisions of this chapter—

(a) shall not be deemed to repeal or prejudice or otherwise affect—

(i) the provisions of any law or of any other Act or of any regulation or local law made under any other Act; or

(ii) any power under any other Act to make local laws;

with respect to the digging up or undermining of, or any other interference with, any road or part thereof, or the placing or use thereon or therein of anything which may, or would be likely to cause danger, obstruction, inconvenience, annoyance, injury, or accident;

(b) shall not be deemed to prejudice or otherwise affect the having, exercising, or performing by a local government of any power, function, authority, or duty with respect to any of the matters in this subsection specified, and any liability of the local government therefor.

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### **Scheme to facilitate children crossing streets**

**138.(1)** The chief executive may—

- (a) authorise a scheme to help children to safely cross roads; and
- (b) authorise a person to perform a function or exercise a power under the scheme.

(2) A person who applies for authority to act, or is authorised to act, as a crossing supervisor must, by written notice as required by subsection (4), give the chief executive details of the person's criminal history.

Maximum penalty—40 penalty units.

(3) A person authorised to act as a crossing supervisor who fails to give the notice does not commit an offence if, when the requirement under subsection (2) arises, the person immediately gives the chief executive written notice that the person will immediately stop acting as a crossing supervisor.

(4) The person must give the written notice—

- (a) for a charge laid or an offence of which the person is convicted before the application is made—with the application; or
- (b) for a charge laid or an offence of which the person is convicted after the application is made but before the application is decided—immediately after the charge is laid or the person is convicted; or
- (c) for a charge laid or an offence of which the person is convicted after the person is authorised to act as a crossing supervisor—immediately after the charge is laid or the person is convicted.

(5) After the chief executive has received a notice under subsection (2), the chief executive may obtain a written report about the person's criminal history from the commissioner to help the chief executive decide whether a person is an appropriate person to be, or continue to be, a crossing supervisor.

(6) The commissioner must give the chief executive a written report about the person's criminal history—

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- (a) that is in the commissioner's possession; or
- (b) to which the commissioner ordinarily has access through arrangements with the police service of the Commonwealth or another State.

(7) An authorised scheme comes into force on the day stated in the scheme.

(8) In this section—

**“criminal history”** of a person means—

- (a) a charge of a disqualifying offence laid against the person, other than a charge the proceedings for which have ended without the person being convicted; or
- (b) a disqualifying offence of which the person has been convicted.

**“crossing supervisor”** means a person who performs a function, or exercises a power, under a scheme.

**“details”** of a person's criminal history means the following details—

- (a) the date of conviction for a disqualifying offence or the date a charge of a disqualifying offence was laid;
- (b) the Act name and provision under which the disqualifying offence is created;
- (c) for a conviction of a disqualifying offence—the penalty or other order made in relation to the conviction.

**“disqualifying offence”** means—

- (a) an offence against a provision of the Criminal Code mentioned in schedule 2; or
- (b) an offence against the *Vagrants, Gaming or Other Offences Act 1931*, section 12, 12A, 13 or 14; or
- (c) an offence against the *Drugs Misuse Act 1986*, part 2; or
- (d) an offence similar to an offence mentioned in paragraph (a), (b) or (c) committed outside Queensland.

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### **Service of determinations, notices, orders, and directions of the commissioner**

**139.(1)** Every determination, notice, order, or direction made or given by the commissioner under this Act, or notice of rescission by the commissioner of any such determination, notice, order, or direction, may be published in the gazette, and upon such publication shall be judicially noticed and shall be and be deemed to be sufficiently served upon or notified to all persons affected by such determination, notice, order, or direction, or rescission thereof.

**(3)** Subsection (1) shall not apply with respect to determinations by the commissioner of any provision, term, or condition of a licence, where such provision, term, or condition is set out in that licence.

### **Service if address unknown etc.**

**140.(1)** If a determination, notice, order, direction, or document (the “**notice**”) is required or authorised to be given to a person whose place of business or address is unknown to the commissioner or chief executive, the notice may be, and is taken to be, given by publishing it twice in a newspaper with an interval of at least 1 week between the dates of publication.

**(2)** A declaration purporting to be made by the commissioner or chief executive that the place of business or address of a person is unknown is evidence of the matter.

**(3)** The publication of a determination, notice, order, direction, or document may be proved by the production of a copy of the gazette or newspaper containing it.

**(4)** This section does not limit section 139.

### **Instruments not affected by error**

**141.** An omission, misnomer or inaccurate description in a determination, notice, order or direction (the “**instrument**”) made or given by the commissioner, the chief executive or a superintendent does not affect the instrument if the instrument’s true intent can be understood.

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### **Health professional's disclosure not breach of confidence**

**142.(1)** A health professional is not liable, civilly or under an administrative process, for giving information in good faith to the chief executive about a person's medical fitness to hold, or to continue to hold, a Queensland driver licence.

**(2)** Without limiting subsection (1)—

- (a) in a civil proceeding for defamation, the health professional has a defence of absolute privilege for publishing the information; and
- (b) if the health professional would otherwise be required to maintain confidentiality about the information under an Act, oath, rule of law or practice—
  - (i) the health professional does not contravene the Act, oath, rule of law or practice by disclosing the information; and
  - (ii) is not liable to disciplinary action for disclosing the information.

**(3)** In this section—

**“health professional”** means—

- (a) a doctor; or
- (b) an occupational therapist registered under the *Occupational Therapist Act 1979* or a corresponding law to that Act; or
- (c) an optometrist registered under the *Optometrists Act 1974* or a corresponding law to that Act; or
- (d) a physiotherapist registered under the *Physiotherapists Act 1964* or a corresponding law to that Act.

**“information”** includes a document.

### **Confidentiality**

**143.(1)** A person must not disclose, record or use information that the person gained—

- (a) through involvement in the administration of this Act; or

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(b) because of an opportunity provided by the involvement.

Maximum penalty—200 penalty units.

(2) However, a person may disclose, record or use the information—

- (a) in the discharge of a function under this Act; or
- (b) if it is authorised—
  - (i) under another Act or a regulation; or
  - (ii) by the person to whom the information relates; or
- (c) to a court or tribunal in a proceeding in which the information is relevant.

(3) In this section—

“**disclose**” information means—

- (a) intentionally or recklessly disclose the information; or
- (b) allow access to the information.

**Act does not apply to police officer in course of duty**

**144.** Provisions of this Act about offences (other than section 79 and 80) do not apply to a police officer while exercising a power, or performing a function, under this or another Act.

## PART 10—FEES AND REGULATIONS

**Fees for road use**

**145.(1)** Fees for road use (other than registration fees) must take into account, but must not be more than, the costs of the road use to other road users and the community and the administrative costs involved.

Examples of costs of road use to other road users and the community—

1. Accelerated road wear
2. Costs of ensuring safety

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3. Congestion
4. Noise
5. Pollution.

(2) A regulation may prescribe a way of calculating or deciding the costs of road use.

### **Regulating vehicle operations and road rules**

**146.(1)** A regulation may prescribe rules about the operation of vehicles and use of the road network, including, for example, rules about—

- (a) driver behaviour; and
- (b) loading, unloading and securing loads; and
- (c) keeping and producing records; and
- (d) vehicle mass and dimension; and
- (e) defective vehicles and ways of managing them; and
- (f) the environmental impact of vehicle use; and
- (g) the use of the road network by vehicles, trains, trams, persons and animals; and
- (ga) traffic density, routes and load restrictions for vehicles with a GVM of more than 4.5 t; and
- (h) removing vehicles from the road network if they pose a risk to safety or impede the use of the road network; and
- (i) the recovery of removed vehicles by their owners or registered operators, and fees for removing and storing the vehicles.

(2) Also, a regulation may provide for the following—

- (a) for a motor vehicle with a GVM of more than 4.5 t—
  - (i) prohibiting the vehicle's registration in circumstances stated in the regulation; or
  - (ii) prohibiting the transfer, or cancellation, of the vehicle's

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registration in circumstances stated in the regulation; or

(iii) prohibiting a person from driving the vehicle in Queensland if the person irresponsibly uses the vehicle;

(b) prohibiting a visiting heavy vehicle from being driven in Queensland if a person irresponsibly uses the vehicle.

(3) A regulation may prescribe what is an irresponsible use of a motor vehicle.

(4) In this section—

**“visiting heavy vehicle”** means a motor vehicle with a GVM of more than 4.5 t that is registered in the Commonwealth, another State or a foreign country under a corresponding law to this Act.

### **Regulating vehicles etc. in public places**

**147.(1)** A regulation may—

(a) prescribe rules about the operation of vehicles and their use in a public place, including, for example, rules about—

(i) driver behaviour; and

(ii) loading, unloading and securing loads; and

(iii) keeping and producing records; and

(iv) vehicle mass and dimension; and

(v) defective vehicles and ways of managing them; and

(vi) the environmental impact of vehicle use; and

(vii) rules for using public places for vehicles, drivers, cyclists, pedestrians and animals; and

(viii) removing vehicles from a public place if they pose a risk to safety or impede the use of the public place; and

(ix) the recovery of removed vehicles by their owners or registered operators, and fees for removing and storing the vehicles; and

(b) prescribe vehicle standards with which vehicles must comply to



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- use a public place; and
  - (c) prescribe ways of identifying vehicles; and
  - (d) require the keeping of a register of the vehicles identified in those ways; and
  - (e) provide for the circumstances in which details of the register's contents can be given to someone.
- (2) To remove doubt, it is declared that a combined register may be kept for section 77 and this section.
- (3) A regulation may authorise a local government to—
- (a) declare, by gazette notice—
    - (i) a place not to be a public place; or
    - (ii) reasonable conditions, consistent with the objectives of this Act, for using a vehicle in a public place; or
  - (b) by a local law, consistent with the objectives of this Act, regulate (including by permit) access of vehicles that must be registered under this Act, to a public place in its area.

### **Regulating vehicle standards**

**148.** A regulation may prescribe—

- (a) vehicle standards with which vehicles must comply to use the road network; and
- (b) rules about—
  - (i) requiring vehicles to be inspected and inspection certificates to be obtained, at stated times or in stated circumstances, to ensure the vehicles comply with the standards; and
  - (ii) issuing inspection certificates, defect notices and other documents for vehicles inspected; and
  - (iii) approving premises (including mobile premises) as inspection stations for vehicles.

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*Example of paragraph (b)(i)—*

A requirement that—

- (a) a heavy vehicle be inspected at a regular interval; or
- (b) a vehicle be inspected and an inspection certificate issued for it before the vehicle is sold or the the registration is transferred.

### **Regulating identification of vehicles**

**149.** A regulation may—

- (a) prescribe ways of identifying vehicles; and
- (b) require the keeping of a register of the vehicles identified in those ways; and
- (c) provide for the circumstances in which details of the register's contents can be given to someone.

### **Regulating driver management**

**150.(1)** A regulation may prescribe rules about the management of drivers, including, for example—

- (a) standards about driver skills and knowledge; and
- (aa) the training of drivers; and
- (ab) the approval of driver trainers and driver trainer competency assessors; and
- (b) the testing and licensing of drivers; and
- (c) rules about licences, including, in particular, the circumstances in which, and the reasons for which, they can be cancelled or suspended or conditions imposed on them; and
- (d) requiring the keeping of a register of licences; and
- (e) providing for the circumstances in which details of the register's contents can be given to someone; and
- (f) the granting of exemptions from conditions of licences; and
- (g) requiring that—

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- (i) drivers of heavy vehicles take rest periods and be in a fit state of health and wellbeing to drive heavy vehicles safely; and
- (ii) employers, consignors and other persons ensure that the drivers comply with a regulation under this paragraph.

(2) A regulation may prescribe the maximum fees payable for approved courses for pre-licence motorbike driver training.

(3) In this section—

“**approval**” includes accreditation.

## **CHAPTER 5A—TRANSPORTING DANGEROUS GOODS**

### **Application of part**

**151.(1)** This part—

- (a) applies only in relation to the transport of dangerous goods by road; and
- (b) is in addition to and does not limit any other provision of this Act or any other Act.

(2) However, this part does not apply to—

- (a) the transport of radioactive substances under the *Radiation Safety Act 1999*; or
- (b) the transport of explosives under the *Explosives Act 1952*; or
- (c) the transfer, under the *Gas Act 1965*, of gas (within the meaning of that Act) to or from a road tank vehicle or bulk container; or
- (d) the transport by vehicle of packages of liquefied petroleum gas if the total capacity of the packages is not more than 1 000 L and—
  - (i) no other dangerous goods are being transported by the vehicle at the same time; or

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- (ii) the packages are being transported by—
  - (A) a primary producer, or a person employed by a primary producer, for use by the primary producer; or
  - (B) a tradesperson, or a person employed by a tradesperson, for use by the tradesperson.

### **Regulations about dangerous goods**

**152.(1)** A regulation may prescribe rules about the transport of dangerous goods, including for example, rules about the following—

- (a) types and categories of dangerous goods and ways of deciding types and categories of dangerous goods;
- (b) deciding which goods are—
  - (i) dangerous; or
  - (ii) are dangerous goods of a particular type; or
  - (iii) are too dangerous to be transported; or
  - (iv) are too dangerous to be transported in bulk;
- (c) the analysis and testing of dangerous goods;
- (d) goods too dangerous to be transported or too dangerous to be transported in bulk;
- (e) the marking of packages and unit loads containing dangerous goods for transport by road and the placarding of containers and vehicles in which dangerous goods are transported by road;
- (f) containers and packaging used in transporting dangerous goods by road;
- (g) the manufacture of vehicles and containers for use in transporting dangerous goods by road;
- (h) voluntary accreditation schemes, including privileges to be accorded or sanctions to be imposed under the schemes and the cancellation or suspension of the schemes;
- (i) the loading of dangerous goods for, and the unloading of

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- dangerous goods after, their transport by road;
- (j) deciding routes along which, the areas in which and the times during which dangerous goods may or may not be transported by road;
  - (k) procedures for transporting dangerous goods by road, including, but not limited to—
    - (i) the quantities and circumstances in which dangerous goods, may be transported; and
    - (ii) safety procedures and equipment;
  - (l) the licensing of—
    - (i) vehicles and drivers for transporting dangerous goods by road; and
    - (ii) persons responsible for transporting dangerous goods by road or particular aspects of that transport;
  - (m) the mandatory accreditation of persons involved in transporting dangerous goods by road or particular aspects of that transport;
  - (n) the approval of—
    - (i) packages, containers, equipment and other items used in relation to transporting dangerous goods by road; and
    - (ii) facilities for, and methods of, testing or using—
      - (A) packages, containers, equipment and other items used; and
      - (B) processes carried out;
- in relation to transporting dangerous goods by road;
- (o) documents required to be prepared or kept by persons involved in transporting dangerous goods by road and the approval of alternative documentation;
  - (p) public liability insurance that must be taken out by persons involved in transporting dangerous goods by road;
  - (q) obligations arising, and procedures to be followed, in the event of a dangerous situation in relation to transporting dangerous goods

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by road;

- (r) the training and qualifications required of persons involved in, and the approval of training courses and qualifications relating to involvement in, transporting dangerous goods by road.

(2) A regulation may allow something in subsection (1)(b) or (j) to be determined by the chief executive.

### **Exemptions**

**153.(1)** A person may apply to the chief executive for an exemption from complying with a provision of a regulation about transporting particular dangerous goods by road.

(2) The chief executive may exempt the person from complying with the provision if satisfied that—

- (a) it is not reasonably practicable for the person to comply with the provision; and
- (b) granting the exemption—
  - (i) would not be likely to create a risk of a dangerous situation greater than that which would be the case if the person was required to comply; and
  - (ii) would not cause unnecessary administrative or enforcement difficulties, particularly about maintaining national uniformity of road transport laws.

(3) If an exemption is given on conditions, the exemption operates only if the conditions are complied with.

(4) The chief executive must, as soon as is practicable after giving an exemption, give notice of it in the gazette.

(5) The notice must state the following—

- (a) the person to whom the exemption applies;
- (b) the provisions of the regulation from which the person is exempt;
- (c) the dangerous goods to which the exemption applies;
- (d) the time for which the exemption applies;

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- (e) the conditions to which the exemption is subject;
- (f) the geographical area for which the exemption applies.

(6) *The Statutory Instruments Act 1992*, sections 24 to 26 apply to an exemption as if it were a statutory instrument.

(7) A regulation may regulate the giving of an exemption under this section.

**Failure to hold licence etc.**

**154.(1)** A person must not drive a vehicle transporting dangerous goods by road if—

- (a) a regulation requires the vehicle to be licensed to transport the goods; and
- (b) the vehicle is not licensed under the regulation.

Maximum penalty—135 penalty units.

(2) A person must not drive a vehicle transporting dangerous goods by road if—

- (a) a regulation requires the person to be licensed to drive the vehicle; and
- (b) the person is not licensed under the regulation.

Maximum penalty—135 penalty units.

(3) A person must not employ, engage or permit another person to drive a vehicle transporting dangerous goods by road if—

- (a) a regulation requires the other person to be licensed to drive the vehicle; and
- (b) the other person is not licensed under the regulation.

Maximum penalty—665 penalty units.

(4) A person must not employ, engage or permit another person to drive a vehicle transporting dangerous goods by road if—

- (a) a regulation requires the vehicle to be licensed to transport the goods; and

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(b) the vehicle is not licensed under the regulation.

Maximum penalty—665 penalty units.

(5) A person who is required under a regulation to be accredited to be involved in transporting dangerous goods by road or a particular aspect of that transport must not be involved unless the person is accredited as required.

Maximum penalty—665 penalty units.

### **Goods too dangerous to be transported**

**155.** A person must not transport by road goods prescribed under a regulation as being too dangerous to transport by road.

Maximum penalty—665 penalty units.

### **Duties when transporting dangerous goods**

**156.(1)** A person involved in transporting dangerous goods by road must ensure, as far as is practicable, that the goods are transported safely.

(2) If a person involved in transporting dangerous goods by road contravenes this Act in circumstances where the person knew, or ought reasonably to have known, that the contravention would be likely to endanger the safety of another person or of property or the environment, the person commits an offence.

Maximum penalty—665 penalty units.

(3) This section is in addition to and does not limit any other provision of this Act.

### **Additional evidentiary aids for transporting dangerous goods**

**157.(1)** This section applies if, in a prosecution for a contravention of this Act—

(a) an authorised officer gives evidence the officer believes any of the following matters—

(i) that dangerous goods stated in shipping documents carried in



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a vehicle, are being carried in the vehicle;

- (ii) that particular goods are dangerous goods or dangerous goods of a particular type;
- (iii) if markings on a substance or container indicate that the substance is, or the container contains particular dangerous goods—that the substance is or the container contains the dangerous goods indicated;
- (iv) if markings on a vehicle or equipment indicate the vehicle or equipment is being used to transport dangerous goods—that the vehicle or equipment is being used to transport the dangerous goods indicated;
- (v) if markings on a substance, container or the container's contents indicate, the substance, container or contents have an indicated attribute—that the substance, container or contents have the indicated attribute;
- (vi) if markings on a vehicle or container indicate the vehicle's load is, or the container's contents are, an indicated quantity of dangerous goods—that the vehicle was loaded with, or the container contained, the quantity of dangerous goods indicated; and

(b) the court considers the belief to be reasonable; and

(c) there is no evidence to the contrary.

(2) The court must accept the matter as proved.

(3) In this section—

**“attribute”** means—

- (a) capacity; or
- (b) character; or
- (c) date of manufacture; or
- (d) origin; or
- (e) ownership; or
- (f) specification; or

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(g) tare weight.

“**markings**” include placards.

“**on**” includes attached to.

### **Recovery of costs from convicted person**

**158.(1)** A court convicting a person of an offence against this Act about the transport of dangerous goods by road may order the person to pay to a government entity or the State costs reasonably incurred by the entity or the State in prosecuting the offence, including the cost of testing, transporting, storing and disposing of dangerous goods and other evidence.

(2) An amount ordered to be paid under subsection (1) is a debt owing to the entity or the State.

(3) Subsection (1) is in addition to any other order the court may make.

### **Recovery of costs of government action**

**159.(1)** This section applies if any of the following events happens in relation to the transport of dangerous goods by road—

(a) a dangerous situation;

(b) an incident—

(i) wholly or partly constituted by or arising from—

(A) the escape of dangerous goods; or

(B) an explosion or fire involving dangerous goods; or

(ii) involving the risk of the escape of dangerous goods or an explosion or fire involving dangerous goods.

(2) If a government entity incurs costs because of the event, the entity may recover the costs reasonably incurred in dealing with the event as a debt owing to the entity or the State.

(3) The costs are recoverable jointly and severally from the following—

(a) the person who owned the dangerous goods when the event happened;

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- (b) the person who had possession or control of the dangerous goods when the event happened;
- (c) the person who caused the event;
- (d) the person responsible (other than as an employee, agent or subcontractor of someone else) for the transport of the dangerous goods by road.

(4) However, costs are not recoverable from a person who—

- (a) is mentioned in section 162; or
- (b) establishes that—
  - (i) the event was primarily caused by someone else; or
  - (ii) the person could not, exercising reasonable care, have prevented the event; or
  - (iii) the event was not attributable to the person or to an employee, agent or subcontractor of the person.

(5) This section does not limit the powers a government entity has apart from this Act.

**Prohibition from involvement in the transport of dangerous goods by road**

**160.(1)** This section applies if a person is convicted of an offence against this Act relating to the transport of dangerous goods by road.

(2) The court before which the person is convicted may, after having regard to the following matters, order that the person be prohibited for a stated period from involvement in the transport of dangerous goods by road—

- (a) the person's record in the transport of dangerous goods by road;
- (b) the person's prior convictions relating to dangerous goods;
- (c) the circumstances surrounding the commission of the offence;
- (d) any other matters the court considers appropriate.

(3) A person must not contravene an order made under subsection (2).

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Maximum penalty—665 penalty units or 2 years imprisonment.

(4) Subsection (2) does not limit any other penalty the court may impose for the offence.

(5) In this section—

“**involvement**”, in the transport of dangerous goods by road, includes the following—

- (a) importing, or arranging for the importation of dangerous goods;
- (b) marking packages and unit loads containing dangerous goods for transport by road, and placarding containers and vehicles in which dangerous goods are transported by road;
- (c) consigning dangerous goods for transport by road;
- (d) loading dangerous goods onto a vehicle or into a container that is to be put on a vehicle for transport by road or unloading dangerous goods that have been transported by road;
- (e) undertaking or being responsible for, other than as an employee or sub-contractor, the transport of dangerous goods by road;
- (f) driving a vehicle carrying dangerous goods by road;
- (g) being a consignee of dangerous goods transported by road;
- (h) being involved as a director, secretary or manager of a corporation or other person who takes part in the management of a corporation that takes part in something mentioned in paragraphs (a) to (g).

### **Forfeiting dangerous goods**

**161.(1)** If a person is convicted of an offence against this Act relating to the transport of dangerous goods by road, the court before which the person is convicted may, whether or not it makes any other order on conviction, order that the goods or anything used to commit the offence be forfeited to the State.

(2) Goods or a thing that are forfeited may be destroyed or otherwise dealt with as directed by the chief executive.

### **Helping in emergencies or accidents**

**162.(1)** This section applies if a person, other than an official mentioned in section 167—

- (a) helps, or attempts to help, in a dangerous situation; and
- (b) the help, or attempt to help, is given—
  - (i) honestly and without negligence; and
  - (ii) without any fee, charge or other reward.

**(2)** The person does not incur civil liability for helping or attempting to help.

**(3)** However, this section does not apply to a person whose act or omission wholly or partly caused the dangerous situation.

## **CHAPTER 5B—EXTREME OVERLOADING**

### **Forfeiture on conviction**

**163.(1)** This section applies on the conviction of a person for an extreme overloading offence.

**(2)** The court may order a motor vehicle used to commit the offence be forfeited to the State.

**(3)** In considering whether it is appropriate to make a forfeiture order for the vehicle, the court may, for example, have regard to—

- (a) any hardship that may reasonably be expected to be caused to anyone by the order; and
- (b) the use that is ordinarily made, or is intended to be made, of the vehicle.

**(4)** The court may make any order to enforce the forfeiture that it considers appropriate.

**(5)** This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

**(6)** On the forfeiture of the vehicle—

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- (a) it becomes the State's property; and
- (b) it may be dealt with as the chief executive considers appropriate.

(7) The chief executive must not deal with the vehicle until any appeal against the order to forfeit the vehicle is decided.

(8) In this section—

**“extreme overloading offence”** means an offence committed when a vehicle that a person was in control of was loaded to 160% or more of a mass requirement, prescribed under a regulation, that applies to the vehicle.

**“vehicle”** means—

- (a) a vehicle with a GVM of more than 4.5 t; or
- (b) a combination including a vehicle with a GVM of more than 4.5 t.

## CHAPTER 6—MISCELLANEOUS

### Court orders for payment

**164.(1)** In this section—

**“convicts”** a person includes finds a person guilty, and accepts a plea of guilty from a person, whether or not a conviction is recorded.

(2) If—

- (a) a court convicts a person of an offence against a transport Act; and
- (b) the person owes fees in relation to the offence;

the court may, in addition to or instead of imposing a penalty, order the person to pay an amount of not more than double the amount of the fees.

(3) If—

- (a) a court convicts a person of an offence against a transport Act; and

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- (b) in committing the offence, the person caused damage to road transport infrastructure, including, for example, accelerated wear of road pavements or structures through overloading;

the court may, in addition to imposing a penalty, order the person to pay an amount of not more than the cost of the damage.

### **Special provision for serving documents**

**165.(1)** A document about a vehicle may be given to the vehicle's owner or registered operator under a transport Act by securely fixing the document to a part of the vehicle in a way that a driver of the vehicle is likely to notice the document.

(2) This section does not affect—

- (a) the operation of another law that permits service of a document other than as provided in this section;<sup>11</sup> or
- (b) the power of a court or tribunal to authorise service of a document other than as provided in this section.

### **Official traffic sign approvals**

**166.(1)** In this section—

“**MUTCD**” means the Manual of Uniform Traffic Control Devices issued by the chief executive.

“**official traffic sign**” means a sign, marking, light or device placed or erected to regulate, warn or guide traffic.

(2) The chief executive may approve the design of, and a method, standard or procedure about, an official traffic sign.

(3) The approved design, method, standard or procedure must be contained in the MUTCD or an approved notice.

(4) The MUTCD or approval notice must be available for purchase or inspection by the public at the department's head office or the other offices of the department that the chief executive directs.

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<sup>11</sup> See for example *Acts Interpretation Act 1954*, part 10 (Service of documents).

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### **Protection from liability**

**167.(1)** In this section—

**“official”** means—

- (a) the Minister; and
- (b) the chief executive; and
- (c) the commissioner; and
- (d) an authorised officer; and
- (e) an accredited person; and
- (f) a person acting under the direction of an authorised officer; and
- (g) an employee of the department of the police service; and
- (h) the chief executive officer, or an officer or employee, of a local government.

**(2)** An official is not civilly liable for an act done, or omission made, honestly and without negligence under a transport Act.

**(3)** If subsection (2) prevents civil liability attaching to an official, the liability attaches instead to—

- (a) for a person mentioned in subsection (1)(a) to (g)—the State; or
- (b) for a person mentioned in subsection (1)(h)—the local government.

### **Effect of failure to comply with ch 2**

**168.(1)** It is Parliament’s intention that chapter 2<sup>12</sup> be complied with.

**(2)** However—

- (a) chapter 2 is directory only and does not create rights or impose legally enforceable obligations on the State, Minister, chief executive or anyone else; and
- (b) failure to comply with chapter 2 does not affect the validity of

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<sup>12</sup> Chapter 2 (Responsibilities for road use management strategies and programs)



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anything done or not done under this Act.

(3) In addition, a decision made, or appearing to be made, under chapter 2—

- (a) is final and conclusive; and
- (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* (whether by the Supreme Court, another court, a tribunal or another entity); and
- (c) is not subject to a writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

(4) In this section—

“**decision**” includes—

- (a) conduct engaged in to make a decision; and
- (b) conduct related to making a decision; and
- (c) failure to make a decision.

### **Approval of forms**

**169.** The chief executive may approve forms for use under this Act.

### **Nomination of responsible operator**

**170.(1)** If a registered operator has previously claimed the registered operator was not the driver and has failed to notify the name and address of the driver of a vehicle that was involved in a camera-detected offence, the chief executive may give written notice requesting the registered operator to nominate 1 responsible operator for each vehicle registered in the registered operator’s name whether jointly or otherwise.

(2) If the registered operator wants to nominate the responsible operator the registered operator must give written notice containing the prescribed particulars to the chief executive within 28 days of receipt of the notice from the chief executive.

(3) If a person does not nominate a responsible operator within 28 days,

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or nominates a person who is ineligible to be a responsible operator, the chief executive may nominate an existing registered operator as the responsible operator.

**(4)** A responsible operator must be—

(a) an individual who is—

(i) 17 years or more; and

(ii) the holder of a licence issued under a law of a State to drive a vehicle on a road; or

(b) a corporation that is—

(i) a company registered under the Corporations Law; or

(ii) incorporated by or under an Act; or

(iii) incorporated for a public purpose by an Act of this or another State or the Commonwealth; or

(c) this or another State or the Commonwealth.

**(5)** Except for a nomination by the chief executive, the nomination must be accompanied by the written consent of the responsible operator.

**(6)** If a licence is not required for the normal operation of the type of vehicle being registered and it is not designed to be towed, the responsible operator does not have to be the holder of a licence for the vehicle.

**(7)** A person must not nominate a person as a responsible operator knowing that—

(a) the nominated person is ineligible to be a responsible operator; or

(b) any particulars about the nominated person are inaccurate.

Maximum penalty—40 penalty units.

**(8)** A person who has been requested to nominate a responsible operator—

(a) may subsequently apply for, renew or transfer the registration of a vehicle only if a responsible operator has been nominated for the vehicle; and

(b) must ensure there is a responsible operator during the registration

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of the vehicle.

(9) If for any reason there ceases to be a responsible operator for a vehicle, the chief executive may nominate a responsible operator

### **Regulation-making power**

**171.(1)** The Governor in Council may make regulations under this Act.

(2) A regulation may be made prescribing offences for a contravention of a regulation and fixing a maximum penalty of not more than 80 penalty units for a contravention.

(3) A regulation may—

- (a) prescribe fees payable for a transport Act and the effect of non-payment; or
- (b) allow the chief executive to refund fees completely or partly or provide concessions; or
- (c) prescribe circumstances in which roads may be closed; or
- (d) prescribe offences for misuse of roads; or
- (f) require the collection, keeping or production of records; or
- (g) establish requirements for the certification of instruments (within the meaning of section 61<sup>13</sup>); or
- (h) exempt a person or vehicle from a provision of this Act.

*Example of subsection (3)(d)—*

Offences for throwing rocks or other things onto roads.

(4) If the Commonwealth has enacted a law for the scheme to create uniform or consistent national road transport legislation envisaged by the agreements scheduled to the *National Road Transport Commission Act 1991* (Cwlth), a regulation may enact provisions for the State that are the same as, or substantially similar to, the law.

(5) For the provisions mentioned in subsection (4), a regulation may—

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<sup>13</sup> Section 61 (Instruments)

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- (a) confer powers on the chief executive, the commissioner, an authorised officer or an accredited person; or
- (b) make transitional provisions.

## **CHAPTER 7—TRANSITIONAL PROVISIONS, AMENDMENTS AND REPEALS**

### **PART 1—TRANSITIONAL PROVISIONS FOR TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995**

#### **Reference provisions operate only after repeal of relevant Act**

**172.** To remove any doubt, it is declared that sections 173 to 178 apply to an Act mentioned in them only after the Act is, or the relevant provisions of the Act are, repealed.

*Example—*

A reference to the *Carriage of Dangerous Goods by Road Act 1984* or a provision of that Act is not taken to be a reference to this Act until the repeal of the *Carriage of Dangerous Goods by Road Act 1984* or the provision of that Act.

#### **Carriage of Dangerous Goods by Road Act 1984 references**

**173.** A reference to the *Carriage of Dangerous Goods by Road Act 1984* may, if the context permits, be taken to be a reference to this Act.

#### **Main Roads Act 1920 references**

**174.** A reference to the *Main Roads Act 1920* may, other than in relation to transport infrastructure or another matter dealt with under the *Transport Infrastructure Act 1994*, and the context otherwise permits, be taken to be a reference to this Act.

*Transport Operations (Road Use  
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### **Motor Vehicles Control Act 1975 references**

**175.** A reference to the *Motor Vehicles Control Act 1975* may, if the context permits, be taken to be a reference to this Act.

### **Motor Vehicles Safety Act 1980 references**

**176.** A reference to the *Motor Vehicles Safety Act 1980* may, if the context permits, be taken to be a reference to this Act.

### **State Transport Act 1960 references**

**177.** A reference to the *State Transport Act 1960* may, other than a reference (whether express or implied) to a provision of that Act repealed by the *Transport Operations (Passenger Transport) Act 1994* and if the context otherwise permits, be taken to be a reference to this Act.

### **Transport Infrastructure (Roads) Act 1991 references**

**178.** A reference to the *Transport Infrastructure (Roads) Act 1991* may, other than in relation to transport infrastructure or another matter dealt with under the *Transport Infrastructure Act 1994*, and the context otherwise permits, be taken to be a reference to this Act.

### **Transitional provisions for Motor Vehicle Driving Instruction School Act 1969**

**179.(1)** A person licensed as a driving instructor under the *Motor Vehicle Driving Instruction School Act 1969* immediately before the commencement is taken to have provisional approval as a driver trainer under this Act.

**(2)** The approval is, to the greatest practicable extent, subject to the same conditions that applied to the licence immediately before the commencement.

**(3)** However, the approval—

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- (a) does not authorise a matter that cannot be authorised under an approval granted under this Act; and
- (b) may be renewed once only.

### **Exemption of regulations from expiry**

**181.** Despite section 180, the following regulations do not expire at midnight on 30 June 1999, but unless sooner repealed under a regulation remain in force until 30 September 1999, when they expire—

- (a) *Transport Operations (Road Use Management—Motor Vehicles Safety) Transitional Regulation 1994;*
- (b) *Transport Infrastructure (Roads) Regulation 1991.*

## **PART 2—TRANSITIONAL PROVISIONS FOR TRANSPORT LEGISLATION AMENDMENT ACT 1998**

### **Transitional provisions for Motor Vehicles Control Act 1975 about local laws**

**182.(1)** This section applies to a local law made under the repealed *Motor Vehicles Control Act 1975*, section 35,<sup>14</sup> and in force immediately before the commencement of this section.

**(2)** The law remains in force, until amended or repealed under the *Local Government Act 1993*.

### **Transport Infrastructure (Roads) Regulation 1991**

**183.** For section 56,<sup>15</sup> a certificate of registration under the *Transport*

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<sup>14</sup> Section 35 (Function of local government to execute Act)

<sup>15</sup> Section 56 (Using documents voided for non-payment)

*Transport Operations (Road Use  
Management) Act 1995*

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*Infrastructure (Roads) Regulation 1991* is a document to which section 56 does not apply.

### **Carriage of Dangerous Goods by Road Regulation 1989—transition of approvals**

**184.(1)** An approval of something given under the code that was in force immediately before 7 August 1998 is taken to be an approval of the thing under the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998*.

(2) The approval is subject to the same conditions that applied immediately before the commencement of this section.

(3) In this section—

“code” means the code under the *Carriage of Dangerous Goods by Road Regulation 1989*.

### **Carriage of Dangerous Goods by Road Act 1984—exemptions**

**185.(1)** This section applies to an exemption given under the repealed *Carriage of Dangerous Goods by Road Act 1984*, section 24,<sup>16</sup> that was in force immediately before the repeal of that Act.

(2) The exemption is taken to be an exemption under section 153 that exempts the person to whom it was given from complying with a provision of the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998* that most closely corresponds to the provision stated in the exemption.

(3) Subsection (2) applies even though section 153 had not commenced on the repeal.

(4) The exemption—

- (a) is, to the greatest practicable extent, subject to the same conditions that applied immediately before the repeal; and
- (b) despite paragraph (a), expires on 31 January 1999.

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<sup>16</sup> Section 24 (Exemption from complying with this Act)

## **PART 3—TRANSITIONAL PROVISIONS FOR ROAD TRANSPORT REFORM ACT 1999**

### **Definitions for pt 3**

**186.** In this part—

**“relocated provision”** means a provision of the Traffic Act that is relocated to this Act by the Road Transport Reform Act.

**“Road Transport Reform Act”** means the *Road Transport Reform Act 1999*.

**“Traffic Act”** means the *Traffic Act 1949*.

### **Relocation of Traffic Act provisions**

**187.(1)** To remove any doubt, it is declared that the relocated provisions were not re-enacted by the Road Transport Reform Act, but merely moved (without re-enactment) to this Act.

**(2)** Without limiting subsection (1) and to further remove any doubt, it is also declared that the relocation did not—

- (a) impliedly repeal or amend, or otherwise affect the operation of, the existing provisions of this Act, the relocated provisions or the provisions of any other law; or
- (b) affect the meaning or effect that the existing or relocated provisions, or the provisions of the other law, had because of the respective times when they were enacted.

**(3)** However, definitions in this Act apply to all provisions of this Act.

**(4)** Further, it is declared that anything made or done or not made or done under a relocated provision before it is relocated is taken, after it is relocated, to have been made or done or not made or done under the provision as relocated.

**(5)** In an Act or document, a reference to a provision of the Traffic Act that is relocated to this Act by the Road Transport Reform Act may, if the



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context permits, be taken to be a reference to the relocated provision in this Act.

### **Person's traffic history**

**188.** From the commencement of this section—

- (a) a person's traffic history is not affected by the relocation and renumbering of provisions from the Traffic Act to this Act by the Road Transport Reform Act; and
- (b) anything done or not done, including any conviction recorded, under a relocated provision, before it is relocated, is taken, after it is relocated, to have been done or not done under the provision as relocated.

### **Licence references**

**189.(1)** In this Act, a reference to—

- (a) a learner licence includes a reference to a learner's permit issued under the Traffic Act; and
- (b) a probationary licence includes a reference to a provisional licence issued, under the Traffic Act, after a period of disqualification from holding or obtaining a driver's licence; and
- (c) a restricted licence includes a reference to a provisional licence issued to give effect to a court order made under section 20A of the Traffic Act; and
- (d) a provisional licence includes a reference to a provisional licence issued under the Traffic Act, other than a provisional licence mentioned in paragraph (b) or (c); and
- (e) an open licence includes a reference to an open licence issued under the Traffic Act.

**(2)** A reference in a document to a learner's permit, whether made before or after the commencement of this section, includes a reference to a learner licence for the purposes of this Act.

**(3)** A reference in a document to a provisional licence, whether made

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before or after the commencement of this section—

- (a) for a provisional licence issued to a person after a period of disqualification from holding or obtaining a driver licence—includes a reference to a probationary licence for the purposes of this Act; or
- (b) for a provisional licence issued to a person to give effect to a court order made under section 20A of the Traffic Act—includes a reference to a restricted licence for the purposes of this Act.

(4) A reference in a document to a driver’s licence, whether made before or after the commencement of this section, includes a reference to a driver licence for the purposes of this Act.

### **Traffic Regulation 1962**

**190.** The *Traffic Regulation 1962* continues in force after the repeal of the Traffic Act as if it had been made under this Act.

### **Acts or authorities under Traffic Act continue under this Act**

**191.(1)** This section applies to an appointment, approval, certificate, decision, delegation, direction, exemption, licence, notice, notification, order, permit, registration or other act or authority (the “**act or authority**”) that—

- (a) was granted, issued, made and published, given or done under the Traffic Act; and
- (b) was in force immediately before 1 December 1999.

(2) The act or authority continues in force as if granted, issued, made and published, given or done under this Act until the time when it would have expired under the Traffic Act.

### **Fees**

**192.** All fees prescribed under the Traffic Act to be paid are, from 1 December 1999, prescribed under this Act and continue to be payable as prescribed.

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Management) Act 1995*

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**Application of Acts Interpretation Act, s 20**

**193.** The *Acts Interpretation Act 1954*, section 20 applies to—

- (a) the amendment of the *Traffic Act 1949* by the relocation of provisions to this Act; and
- (b) the repeal of the *Traffic Act 1949*.

**Wheeled recreational devices and wheeled toys**

**194.(1)** To remove doubt, it is declared that a wheeled recreational device, pedal car, scooter, tricycle or similar toy is, and always has been, a vehicle within the meaning of the definition “**vehicle**” in schedule 4.

**(2)** Subsection (1) is not effective to impose criminal liability retrospectively.

**SCHEDULE 1****DISQUALIFYING OFFENCES—APPROVALS**

dictionary, definition “disqualifying offence”, paragraph (a)

**PART 1—EXISTING PROVISIONS**

1. Chapter 9 (Unlawful assemblies—breaches of the peace)
2. Chapter 16 (Offences relating to the administration of justice)
3. Chapter 20 (Miscellaneous offences against public authority)
4. Chapter 22 (Offences against morality)
5. Chapter 28 (Homicide—Suicide—Concealment of birth)
6. Chapter 29 (Offences endangering life or health)
7. Chapter 30 (Assaults)
8. Chapter 32 (Assaults on females—abduction)
9. Chapter 33 (Offences against liberty)
- 9A. Section 359E (Punishment of unlawful stalking)
10. Section 363 (Child-stealing)
- 10A. Section 363A (Abduction of child under 16)
- 10B. Section 364 (Cruelty to children under 16)
11. Chapter 36 (Stealing)
12. Chapter 37 (Offences analogous to stealing)
13. Chapter 38 (Stealing with violence—extortion by threats)
14. Chapter 39 (Burglary—Housebreaking—And like offences)
15. Chapter 40 (Other fraudulent practices)

SCHEDULE 1 (continued)

16. Chapter 41 (Receiving property stolen or fraudulently obtained and like offences)
17. Chapter 42 (Frauds by trustees and officers of companies and corporations—false accounting)
18. Chapter 42A (Secret commissions)
19. Chapter 46 (Offences)
20. Chapter 49 (Punishment of forgery and like offences)
21. Chapter 52 (Personation)
22. Chapter 56 (Conspiracy)

**PART 2—PROVISIONS REPEALED BY CRIMINAL  
LAW AMENDMENT ACT 1997**

1. Section 343A (Assaults occasioning bodily harm)
2. Section 344 (Aggravated assaults)

## **SCHEDULE 2**

### **DISQUALIFYING OFFENCES—CROSSING SUPERVISORS**

section 138(8), definition “disqualifying offence”

section 208 (Unlawful sodomy)

section 209 (Attempted unlawful sodomy)

section 210 (Indecent treatment of children under 16)

section 215 (Carnal knowledge of girls under 16)

section 216 (Abuse of intellectually impaired persons)

section 217 (Procuring young person etc. for carnal knowledge)

section 218 (Procuring sexual acts by coercion etc.)

section 219 (Taking child for immoral purposes)

section 221 (Conspiracy to defile)

section 222 (Incest)

section 226 (Supplying drugs or instruments to procure abortion)

section 227 (Indecent acts)

section 228 (Obscene publications and exhibitions)

section 229B (Maintaining a sexual relationship with a child)

section 300 (Unlawful homicide)

section 306 (Attempt to murder)

section 307 (Accessory after the fact to murder)

section 308 (Threats to murder in document)

section 309 (Conspiring to murder)

section 314 (Concealing the birth of children)

## SCHEDULE 2 (continued)

- section 315 (Disabling in order to commit indictable offence)
- section 316 (Stupefying in order to commit indictable offence)
- section 317 (Act intended to cause grievous bodily harm and other malicious acts)
- section 320 (Grievous bodily harm)
- section 320A (Torture)
- section 321 (Attempting to injure by explosive or noxious substances)
- section 321A (Bomb hoaxes)
- section 322 (Maliciously administering poison with intent to harm)
- section 323 (Wounding and similar acts)
- section 326 (Endangering life of children by exposure)
- section 327 (Setting mantraps)
- section 328 (Negligent acts causing harm)
- section 335 (Common assault)
- section 336 (Assault with intent to commit rape)
- section 337 (Sexual assaults)
- section 339 (Assaults occasioning bodily harm)
- section 340 (Serious assaults)
- section 347 (Rape)
- section 349 (Attempt to commit rape)
- section 351 (Abduction)
- section 354 (Kidnapping)
- section 354A (Kidnapping for ransom)
- section 355 (Deprivation of liberty)
- section 356 (False certificates by officers charged with duties relating to liberty)

SCHEDULE 2 (continued)

section 359 (Threats)

section 359A (Unlawful stalking)

section 363 (Child-stealing)

section 363A (Abduction of child under 16)

section 364 (Cruelty to children under 16)



**SCHEDULE 3****REVIEWABLE DECISIONS**

section 65

<b>Section</b>	<b>Description of decision</b>	<b>Court</b>
15	Approving alternative compliance schemes	Magistrates
19	Amending suspending or cancelling approvals	Magistrates
43	Forfeiture of seized things	Magistrates

## SCHEDULE 4

### DICTIONARY

section 5

**“accredited person”** means a person who holds an appointment as an accredited person under section 21.<sup>17</sup>

**“address”** means place of residence or, in the case of the owner of a vehicle in respect of which a licence has issued under this Act, the owner’s place of residence or the place at which the owner carries on business or, in the case of a corporation incorporated or registered in Queensland under any Act, its registered office or, if the corporation is not so incorporated or registered in Queensland, the principal place where it carries on business in Queensland, and includes all such information and particulars as will enable such place of residence or of business to be readily and exactly located.

**“air cushion vehicle”** means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle.

**“alternative compliance scheme”** see section 15.

**“analyst”** means an analyst under and within the meaning of the *Health Act 1937*.

**“animal”** means any animal of any sex or age belonging to a species to which any of the following animals belong, namely, horse, cow, mule, donkey, camel, sheep, pig, dog, or goat.

**“approval”** for chapter 3, part 1A, see section 17A.

**“approved form”** see section 169.

**“arrest”**, used with reference to persons, means arrest without any warrant

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<sup>17</sup> Section 21 (Appointment of accredited persons)

## SCHEDULE 4 (continued)

other than this Act and the taking of such person to a police station, there to be detained (unless the person is released on an attendance notice, bail or recognisance) until the person can be brought before a court to be dealt with according to law.

**“articulated motor vehicle”** means a combination of a prime mover and a semitrailer.

**“Australian court”** means a court of the State or another State or of the Commonwealth.

**“Australian driver licence”** means—

- (a) a Queensland driver licence; or
- (b) a corresponding document to a Queensland driver licence issued under a corresponding law to the provision of this Act under which a Queensland driver licence is issued.

**“authorised officer”** means a person who holds an appointment as an authorised officer under section 20.<sup>18</sup>

**“B-double”** means a combination consisting of a prime mover towing 2 semitrailers, with 1 semitrailer supported at the front by, and connected to, the other semitrailer.

**“bicycle”**—

- (a) means a vehicle with 1 or more wheels (including a pedicab, penny farthing, scooter, tricycle and unicycle) built to be propelled by human power through a belt, chain or gears; but
- (b) does not include a wheelchair, wheeled recreational device, wheeled toy, or any vehicle with an auxiliary motor capable of generating power over 200 watts.

**“breath analysing instrument”** see section 80.<sup>19</sup>

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<sup>18</sup> Section 20 (Appointment of authorised officers)

<sup>19</sup> Section 80 (Provisions with respect to breath tests and laboratory tests)

SCHEDULE 4 (continued)

**“bus”**, for section 79(2C),<sup>20</sup> means a motor vehicle built or fitted to carry more than 12 adults, including the driver.

**“car”** means a motor vehicle (other than a motorbike) that—

- (a) is not more than 4.5 t gross vehicle mass; and
- (b) is built or fitted to carry no more than 12 adults, including the driver.

**“coin”** means a coin made and issued under the *Currency Act 1965* (Cwlth).

**“combination”** means a motor vehicle connected to 1 or more trailers.

**“commercial vehicle”**, in relation to stopping in a loading zone, means—

- (a) any horse drawn vehicle constructed fitted or equipped for the carriage of goods;
- (b) any motor vehicle (excluding any car or motorbike) constructed fitted or equipped for the carriage of goods;
- (c) any motor vehicle constructed fitted or equipped for the carriage of persons to which is affixed a form of identification as an approved commercial vehicle—
  - (i) issued by a local government under a local law made under section 103(4); and
  - (ii) conforming in all respects (whether as to design or otherwise) with the directions in relation thereto contained in the Manual of Uniform Traffic Control Devices.

**“commissioner”** means the commissioner of the police service.

**“complaint”** includes information, information and complaint before justices, and charge.

**“compliance plate”** means a plate authorised to be placed on a vehicle, or

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<sup>20</sup> Section 79 (Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood)

## SCHEDULE 4 (continued)

taken to have been placed on a motor vehicle, under the *Motor Vehicle Standards Act 1989* (Cwlth).

**“convicting”** a person includes—

- (a) a court finding the person guilty, or accepting the person’s plea of guilty, whether or not a conviction is recorded; and
- (b) the person paying a penalty under the *Justices Act 1886*, part 4A.

**“corresponding document”** to a document issued under a provision of this Act means a document issued under a corresponding law to the provision.

**“corresponding law”**, to an Act or provision of an Act, means a law of the Commonwealth or another State that provides for the same matter as—

- (a) for an Act—the Act or a provision of the Act; or
- (b) for a provision of an Act—the provision.

**“court”** means a Magistrates Court constituted under the *Justices Act 1886*.

**“current driver licence receipt”** means a receipt that—

- (a) is issued to a person who has successfully applied for an Australian driver licence; and
- (b) has not been superseded by the issue of the licence.

**“dangerous goods”** means goods prescribed under a regulation to be dangerous goods.

**“dangerous situation”** means a situation involving the transport of dangerous goods by road that is causing or is likely to cause imminent risk of death or injury to a person, or harm to the environment or to property.

**“dangerous situation notice”** see section 51D.

**“deal with”** includes sell, dispose of and destroy.

**“declared road”** means a State-controlled road under the *Transport Infrastructure Act 1994*.

SCHEDULE 4 (continued)

**“designated parking space”** means a space on a road or off-street regulated parking area that is defined by an official traffic sign to be a designated parking space, and includes a metered space or a parkatarea space.

**“disqualifying offence”** means—

- (a) for chapter 3, part 1A—
  - (i) an offence against a provision of the Criminal Code mentioned in schedule 1, part 1 or the repealed provisions of the Criminal Code mentioned in schedule 1, part 2; or
  - (ii) an offence against the *Drugs Misuse Act 1986* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or
  - (iii) an offence against the *Weapons Act 1990* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or
  - (iv) an offence committed outside Queensland that would be a disqualifying offence if committed in Queensland; or
- (b) for section 138—see schedule 2.

**“doctor”** means—

- (a) a medical practitioner; or
- (b) a person registered as a medical practitioner under a law of the Commonwealth or another State corresponding to the *Medical Act 1939*.

**“driver”** means the person driving or in charge of any vehicle, tram, train, vessel, or animal, and, in relation to a trailer, the person driving or in charge of the vehicle to or by which that trailer is attached or drawn, and includes the rider of a vehicle or animal and in applying it so as to include the rider of a vehicle or animal the word ‘drive’ and derivatives of that word shall, where used in this Act in relation to a vehicle or animal, be read as including ‘ride’ or, as the case requires, the corresponding derivative of ‘ride’.

SCHEDULE 4 (continued)

**“driver licence”** means—

- (a) an Australian driver licence; or
- (b) a foreign driver licence.

**“drug”** means every substance or article which is a dangerous drug under and within the meaning of the *Drugs Misuse Act 1986* or any other substance, article, preparation or mixture (with the exception of liquor) whether gaseous, liquid, solid, or in any other form which, when consumed or used by any person, deprives the person either temporarily or permanently of any of the person’s normal mental or physical faculties.

**“escort vehicle”** means a vehicle that—

- (a) travels with an oversize vehicle to warn other road users of the oversize vehicle’s presence; and
- (b) under a regulation, is required to be driven by an escort vehicle driver.

**“escort vehicle driver”** means a person who holds an appointment under a regulation as an accredited person with the functions of an escort vehicle driver.

**“executive officer”**, of a corporation, means 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.

**“fee”** includes a tax.

**“fixed hours”**, in relation to a designated parking space, means the hours during, and days on, which paid parking only is permitted in the designated parking space.

**“footpath”** means an area open to the public that is designated for, or has as 1 of its main uses, use by pedestrians.

**“foreign driver licence”** means a licence to drive a motor vehicle issued under the law of another country.

**“for sale”** for a vehicle, means—

SCHEDULE 4 (continued)

- (a) offered or available for exchange or sale; or
- (b) displayed or exhibited for exchange or sale.

*Examples of paragraph (b)—*

A sign stating any of the following is attached to, or placed near, the vehicle—

- \$5 000 ono ph 1234 5678
- For sale phone 1234 5678
- Buy me—\$7 000 call at 123 City St.

**“goods”** includes any wares, merchandise, chattels, money, stone, timber, metal, fluid, and any other article, substance, or material whatsoever, and also includes animals.

**“government entity”** means a government department or an agency, authority, commission, corporation, instrumentality, office or other entity, established under an Act for a public or official purpose and includes part of a government entity.

**“grievous bodily harm”** means—

- (a) the loss of a distinct part or an organ of the body; or
- (b) serious disfigurement; or
- (c) any bodily injury of such a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health;

whether or not treatment is or could have been available.

**“GVM”** (gross vehicle mass) means the maximum loaded mass of a vehicle—

- (a) stated on the vehicle’s compliance plate; or
- (b) stated in a way prescribed under a regulation.

**“heavy vehicle”** means—

- (a) a vehicle with a GVM of more than 4.5 t; or
- (b) a public passenger vehicle; or



## SCHEDULE 4 (continued)

- (c) another vehicle providing services on a road for which a licence is required under a transport Act; or
- (d) a vehicle transporting dangerous goods—
  - (i) for reward; or
  - (ii) if the amount of dangerous goods is greater than the amount prescribed under a regulation; or
- (e) a vehicle used for driver training for reward.

**“holder”** for chapter 3, part 1A, means the holder of an approval.

**“horse”** includes any horse, mare, gelding, ass, mule or other draught animal or beast of burden.

**“in”** a place or vehicle includes on the place or vehicle.

**“indication”** given by an official traffic sign includes—

- (a) a direction on an official traffic sign; and
- (b) a direction, indication or requirement that, under a regulation, is prescribed as being given or imposed, because of an official traffic sign.

**“interstate scheme”** see section 15(8).

**“learnerlicence”** means a licence to drive a motor vehicle, while receiving driver training, issued under this Act.

**“left”** for a person means—

- (a) the person’s left hand side; or
- (b) for a line, sign or something else—the left hand side of the line, sign or other thing when viewed from the person’s perspective.

**“licence”** means a licence, permit or certificate under a transport Act, and includes—

- (a) a renewal of the licence, permit or certificate; and
- (b) an endorsement on the licence, permit or certificate.

**“liquor”** means wines, spirits, beer, ale, porter, stout, cider, perry, or any

## SCHEDULE 4 (continued)

other spirituous or fermented fluid containing 3 $\frac{1}{2}$ % or more than 3 $\frac{1}{2}$ % of proof spirit by volume, or any spirituous or fermented fluid whatever of an intoxicating nature.

**“loading zone”** means a length of road to which a loading zone sign applies.

**“metered space”** means a space on a road or off-street regulated parking area defined by an official traffic sign to be a metered space.

**“motorbike”** means—

- (a) a 2 wheeled motor vehicle, whether or not a sidecar is attached to it; and
- (b) a 3 wheeled motor vehicle that is ridden in the same way as a 2 wheeled motor vehicle.

**“motor vehicle”** means a vehicle propelled by a motor that forms part of the vehicle, and includes a trailer attached to the vehicle.

**“MUTCD”** see section 166(1).

**“number plate”** means a plate or other device designed to be attached to a vehicle to identify the vehicle.

**“occupier”** of a place includes a person who reasonably appears to be the occupier, or in charge, of the place.

**“officer in charge of a police station”** means the police officer who is in charge of a police station at the relevant time.

**“official traffic sign”** see section 166(1).

**“off-street regulated parking area”** see section 104.

**“on”** a place includes within, under and over the place.

**“open licence”** means a licence to drive a motor vehicle issued under this Act that is not—

- (a) a learner, probationary, provisional or restricted licence; or
- (b) a current driver licence receipt for a learner, probationary, provisional or restricted licence.

SCHEDULE 4 (continued)

**“operator”** see section 15(1).

**“oversize vehicle”** has the meaning given under a regulation.

**“owner”** includes—

- (a) for a seized thing—the person from whom the thing was seized unless the chief executive or commissioner is aware of the actual owner; or
- (b) for a vehicle—
  - (i) each person who is the owner, joint owner or part owner of the vehicle; or
  - (ii) a person who has the use or control of the vehicle under a hiring agreement, hire purchase agreement or leasing arrangement; or
  - (iii) the person in whose name the vehicle is registered under a transport Act or a corresponding law;

but does not include the driver of a vehicle when the driver has been provided as part of a hiring agreement for the vehicle.

**“paid parking”** means parking in a designated parking space during the fixed hours on payment of a prescribed parking fee.

**“park”** a vehicle includes stop the vehicle and allow the vehicle to stay, whether or not the driver leaves the vehicle.

**“parkatarea”** includes the stand on which the parkatarea is installed.

**“parkatarea space”** means a space on a road or off-street regulated parking area defined by an official traffic sign to be a parkatarea space.

**“parking bay”** means—

- (a) an area for parking a single vehicle (other than a combination) that is indicated by—
  - (i) an official traffic sign; or
  - (ii) a different road surface; or

## SCHEDULE 4 (continued)

- (b) a designated parking space; or
- (c) a parkatarea space.

**“parking meter”** includes the stand on which the meter is erected.

**“parking permit for people with disabilities”** means a permit issued under this Act, or a corresponding law to this Act, with a people with disabilities symbol.

**“passenger”** includes any person carried on a vehicle, train, animal, vessel or tram, other than the driver or conductor thereof.

**“pedestrian”** includes—

- (a) a person in a motorised wheelchair that can not travel over 10 km/h; and
- (b) a person in a non-motorised wheelchair; and
- (c) a person pushing a motorised or non-motorised wheelchair; and
- (d) a person in or on a wheeled recreational device or wheeled toy.

**“people with disabilities symbol”** means a picture of a person seated in a wheelchair, as prescribed under a regulation.

**“performance standard”** see section 15.

**“permit”** means any permit, including any renewal thereof, issued under this Act and in force at any material time.

**“person in control”** of a vehicle includes—

- (a) the driver of the vehicle; or
- (b) the person who reasonably appears to be the driver; or
- (c) the person who appears to be, claims to be or acts as if he or she is in control of a vehicle.

**“pilot vehicle”** means a vehicle that—

- (a) travels with an oversize vehicle to warn other road users of the oversize vehicle’s presence; and

## SCHEDULE 4 (continued)

(b) under a regulation, is required to be driven by a pilot vehicle driver or an escort vehicle driver.

**“pilot vehicle driver”** means a person who holds an appointment under a regulation as an accredited person with the functions of a pilot vehicle driver.

**“place”** includes land, premises and water, but does not include a vehicle.

**“police station”** includes a police office, watch-house, station house and lockup.

**“power-assisted bicycle”** means a bicycle to which a power source is attached.

**“power-assisted cycle”** means a power-assisted bicycle or power-assisted tricycle.

**“power-assisted tricycle”** means a tricycle to which a power source is attached.

**“power source”**, for a power-assisted cycle, means 1 or more auxiliary propulsion motors that—

- (a) have a combined maximum power output of 200 W or less; and
- (b) operate through—
  - (i) contact with a wheel of the cycle; or
  - (ii) being attached to the cycle’s drive chain.

**“prevent”** includes minimise and remove.

**“previously convicted”** means in relation to a conviction (the **“later conviction”**), convicted before the later conviction, whether the offence the subject of the later conviction was committed before the earlier conviction or after it.

**“prime mover”** means a motor vehicle built to tow a semitrailer.

**“private vehicle”** means a vehicle other than a heavy vehicle.

**“probationary licence”** means a licence to drive a motor vehicle issued under this Act that is first issued after the person has, under an order

SCHEDULE 4 (continued)

made by an Australian court, served a period of disqualification from holding or obtaining a licence.

**“provisional licence”** means a licence to drive a motor vehicle issued under this Act that is subject to particular restrictions imposed because of the holder’s limited driving experience.

**“public passenger vehicle”** has the same meaning as in the *Transport Operations (Passenger Transport) Act 1994*.

**“public place”** means a place—

- (a) of public resort open to or used by the public as of right; or
- (b) for the time being—
  - (i) used for a public purpose; or
  - (ii) open to access by the public; whether on payment or otherwise; or
- (c) open to access by the public by the express or tacit consent or sufferance of the owner of that place, whether the place is or is not always open to the public;

but does not include—

- (d) a track that at the material time is being used as a course for racing or testing motor vehicles and from which other traffic is excluded during that use; or
- (e) a road; or
- (f) a place declared under a regulation not to be a public place.

**“Queensland driver licence”** means any of the following licences—

- (a) a learner, probationary, provisional, open or restricted licence issued under this Act;
- (b) a current driver licence receipt issued under this Act for a learner, probationary, provisional, open or restricted licence.

**“railway”** means—

- (a) a railway within the meaning of the *Transport Infrastructure Act*

SCHEDULE 4 (continued)

1994; or

- (b) a railway on a cane railway easement under the *Sugar Industry Act 1999*, chapter 2, part 4.<sup>21</sup>

**“reasonably believe”** means believe on reasonable grounds.

**“registered”** means registered in a register of vehicles kept by the chief executive under a transport Act.

**“registered operator”** means a person—

- (a) in whose name the vehicle is registered under a transport Act or a corresponding law; or
- (b) who has given notice to the chief executive for the purpose of having the vehicle registered in the person’s name under a transport Act.

**“regulated parking”** means parking that is regulated by a local government by an official traffic sign under chapter 5, part 6.

**“remedial action notice”** see section 50A.

**“restricted licence”** means a licence to drive a motor vehicle, issued under this Act to give effect to a court order under section 87,<sup>22</sup> that authorises the holder to drive only in stated circumstances directly connected with the person’s means of earning a living.

**“reviewed decision”** see section 65.

**“right”** for a person means—

- (a) the person’s right hand side; or
- (b) for a line, sign or something else—the right hand side of the line, sign or other thing when viewed from the person’s perspective.

**“road”**—

- (a) includes an area that is—

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<sup>21</sup> *Sugar Industry Act 1999*, chapter 2 (Production, supply and milling), part 4 (Cane access, harvesting and mill supply)

<sup>22</sup> Section 87 (Issue of provisional licence to disqualified person)

SCHEDULE 4 (continued)

- (i) open to or used by the public and is developed for, or has as 1 of its uses, the driving or riding of motor vehicles, whether on payment of a fee or otherwise; or
  - (ii) dedicated to public use as a road; but
- (b) does not include an area declared under a regulation not to be a road.

*Example of an area that is a road—*

A bridge, cattle grid, culvert, ferry, ford, railway crossing, shopping centre car park, tunnel or viaduct.

**“road train”** means a combination consisting of a motor vehicle towing 2 or more trailers, that is not a B-double.

**“roadside vending”** means—

- (a) the commercial supply of goods or services from a place on a road; or
- (b) the setting up on, or bringing onto, a road of a stall, vehicle, equipment or other thing for the commercial supply of goods or services;

but does not include roadside vending for a religious, charitable, educational or political purpose.

**“semitrailer”** means a trailer built to be—

- (a) supported at the front by, and connected to, a prime mover; and
- (b) supported at the back by its own wheels.

**“stop”** when applied to or in respect of any person, vehicle, tram, train, or animal, means to halt and remain halted while thereunto required by lawful authority.

**“superintendent”** means a superintendent of traffic.

**“superintendent of traffic”** means the chief executive or commissioner.

**“tare”** means the weight of any vehicle equipped for travelling on a road, but not including any load.



## SCHEDULE 4 (continued)

**“traffic”** includes the use by any person of any road or off-street regulated parking area, or the presence therein or thereon of any person, vehicle, tram, train, animal, or other movable article or thing whatsoever.

**“traffic area”** means all roads and parts of roads and off-street regulated parking areas in any area defined or deemed to be defined pursuant to this Act, as a traffic area.

**“traffic history”** of a person means the history of—

- (a) the contraventions for which the person has been dealt with under this Act, including by the recording of demerit points under a regulation; or
- (b) the contraventions of the Criminal Code, section 328A for which the person has been dealt with.

**“trailer”** means a vehicle that is built to be towed, or is towed, by a motor vehicle, but does not include a motor vehicle being towed.

**“train”** means any conveyance or group of connected conveyances borne upon a rail or rails of a railway.

**“tram”** means any conveyance or group of connected conveyances used or designed for use upon a tramway.

**“tramcar”** means any tram fitted or equipped for the conveyance of passengers.

**“transport”**, in relation to dangerous goods, includes—

- (a) the packing, loading and unloading of the goods, and transferring them to or from a vehicle, for their transport; and
- (b) the marking of packages and unit loads containing dangerous goods;
- (c) the placarding of containers and vehicles in which dangerous goods are transported; and
- (d) anything else incidental to their transport.

**“transport Act”** means—

- (a) this Act; or

SCHEDULE 4 (continued)

- (b) another Act, or a provision of another Act, administered by the Minister that is prescribed under a regulation; or
- (c) the *Motor Accident Insurance Act 1994* for the following provisions of this Act—
- section 31 (Power to stop private vehicles)
  - section 32 (Power to stop heavy vehicles)
  - section 47 (Power to set up checkpoints)
  - section 48 (Power to require name and address)
  - section 49 (Power to require documents to be produced)
  - a provision of this Act that is prescribed under a regulation.

**“transport coordination plan”** means the transport coordination plan developed under the *Transport Planning and Coordination Act 1994*.

**“tricycle”** means any vehicle having 3 wheels and designed for propulsion wholly by human power.

**“truck”** means a motor vehicle with a GVM over 4.5 t, other than a bus, tractor or tram.

**“unsafe”**, for a thing, means the thing is likely to cause loss of life, bodily injury or damage to property if used in a normal way.

**“vehicle”** includes any type of transport that moves on wheels and a hovercraft but does not include a train or tram.

**“vessel”** means any ship, boat, punt, ferry, air cushion vehicle and every other kind of vessel used or apparently designed for use in navigation whatever may be the means of its propulsion.

**“wheelchair”**—

- (a) means a chair on wheels that is built to transport a person who is unable to walk or has difficulty in walking; but
- (b) does not include a pram, stroller or trolley.

**“wheeled recreational device”** means a wheeled device, built to transport a person, propelled by human power or gravity, and ordinarily used for

## SCHEDULE 4 (continued)

recreation or play, and—

- (a) includes rollerblades, rollerskates, a skateboard or similar wheeled device; but
- (b) does not include a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy.

**“wheeled toy”** means a child’s pedal car, scooter or tricycle or a similar toy, but only when it is being used by a child who is under 12 years old.

## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 8 November 2000. Future amendments of the Transport Operations (Road Use Management) Act 1995 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

*Transport Operations (Road Use  
Management) Act 1995*

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### 3 Key

**Key to abbreviations in list of legislation and annotations**

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

### 4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 32 of 1995	7 July 1995
2	to Act No. 58 of 1995	24 January 1996
2A	to Act No. 62 of 1996	21 March 1997
2B	to Act No. 9 of 1997	18 July 1997
3	to Act No. 66 of 1997	6 March 1998
3A	to Act No. 66 of 1997	31 July 1998
3B	to Act No. 33 of 1998	20 November 1998
4	to Act No. 51 of 1999	1 December 1999
4A	to Act No. 6 of 2000	25 August 2000

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	2

## 6 List of legislation

### **Transport Operations (Road Use Management) Act 1995 No. 9**

date of assent 5 April 1995

ss 1–2, s 92 sch 1 commenced on date of assent

s 93(7) commenced 12 May 1995 (1995 SL No. 124)

remaining provisions commenced 1 July 1995 (1995 SL No. 206)

as amended by—

### **Transport Infrastructure Amendment (Rail) Act 1995 No. 32 ss 1–2, 23 sch**

date of assent 14 June 1995

commenced on date of assent (see s 2(1))

### **Transport Planning and Coordination Amendment Act 1995 No. 48 pts 1, 5**

date of assent 22 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 15 December 1995 (1995 SL No. 365)

### **Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 2**

date of assent 28 November 1995

s 4 sch 2 amdt 2 commenced 5 April 1995

remaining provisions commenced on date of assent

### **Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

### **Motor Accident Insurance Legislation Amendment Act 1996 No. 53 pts 1, 3**

date of assent 20 November 1996

pt 1 commenced on date of assent

remaining provisions commenced 6 December 1996 (1996 SL No. 362)

### **Transport Legislation Amendment Act 1996 No. 62 pts 1, 4 (as amd 1998 No. 33**

**ss 1–2 pt 3 (as from 23 September 1998 see s 2(3))**

date of assent 9 December 1996

pt 1 commenced on date of assent

s 18 commenced 2 July 1998 (see s 2(1) and 1995 No. 9 s 93 sch 2 pt 1)

remaining provisions commenced 1 May 1997 (1997 SL No. 23)

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**Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9  
ss 1–2(1), pts 1, 25**

date of assent 15 May 1997  
commenced on date of assent

**Transport Legislation Amendment Act 1997 No. 66 pts 1, 8 (as amd 1998 No. 33  
ss 1–2 pt 3 (as from 23 September 1998 see s 2(3)) (as amd 1999 No. 15  
ss 1–2, 137 sch 1 (amendment could not be given effect))**

date of assent 1 December 1997  
ss 1–2 commenced on date of assent  
ss 109–112, 125–128, 129 (so far as it relates to the insertion of ch 5A), 130,  
134, 136(1), (2) (other than for the insertion of the definitions “dangerous  
goods”, “dangerous situation”, “dangerous situation notice” and “remedial  
action notice”), (3) commenced 12 December 1997 (1997 SL No. 439)  
ss 113–116, 120–124, 129 (so far as it inserts ch 5 pt 5), 136(2) (so far as it ins  
defs “dangerous goods”, “dangerous situation”, “dangerous situation notice”  
and “remedial action notice”) commenced 7 August 1998 (1998 SL No. 223)  
s 132 (so far as it inserts s 92B), 133 commenced 1 January 1998 (1997 SL  
No. 484)  
s 132 (so far as it inserts ss 92–92A) never proclaimed into force and om 1998  
No. 33 s 18  
s 135 commenced 19 December 1997 (1997 SL No. 484)  
remaining provisions commenced 2 December 1998 (automatic commencement  
under AIA s 15DA(2))

**Transport Legislation Amendment Act 1998 No. 33 ss 1–2(2)–(4) pt 4**

date of assent 23 September 1998  
ss 1–2, 20–21, 24(4), 25–26 commenced on date of assent (see s 2(3))  
s 24(3) commenced 7 August 1998 (see s 2(2))  
remaining provisions commenced 1 July 1998 (see s 2(4))

**Criminal Code (Stalking) Amendment Act 1999 No. 18 pts 1, 3 sch**

date of assent 30 April 1999  
commenced on date of assent

**Radiation Safety Act 1999 No. 20 ss 1–2, 235 (as amd 2000 No. 46 ss 1, 2(2), 3 sch  
amdt 9 (commenced immediately before 1 January 2000 (see s 2(2))))**

date of assent 30 April 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 January 2000 (1999 SL No. 329)

**Financial Administration Legislation Amendment Act 1999 No. 29 ss 1–2, 50 sch**

date of assent 16 June 1999  
ss 1–2, 50 commenced on date of assent  
remaining provisions commenced 1 July 1999 (1999 SL No. 122 and see 1999  
SL No. 119, 1999 SL No. 70 s 2(3))

*Transport Operations (Road Use  
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**List of legislation to Traffic Act 1949 13 Geo 6 No. 26—before relocation of provisions to Transport Operations (Road Use Management) Act 1995**

**Traffic Act 1949 13 Geo 6 No. 26**

date of assent 22 April 1949

commenced 1 February 1950 (proc pubd gaz 7 January 1950 p 37)

as amended by—

**Main Roads Acts and Another Act Amendment Act 1952 1 Eliz 2 No. 14 pts 1, 3**

date of assent 22 April 1952

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 1952 (proc pubd gaz 23 August 1952 p 2786)

**Traffic Acts Amendment Act 1953 2 Eliz 2 No. 11**

date of assent 19 November 1953

commenced on date of assent

**Traffic Acts and Another Act Amendment Act 1956 5 Eliz 2 No. 26 pts 1–2**

date of assent 28 November 1956

commenced on date of assent

**Traffic Acts and Another Act Amendment Act 1957 6 Eliz 2 No. 13 pts 1–2**

date of assent 18 April 1957

s 5(1) commenced 1 July 1957 (see s 5(2))

remaining provisions commenced on date of assent

**Traffic Acts and Another Act Amendment Act (No. 2) 1957 6 Eliz 2 No. 34 pts 1–2**

date of assent 17 December 1957

commenced on date of assent

**State Transport Facilities Acts and Another Act Amendment Act 1959 8 Eliz 2 No. 21 s 27 sch**

date of assent 10 April 1959

commenced 6 July 1959 (proc pubd gaz 4 July 1959 p 1724)

**Traffic Acts and Another Act Amendment Act 1959 8 Eliz 2 No. 55 pts 1–2**

date of assent 21 December 1959

commenced on date of assent

**Traffic Acts Amendment Act 1960 9 Eliz 2 No. 44**

date of assent 16 December 1960

s 9 commenced 16 August 1965 (proc pubd gaz 7 August 1965 p 1809)

remaining provisions commenced on date of assent

**Traffic Acts Amendment Act 1961 10 Eliz 2 No. 27**

date of assent 3 November 1961

commenced on date of assent



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**Traffic Acts Amendment Act 1962 No. 23**

date of assent 10 December 1962  
commenced on date of assent

**Traffic Acts and Other Acts Amendment Act 1965 No. 26 pts 1–2**

date of assent 29 April 1965  
commenced 19 July 1965 (proc pubd gaz 12 June 1965 p 971)

**Traffic Acts Amendment Act 1967 No. 44**

date of assent 19 December 1967  
commenced on date of assent

**Traffic Acts Amendment Act 1968 No. 22**

date of assent 22 April 1968  
ss 6–7 commenced 1 August 1968 (proc pubd gaz 6 July 1968 p 1108)  
remaining provisions commenced on date of assent

**Traffic Act Amendment Act 1968 (No. 2) No. 36**

date of assent 27 November 1968  
commenced on date of assent

**Traffic Act Amendment Act 1969 No. 22**

date of assent 17 December 1969  
commenced 19 January 1970 (proc pubd gaz 20 December 1969 p 1736)

**Traffic Act and Another Act Amendment Act 1971 No. 33 pts 1–2**

date of assent 27 April 1971  
commenced on date of assent

**Metric Conversion Act 1972 No. 31 pt 2 sch 1**

date of assent 21 December 1972  
commenced 1 July 1974 (proc pubd gaz 15 June 1974 p 997)

**Traffic Act Amendment Act 1974 No. 18 (as amd 1977 No. 26; 1982 No. 52; 1984 No. 102; 1994 No. 7 s 46)**

date of assent 24 April 1974

The following provisions of Act No. 18 of 1974 commenced 1 September 1974 (proc pubd gaz 3 August 1974 p 1933)—  
ss 1–2, 7–8, 9 but only so far as it enacts s 16A(1)–(9), (11), (15)–(16), (18)–(25), 10(a)–(c), (e)–(g) only, 11–12, 14, 16(d) only, 19–20, 22(c) only, 24, 28(b) only, 30(b)–(c), (h) only, 31(2)–(4)  
s 3 commenced 23 June 1975 (proc pubd gaz 21 June 1975 p 1006)  
s 6(b) commenced 13 October 1975 (proc pubd gaz 11 October 1975 p 499)  
s 6(c) commenced 1 March 1976 (proc pubd gaz 14 February 1976 p 551)  
ss 4–5, 6(a), 10(d), 13, 15, 16(a)–(c), 18, 21, 26–27, 28(a), 29, 30(a), (d)–(e), (g) never proclaimed into force and repealed by 1984 No. 102 s 37  
remaining provisions never proclaimed into force and repealed 1994 No. 7 s 46

**Traffic Act Amendment Act 1975 No. 13**

date of assent 15 May 1975  
commenced on date of assent

**Traffic Act Amendment Act 1975 (No. 2) No. 69**

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**Traffic Act Amendment Act 1975 (No. 2) No. 69**

date of assent 12 December 1975

commenced on date of assent

**Traffic Acts Amendment Act 1977 No. 26**

date of assent 21 April 1977

commenced on date of assent

**Traffic Act Amendment Act 1977 No. 35**

date of assent 19 September 1977

commenced on date of assent

**Bail Act 1980 No. 35 s 4(1) sch 1**

date of assent 14 May 1980

commenced 1 July 1980 (proc pubd gaz 28 June 1980 p 1634)

**Traffic Act Amendment Act 1982 No. 15**

date of assent 20 April 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 1982 (proc pubd gaz 24 July 1982 p 2422)

**Traffic Acts Amendment Act 1982 No. 52**

date of assent 8 November 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 20 December 1982 (proc pubd gaz 11 December 1982 p 1719)

**Traffic Acts Amendment Act 1984 No. 102 pts 1–2**

date of assent 6 December 1984

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 4 March 1985 (proc pubd gaz 23 February 1985 p 943)

**Motor Vehicles Safety Act and Other Acts Amendment Act 1985 No. 30 pts 1, 8**

date of assent 17 April 1985

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 1986 (proc pubd gaz 18 January 1986 p 126)

**Traffic Act Amendment Act 1988 No. 94**

date of assent 1 December 1988

commenced on date of assent

**Bail Act and Other Acts Amendment Act 1988 No. 105 pts 1, 4**

date of assent 14 December 1988

ss 1–2 commenced on date of assent

remaining provisions commenced 4 December 1989 (proc pubd gaz 11 November 1989 p 1961)

**Traffic Act Amendment Act 1989 No. 76**

date of assent 24 August 1989

commenced on date of assent

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**Traffic Act Amendment Act 1990 No. 19**

date of assent 25 May 1990  
commenced on date of assent

**Public Service (Administrative Arrangements) Act 1990 No. 73 s 3 sch 5**

date of assent 10 October 1990  
commenced 24 November 1990 (proc pubd gaz 24 November 1990 p 1450)

**Traffic Act and Another Act Amendment Act 1990 No. 103 pts 1–2 (as amd 1993 No. 61 s 4 (as from 1 March 1994))**

date of assent 12 December 1990  
ss 1.1–1.2 commenced on date of assent  
ss 2.6, 2.11, 2.23, 2.25(a)–(b) commenced 1 July 1991 (proc pubd gaz 29 June 1991 p 1201)  
s 2.25(c) not proclaimed into force and om 1993 No. 61 s 4 (as from 1 March 1994)  
remaining provisions commenced 1 January 1991 (proc pubd gaz 22 December 1990 p 2274)

**Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 3 sch 1**

date of assent 17 December 1991  
commenced on date of assent

**Traffic Amendment Act 1992 No. 19**

date of assent 22 May 1992  
commenced on date of assent

**Offence Notices Legislation Amendment Act 1992 No. 23 pts 1, 3**

date of assent 1 June 1992  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1992 (1992 SL No. 195)

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 s 3 sch 1**

date of assent 7 December 1992  
commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 1993 No. 32 s 3 sch 1**

date of assent 3 June 1993  
commenced on date of assent

**Local Government Act 1993 No. 70 s 804 sch**

date of assent 7 December 1993  
commenced 26 March 1994 (see s 2(5))

**Traffic Amendment Act 1994 No. 7 pts 1–3, s 3 sch (as amd 1994 No. 15 s 3 sch 1 (as from 10 May 1994); 1994 No. 87 s 3 sch 2 (as from 1 December 1994) and see 1995 No. 9 s 93(7) sch 2 pt 2 (as from 5 April 1995); (as amd 1995 No. 57 s 4 sch 2 (as from 5 April 1995 (see s 2(1) sch 2))))**

date of assent 7 March 1994  
ss 1–2 commenced on date of assent  
s 6(6) commenced 15 August 1987 (see s 2(1))  
s 6(10) commenced 26 March 1994 (see s 2(2))

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s 12(1)–(16), (8)–(12) commenced on date of assent (see s 2(3))  
 pt 3 never proclaimed into force and om 1995 No. 9 s 93(7) sch 2 pt 2 (as from  
 5 April 1995 (see s 93(7)) (as amd 1995 No. 57 s 4 sch 2 (as from 5 April  
 1995 (see s 2(1) sch 2))  
 remaining provisions commenced 1 July 1994 (1994 SL No. 231)

**Offence Notices Legislation Amendment Act 1994 No. 10 pts 1, 4**

date of assent 7 March 1994  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 12 December 1994 (1994 SL No. 430)

**Transport Operations (Passenger Transport) Act 1994 No. 43 s 143 sch 3**

date of assent 14 September 1994  
 commenced 7 November 1994 (1994 SL No. 378)

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 s 3 sch 1**

date of assent 1 December 1994  
 commenced on date of assent

**Transport Operations (Road Use Management) Act 1995 No. 9 s 92 sch 1**

date of assent 5 April 1995  
 commenced on date of assent (see s 2(1))

**Transport Legislation Amendment Act 1996 No. 62 pts 1–2**

date of assent 9 December 1996  
 ss 1–2 commenced on date of assent  
 s 13 commenced 7 February 1997 (1997 SL No. 23)  
 remaining provisions commenced 1 May 1997 (1997 SL No. 23)

**Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9  
 ss 1–2(1), pt 22**

date of assent 15 May 1997  
 commenced on date of assent

**Transport Legislation Amendment Act 1997 No. 66 pts 1, 3 (as amd 1999 No. 42  
 ss 1, 2(3) pt 2 div 3 (as from 22 November 1999 see s 2(3), 1999 SL  
 No. 285)) (see s 2(3))**

date of assent 1 December 1997  
 ss 1–2 commenced on date of assent  
 s 19 commenced 2 February 1998 (1997 SL No. 439)  
 ss 16(6), 27 commenced 2 December 1998 (automatic commencement under  
 AIA s 15DA(2))  
 ss 28–29 never proclaimed into force and om 1999 No. 42 s 40 (proposed  
 commencement 30 November 1999 (automatic commencement under AIA  
 s 15DA(2)) (1998 SL No. 317 s 2(2))  
 remaining provisions commenced 12 December 1997 (1997 SL No. 439)

**Police Powers and Responsibilities Act 1997 No. 67 ss 1–2, 139 sch 2**

date of assent 1 December 1997  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 6 April 1998 (see s 2)

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**Transport Legislation Amendment Act (No. 2) 1998 No. 43 ss 1–2(1) pt 2**

date of assent 27 November 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 29 October 1999 (1999 SL No. 245)

**Road Transport Reform Act 1999 No. 42 pts 1–2 div 1, pt 3 div 1, ss 54(1) sch pt 1, 55**

date of assent 2 September 1999

ss 1–2 commenced on date of assent

ss 3–11, 19, 21–25 commenced 22 November 1999 (1999 SL No. 285)

ss 14, 16, 17 commenced 30 November 1999 (1999 SL No. 285)

ss 12–13, 15, 18 and 20 commenced 1 December 1999 (1999 SL No. 285)

s 55 commenced 1 August 2000 (2000 SL No. 194)

remaining provisions commenced 1 December 1999 (see s 2(1)–(2))

**Transport Operations (Road Use Management) Act 1995 No. 9—after relocation of Traffic Act 1949 13 Geo 6 No. 26**

**Road Transport Reform Act 1999 No. 42 pts 1–2 div 2, pt 3 div 2, s 54(2) sch pt 2**

date of assent 2 September 1999

ss 1–2 commenced on date of assent

pt 2 div 2 commenced 22 November 1999 (see s 2(3), 1999 SL No. 285)

s 54(2) sch amd 191 (to the extent it renumbers section 93) could not be given effect

remaining provisions commenced 1 December 1999 (see s 2(1)–(2))

**Sugar Industry Act 1999 No. 51 ss 1, 2(2), 228 sch 1 (as amd 2000 No. 25 ss 1, 2(2), 3(1), sch 1 item 35 (ss 1, 2(2), 3(1) commenced 27 June 2000, sch 1 item 35 commenced immediately before 1 January 2000) (see s 2(2))**

date of assent 18 November 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2000 (see s 2(2))

**State Penalties Enforcement Act 1999 No. 70 ss 1–2, 166 sch 1**

date of assent 6 December 1999

ss 1–2 commenced on date of assent

remaining provisions commence 27 November 2000 (2000 SL No. 274)

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3**

date of assent 23 March 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Transport Legislation Amendment Act 2000 No. 6 s 1 pt 6 s 78 sch**

date of assent 20 April 2000

commenced on date of assent

**Transport (Busway and Light Rail) Amendment Act 2000 No. 40 pts 1, 4**

date of assent 13 October 2000

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force

**Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch**

date of assent 25 October 2000

commenced on date of assent

## 7 List of annotations

### Commencement

s 2 om R2 (see RA s 37)

### Objectives

s 3 amd 1997 No. 66 s 110

### Definitions—the dictionary

s 5 amd 1999 No. 42 s 54(2) sch amdt 168

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s 8 amd 1995 No. 48 s 15

## CHAPTER 3—ROAD USER PERFORMANCE AND COMPLIANCE

### PART 1—ALTERNATIVE COMPLIANCE

pt hdg sub 1998 No. 33 s 20

#### Alternative ways of complying with Act

s 15 sub 1998 No. 33 s 20

#### Approving alternative compliance schemes operating interstate

s 16 om 1998 No. 33 s 20

#### Specified provisions of Act do not apply while scheme complied with

s 17 om 1998 No. 33 s 20

### PART 1A—APPROVALS

pt hdg ins 1997 No. 66 s 111

#### Definition

s 17A ins 1997 No. 66 s 111  
amd 1999 No. 42 ss 27, 48

#### Granting, renewing or refusing approval

s 17B ins 1997 No. 66 s 111

#### Grounds for amending suspending or cancelling approvals

s 18 sub 1997 No. 66 s 111  
amd 1998 No. 33 s 21; 1999 No. 42 s 28

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**Appointment of authorised officers**

s 20            amd 2000 No. 5 s 461 sch 3

**Production or display of identity cards**

s 25            amd 2000 No. 5 s 461 sch 3

**Entry to places**

s 26            amd 1997 No. 66 s 113

**Power to stop private vehicles**

s 31            amd 2000 No. 5 s 461 sch 3

**Power to require vehicles to be moved**

s 33            amd 1997 No. 66 s 114

**Power to inspect vehicles**

s 34            amd 1997 No. 66 s 115

**Power to enter vehicles etc. other than for vehicle inspection**

s 35            amd 1997 No. 66 s 116

**Power to require vehicle inspections**

s 36            amd 2000 No. 6 s 78 sch s 1

**Power to prohibit use of vehicles**

s 37            amd 1997 No. 66 s 117; 1999 No. 42 s 29; 2000 No. 6 s 78 sch ss 2–3

**Power to prohibit persons driving**

s 38            amd 1999 No. 42 s 30

**Forfeiture of seized things**

s 43            amd 1997 No. 66 s 118

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div hdg      ins 1997 No. 66 s 119

**Seizing certain vehicles for sale**

s 46A        ins 1997 No. 66 s 119

**Power to require name and address**

s 48            amd 2000 No. 5 s 461 sch 3

**Power to require information**

s 50            amd 1997 No. 66 s 120; 1999 No. 42 s 54(2) sch s 169

**Division 5—Remedial action notices**

div hdg      ins 1997 No. 66 s 121

**Power to give remedial action notices**

s 50A        ins 1997 No. 66 s 121

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ch hdg      om 2000 No. 5 s 461 sch 3

**Power of arrest**

s 51            om 2000 No. 5 s 461 sch 3

**PART 4A—ADDITIONAL POWERS OF AUTHORISED OFFICERS TO  
PREVENT DANGEROUS SITUATION**

**pt hdg** ins 1997 No. 66 s 122

**Application**

**s 51A** ins 1997 No. 66 s 122

**Additional power to require information or produce document**

**s 51B** ins 1997 No. 66 s 122

**Self incrimination no excuse**

**s 51C** ins 1997 No. 66 s 122

**Power to give directions in dangerous situations**

**s 51D** ins 1997 No. 66 s 122

**Preventing injury and damage—taking direct action**

**s 51E** ins 1997 No. 66 s 122

**False or misleading statements**

**s 52** amd 1999 No. 42 s 31

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**prov hdg** amd 1999 No. 42 s 32(1)

**s 53** amd 1995 No. 57 s 4 sch 2; 1997 No. 66 s 123; 1999 No. 42 s 32(2)

**Using documents voided for non-payment**

**s 56** amd 1998 No. 33 s 22

**Executive officers must ensure corporation complies with transport Act**

**s 57** sub 1997 No. 66 s 124

**Responsibility for acts or omissions of representatives**

**s 57A** ins 1997 No. 66 s 124

**Further liability provisions for extended liability offences**

**s 57B** ins 1997 No. 66 s 124

amd 2000 No. 6 s 78 sch s 4

**Evidentiary aids**

**s 60** amd 2000 No. 6 s 78 sch s 5

**Instruments**

**s 61** amd 1999 No. 42 s 49

**Black and white reproductions of words in colour**

**s 62A** ins 1999 No. 42 s 50

**Notice of damage**

**s 63** amd 2000 No. 6 s 78 sch s 6

**CHAPTER 4—REVIEW OF AND APPEALS AGAINST DECISIONS**

**ch hdg** sub 1997 No. 66 s 125

**PART 1—REVIEW OF DECISIONS**

**pt hdg** om 1997 No. 66 s 125



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**Review of and appeals against decisions**

- s 65** sub 1997 No. 66 s 125  
amd 1999 No. 42 s 51; 2000 No. 6 s 78 sch s 6

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- pt hdg** om 1997 No. 66 s 125

**CHAPTER 5—ROAD USE****PART 1—LOCAL GOVERNMENT FUNCTIONS**

- pt hdg** sub 1999 No. 42 s 54(2) sch s 170

**Local laws etc.**

- s 66** prev s 66 om 1997 No. 66 s 125  
pres s 66 (prev 1949 13 Geo 6 No. 26 s 5) amd 1953 2 Eliz 2 No. 11 s 2;  
1961 10 Eliz 2 No. 27 s 3; 1965 No. 26 s 6; 1990 No. 103 s 2.3; 1991  
No. 97 s 3 sch 1; 1993 No. 70 s 804 sch; 1994 No. 7 s 4(2)–(8); 1997  
No. 66 s 15; 1999 No. 42 s 44, s 54(1) sch ss 1–5  
reloc as s 66 1999 No. 42 s 54(1) sch s 6

**PART 2—OFFICIAL TRAFFIC SIGNS**

- pt hdg** prev pt 2 hdg om 1999 No. 42 s 54(2) sch s 171  
pres pt 2 hdg ins 1999 No. 42 s 54(2) sch s 170

**Definitions**

- s 67** prev s 67 om 1997 No. 66 s 125  
pres s 67 (prev 1949 13 Geo 6 No. 26 s 12A) ins 1959 8 Eliz 2 No. 55 s 7  
sub 1965 No. 26 s 11  
amd 1999 No. 42 s 54(1) sch s 21  
reloc as s 67 1999 No. 42 s 54(1) sch s 28

**Chief executive may install or remove official traffic signs**

- s 68** prev s 68 om 1997 No. 66 s 125  
pres s 68 (prev 1949 Geo 6 No. 26 s 12B) ins 1959 8 Eliz 2 No. 55 s 7  
sub 1965 No. 26 s 11  
amd 1971 No. 33 s 6  
sub 1994 No. 7 s 8  
amd 1999 No. 42 s 5  
reloc as s 68 1999 No. 42 s 54(1) sch s 28

**Local government may install or remove official traffic signs**

- s 69** prev s 69 om 1997 No. 66 s 125  
pres s 69 (prev 1949 Geo 6 No. 26 s 12BA) ins 1994 No. 7 s 8  
reloc as s 69 1999 No. 42 s 54(1) sch s 28

**Notice to install or remove an official traffic sign**

- s 70** prev s 70 om 1997 No. 66 s 125  
pres s 70 (prev 1949 Geo 6 No. 26 s 12C) ins 1959 8 Eliz 2 No. 55 s 8  
sub 1965 No. 26 s 11  
amd 1994 No. 7 s 3 sch  
reloc as s 70 1999 No. 42 s 54(1) sch s 28

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**Installation of official traffic signs in case of danger**

- s 71** prev s 71 om 1997 No. 66 s 125  
 pres s 71 (prev 1949 Geo 6 No. 26 s 12D) ins 1959 8 Eliz 2 No. 55 s 8  
 sub 1965 No. 26 s 11  
 amd 1971 No. 33 s 7; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch s 22  
 reloc as s 71 1999 No. 42 s 54(1) sch s 28

**Installation of official traffic signs by prescribed persons**

- s 72** prev s 72 om 1997 No. 66 s 125  
 pres s 72 (prev 1949 Geo 6 No. 26 s 12DA) ins 1990 No. 103 s 2.5  
 amd 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch s 23  
 reloc as s 72 1999 No. 42 s 54(1) sch s 28

**Obstruction of prescribed officer and destruction of official traffic signs to be an offence**

- s 73** prev s 73 om 1997 No. 66 s 125  
 pres s 73 (prev 1949 Geo 6 No. 26 s 12E) ins 1959 8 Eliz 2 No. 55 s 9  
 sub 1965 No. 26 s 11  
 amd 1971 No. 33 s 8; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch  
 ss 24–25  
 reloc as s 73 1999 No. 42 s 54(1) sch s 28

**Contravention of official traffic sign an offence**

- s 74** prev s 74 renum as s 145 1999 No. 42 s 54(2) sch s 179  
 pres s 74 (prev 1949 Geo 6 No. 26 s 12F) ins 1959 8 Eliz 2 No. 55 s 9  
 sub 1965 No. 26 s 11; 1994 No. 7 s 9  
 amd 1994 No. 87 s 3 sch 1; 1999 No. 42 s 54(1) sch ss 26–27  
 reloc as s 74 1999 No. 42 s 54(1) sch s 28

**Unlawful installation of official traffic signs**

- s 75** prev s 75 renum as s 146 1999 No. 42 s 54(2) sch s 179  
 pres s 75 (prev 1949 Geo 6 No. 26 s 12G) ins 1959 8 Eliz 2 No. 55 s 10  
 sub 1965 No. 26 s 11  
 amd 1971 No. 33 s 9; 1994 No. 7 s 3 sch  
 reloc as s 75 1999 No. 42 s 54(1) sch s 28

**Injury to official traffic signs**

- s 76** prev s 76 renum as s 148 1999 No. 42 s 54(2) sch s 179  
 pres s 76 (prev 1949 Geo 6 No. 26 s 12H) ins 1959 8 Eliz 2 No. 55 s 10  
 amd 1960 9 Eliz 2 No. 44 s 2; 1961 10 Eliz 2 No. 27 s 6; 1962 No. 23 s 2  
 sub 1965 No. 26 s 11  
 amd 1994 No. 7 s 3 sch  
 reloc as s 76 1999 No. 42 s 54(1) sch s 28

**PART 3—DRIVING OF VEHICLES AND ANIMALS**

- pt hdg** prev pt 3 hdg om 1999 No. 42 s 54(2) sch s 173  
 pres pt 3 hdg ins 1999 No. 42 s 54(2) sch s 170

**Restricted release of Queensland driver licence and traffic history information**

- prov hdg** (prev 1949 13 Geo 6 No. 26 s 14A prov hdg) sub 1999 No. 42 s 6  
 amd 1999 No. 42 s 54(1) sch s 30  
**s 77** prev s 77 renum as s 149 1999 No. 42 s 54(2) sch s 179

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pres s 77 (prev 1949 13 Geo 6 No. 26 s 14A) ins 1965 No. 26 s 13  
amd 1982 No. 15 s 5  
sub 1994 No. 7 s 11; 1999 No. 42 s 6  
amd 1999 No. 42 s 54(1) sch ss 31–32  
reloc as s 77 1999 No. 42 s 54(1) s 89

**Nomination of responsible operator**

**s 77A** renum as s 170 1999 No. 42 s 54(2) sch s 176

**Driving of motor vehicle without a driver licence prohibited**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 15 prov hdg) amd 1999 No. 42 s 54(1) sch s 33

**s 78** prev s 78 renum as s 150 1999 No. 42 s 54(2) sch s 179  
pres s 78 (prev 1949 13 Geo 6 No. 26 s 15) amd 1959 8 Eliz 2 No. 55 s 12;  
1961 10 Eliz 2 No. 27 s 9; 1965 No. 26 s 14; 1974 No. 18 s 7 (as amd  
1984 No. 102 s 36); 1975 No. 13 s 3; 1984 No. 102 s 33; 1990 No. 103  
s 2.26; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch ss 33–35  
reloc as s 78 1999 No. 42 s 54(1) sch s 89  
amd 1999 No. 70 s 166 sch 1

**Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood**

**s 79** prev s 79 om 1999 No. 42 s 54(2) sch s 180  
pres s 79 (prev 1949 13 Geo 6 No. 26 s 16) amd 1959 8 Eliz 2 No. 55 s 13;  
1961 10 Eliz 2 No. 27 s 10; 1965 No. 26 s 15; 1968 No. 22 s 6  
sub 1974 No. 18 s 8  
amd 1977 No. 26 ss 3, 4; 1980 No. 35 s 4(1) sch 1; 1982 No. 15 s 6; 1982  
No. 52 s 4; 1984 No. 102 ss 8, 33; 1988 No. 94 s 2; 1988 No. 105 s 32;  
1990 No. 103 ss 2.7, 2.26; 1994 No. 7 s 3 sch; 1994 No. 43 s 143 sch 3;  
1997 No. 81 s 3 sch; 1999 No. 42 s 7, s 54(1) sch ss 36–44  
reloc as s 79 1999 No. 42 s 54(1) sch s 89

**Application of part**

**s 79A** renum as s 151 1999 No. 42 s 54(2) sch s 184

**Regulations about dangerous goods**

**s 79B** renum as s 152 1999 No. 42 s 54(2) sch s 184

**Exemptions**

**s 79C** renum as s 153 1999 No. 42 s 54(2) sch s 184

**Failure to hold licence etc.**

**s 79D** renum as s 154 1999 No. 42 s 54(2) sch s 184

**Goods too dangerous to be transported**

**s 79E** renum as s 155 1999 No. 42 s 54(2) sch s 184

**Duties when transporting dangerous goods**

**s 79F** renum as s 156 1999 No. 42 s 54(2) sch s 184

**Additional evidentiary aids for transporting dangerous goods**

**s 79G** renum as s 157 1999 No. 42 s 54(2) sch s 184

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**Recovery of costs from convicted person**

**s 79H** renum as s 158 1999 No. 42 s 54(2) sch s 184

**Recovery of costs of government action**

**s 79I** renum as s 159 1999 No. 42 s 54(2) sch s 184

**Prohibition from involvement in the transport of dangerous goods by road**

**s 79J** renum as s 160 1999 No. 42 s 54(2) sch s 184

**Forfeiting dangerous goods**

**s 79K** renum as s 161 1999 No. 42 s 54(2) sch s 184

**Helping in emergencies or accidents**

**s 79L** renum as s 162 1999 No. 42 s 54(2) sch s 184

**Regulating vehicles etc. in public places**

**s 79M** renum as s 147 1999 No. 42 s 54(2) sch s 186

**Forfeiture on conviction**

**s 79N** renum as s 163 1999 No. 42 s 54(2) sch s 187

**Provisions with respect to breath tests and laboratory tests**

**s 80** prev s 80 renum as s 164 1999 No. 42 s 54(2) sch s 188  
 pres s 80 (prev 1949 13 Geo 6 No. 26 s 16A) ins 1968 No. 22 s 7  
 amd 1969 No. 22 s 5  
 sub 1974 No. 18 s 9 (as amd 1977 No. 26 s 9(1)(a); 1982 No. 52 s 9(1)(a);  
 1984 No. 102 s 35); 1974 No. 18 s 9 (so far as it enacts section  
 16A(10), (12), (13), (14) and (17) never proclaimed into force and om  
 1994 No. 10 s 10);  
 amd 1975 No. 13 s 4; 1975 No. 69 ss 2–11; 1977 No. 26 ss 5, 6; 1982  
 No. 15 s 7; 1982 No. 52 s 5; 1984 No. 102 ss 9, 33; 1988 No. 94 s 3;  
 1990 No. 103 ss 2.8, 2.26  
 sub 1992 No. 68 s 3 sch 1  
 amd 1994 No. 7 s 12; 1994 No. 87 s 3 sch 1; 1997 No. 66 s 19; 1999  
 No. 42 s 8, s 54(1) sch ss 45–50  
 reloc as s 80 1999 No. 42 s 54(1) sch s 89  
 amd 2000 No. 46 s 3 sch

**Notices to offenders for certain first offences**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 16B prov hdg) amd 1974 No. 18 s 10(a);  
 1994 No. 7 s 38(1) (never proclaimed into force and om 1995 No. 9  
 s 93 sch 2)

**s 81** prev s 81 renum as s 165 1999 No. 42 s 54(2) sch s 188  
 pres s 81 (prev 1949 13 Geo 6 No. 26 s 16B) ins 1969 No. 22 s 6  
 amd 1974 No. 18 s 10(b)–(g) (as amd 1977 No. 26 s 9(1)(b); 1982 No. 52  
 s 9(1)(b); 1984 No. 102 s 37); 1977 No. 26 s 7; 1982 No. 52 s 6  
 om 1984 No. 102 s 10  
 ins 1991 No. 80 s 3  
 amd 1994 No. 7 s 38(2)–(3) (never proclaimed into force and om 1995  
 No. 9 s 93 sch 2); 1994 No. 87 s 3 sch 1; 1999 No. 42 s 9, s 54(1) sch  
 ss 51–57  
 reloc as s 81 1999 No. 42 s 54(1) sch s 89

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**Offenders may be ordered to attend training programs**

- s 82** prev s 82 renum as s 166 1999 No. 42 s 54(2) sch s 188  
 pres s 82 (prev 1949 13 Geo 6 No. 26 s 16C) ins 1982 No. 52 s 7  
 amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 3 sch; 1994 No. 87 s 3 sch 1  
 sub 1997 No. 66 s 20  
 amd 1999 No. 42 s 54(1) sch ss 58–59  
 reloc as s 82 1999 No. 42 s 54(1) sch s 89

**Careless driving of motor vehicles**

- s 83** prev s 83 renum as s 167 1999 No. 42 s 54(2) sch s 188  
 pres s 83 (prev 1949 13 Geo 6 No. 26 s 17) amd 1974 No. 18 s 11; 1994  
 No. 7 s 3 sch  
 reloc as s 83 1999 No. 42 s 54(1) sch s 89

**Dangerous driving of vehicles (other than motor vehicles) etc.**

- s 84** prev s 84 renum as s 168 1999 No. 42 s 54(2) sch s 188  
 pres s 84 (prev 1949 13 Geo 6 No. 26 s 18) amd 1965 No. 26 s 16; 1990  
 No. 103 s 2.26; 1994 No. 7 s 3 sch  
 reloc as s 84 1999 No. 42 s 54(1) sch s 89

**Approval of forms**

- s 84A** renum as s 169 1999 No. 42 s 54(2) sch s 188

**Racing and speed trials on roads**

- s 85** prev s 85 renum as s 171 1999 No. 42 s 54(2) sch s 188  
 pres s 85 (prev 1949 13 Geo 6 No. 26 s 19) amd 1956 5 Eliz 2 No. 26 s 6;  
 1961 10 Eliz 2 No. 27 s 11; 1994 No. 7 s 3 sch  
 reloc as s 85 1999 No. 42 s 54(1) sch s 89

**Reference provisions operate only after repeal of relevant Act**

- s 85A** renum as s 172 1999 No. 42 s 54(2) sch s 191

**Disqualification of drivers of motor vehicles for certain offences**

- s 86** prev s 86 renum as s 173 1999 No. 42 s 54(2) sch s 191  
 pres s 86 (prev 1949 13 Geo 6 No. 26 s 20) amd 1959 8 Eliz 2 No. 55 s 14;  
 1961 10 Eliz 2 No. 27 s 12; 1965 No. 26 s 17; 1968 No. 22 s 8  
 sub 1974 No. 18 s 12  
 amd 1982 No. 15 s 8; 1982 No. 52 s 8; 1984 No. 102 s 11; 1990 No. 103  
 s 2.9; 1992 No. 68 s 3 sch 1; 1994 No. 7 s 3 sch; 1999 No. 42 s 10,  
 s 54(1) sch ss 60–67  
 reloc as s 86 1999 No. 42 s 54(1) sch s 89

**Issue of restricted licence to disqualified person**

- s 87** prev s 87 renum as s 174 1999 No. 42 s 54(2) sch s 191  
 pres s 87 (prev 1949 13 Geo 6 No. 26 s 20A) ins 1984 No. 102 s 12  
 amd 1990 No. 19 s 3; 1990 No. 103 s 2.10; 1994 No. 87 s 3 sch 1; 1997  
 No. 66 s 21; 1999 No. 42 s 11, s 54(1) sch ss 68–80  
 reloc as s 87 1999 No. 42 s 54(1) sch s 89  
 amd 2000 No. 6 s 78 sch ss 7–9

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**Variation of conditions**

- s 88** prev s 88 renum as s 175 1999 No. 42 s 54(2) sch s 191  
pres s 88 (prev 1949 13 Geo 6 No. 26 s 20B) ins 1990 No. 19 s 4  
amd 1997 No. 66 s 22; 1999 No. 42 s 54(1) sch ss 81–83  
reloc as s 88 1999 No. 42 s 54(1) sch s 89

**Power to disqualify person from holding or obtaining Queensland driver licence though acquitted of certain indictable offences**

- prov hdg** (prev 1949 13 Geo 6 No. 26 s 21 prov hdg) amd 1999 No. 42 s 54(1) sch s 84

- s 89** prev s 89 renum as s 176 1999 No. 42 s 54(2) sch s 191  
pres s 89 (prev 1949 13 Geo 6 No. 26 s 21)  
amd 1999 No. 42 s 54(1) sch s 84  
reloc as s 89 1999 No. 42 s 54(1) sch s 89

**Power to disqualify person from holding or obtaining Queensland driver licence though complaint dismissed**

- prov hdg** (prev 1949 13 Geo 6 No. 26 s 22 prov hdg) amd 1999 No. 42 s 54(1) sch s 85

- s 90** prev s 90 renum as s 177 1999 No. 42 s 54(2) sch s 191  
pres s 90 (prev 1949 13 Geo 6 No. 26 s 22) amd 1999 No. 42 s 54(1) sch ss 85–86  
reloc as s 90 1999 No. 42 s 54(1) sch s 89

**Chief executive to be advised of persons disqualified from holding Queensland driver licences etc.**

- prov hdg** (prev 1949 13 Geo 6 No. 26 s 23 prov hdg) amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 3 sch; amd 1999 No. 42 s 54(1) sch s 87

- s 91** prev s 91 renum as s 178 1999 No. 42 s 54(2) sch s 191  
pres s 91 (prev 1949 13 Geo 6 No. 26 s 23) amd 1961 10 Eliz 2 No. 27 s 13; 1990 No. 73 s 3 sch 5; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch s 88  
reloc as s 91 1999 No. 42 s 54(1) sch s 89

**PART 4—ROAD INCIDENTS**

- pt hdg** prev pt 4 hdg om 1999 No. 42 s 54(2) sch s 177  
pres pt 4 hdg ins 1999 No. 42 s 54(2) sch s 170

**Duties and liabilities of drivers involved in road incidents**

- s 92** orig s 92 om R1 (see RA s 40)  
prev s 92 ins 1997 No. 66 s 132 (never proclaimed into force and om 1998 No. 33 s 18)  
pres s 92 (prev 1949 13 Geo 6 No. 26 s 31) amd 1957 6 Eliz 2 No. 13 s 5(1)  
sub 1957 6 Eliz 2 No. 34 s 6  
amd 1960 9 Eliz 2 No. 44 s 3; 1961 10 Eliz 2 No. 27 s 14; 1984 No. 102 s 33; 1990 No. 103 s 2.11; 1994 No. 7 s 3 sch; 1999 No. 42 s 46, s 54(1) sch ss 90–91  
reloc as s 92 1999 No. 42 s 54(1) sch s 92

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**Transitional provisions for repealed Acts**

**s 92A** ins 1997 No. 66 s 132 (never proclaimed into force and om 1998 No. 33 s 18)

**Transitional provisions for Motor Vehicle Driving Instruction School Act 1969**

**s 92B** renum as s 179 1999 No. 42 s 54(2) sch s 191

**Police officers may make inquiries etc. into certain road incidents**

**s 93** prev s 93 amd R1 (see RA s 40); 1997 No. 9 s 93(2)  
exp 1 July 1999 (see s 93(6)) (1999 No. 42 s 54(2) sch s 191 (to the extent it renumbers section 93) could not be given effect)  
pres s 93 (prev 1949 13 Geo 6 No. 26 s 33) amd 1994 No. 7 s 3 sch  
reloc as s 93 1999 No. 42 s 54(1) sch s 92  
om 2000 No. 5 s 461 sch 3

**Exemption of regulations from expiry**

**s 93A** renum as s 181 1999 No. 42 s 54(2) sch s 191

**Scheme to facilitate supply of information as to road incidents**

**s 94** prev s 94 renum as s 182 1999 No. 42 s 54(2) sch s 193  
pres s 94 (prev 1949 13 Geo 6 No. 26 s 34) sub 1961 10 Eliz 2 No. 27 s 16  
amd 1965 No. 26 s 18; 1968 No. 22 s 9; 1977 No. 26 s 8; 1990 No. 73 s 3  
sch 5; 1994 No. 7 s 3 sch  
reloc as s 94 1999 No. 42 s 54(1) sch s 92

**PART 5—POWERS AND FUNCTIONS OF POLICE OFFICERS**

**pt hdg** prev pt 5 hdg ins 1997 No. 66 s 129  
om 1999 No. 42 s 54(2) sch s 181  
pres pt 5 hdg ins 1999 No. 42 s 54(2) sch s 170

**General powers, functions, and duties of police**

**s 95** prev s 95 renum as s 183 1999 No. 42 s 54(2) sch s 193  
pres s 95 (prev 1949 13 Geo 6 No. 26 s 35) amd 1953 2 Eliz 2 No. 11 s 4;  
1971 No. 33 s 10; 1997 No. 67 s 139 sch 2  
reloc as s 95 1999 No. 42 s 54(2) sch s 101  
om 2000 No. 5 s 461 sch 3

**Diversion of traffic**

**s 96** prev s 96 reloc as s 184 1999 No. 42 s 54(2) sch s 193  
pres s 96 (prev 1949 13 Geo 6 No. 26 s 37) sub 1961 10 Eliz 2 No. 27 s 17  
amd 1965 No. 26 s 19; 1984 No. 102 s 14; 1994 No. 7 s 3 sch; 1997 No. 66  
s 23; 1997 No. 67 s 139 sch 2; 1999 No. 42 s 54(1) sch ss 93–94  
reloc as s 96 1999 No. 42 s 54(1) sch s 101

**Driver to stop and supply name etc. when required**

**s 97** prev s 97 reloc as s 185 1999 No. 42 s 54(2) sch s 193  
pres s 97 (prev 1949 13 Geo 6 No. 26 s 39) sub 1961 10 Eliz 2 No. 27 s 18  
amd 1967 No. 44 s 2; 1969 No. 22 s 7; 1974 No. 18 s 14; 1988 No. 94 s 4;  
1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch ss 95–99  
reloc as s 97 1999 No. 42 s 54(1) sch s 101  
om 2000 No. 5 s 461 sch 3

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**Power to require information respecting identity of drivers of vehicles etc.**

**s 98** (prev 1949 13 Geo 6 No. 26 s 41) amd 1994 No. 7 s 3 sch  
reloc as s 98 1999 No. 42 s 54(1) sch s 101  
om 2000 No. 5 s 461 sch 3

**Powers of entry**

**s 99** (prev 1949 13 Geo 6 No. 26 s 43) amd 1990 No. 103 s 2.12  
reloc as s 99 1999 No. 42 s 54(1) sch s 101  
om 2000 No. 5 s 461 sch 3

**Removal of things from roads**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44 prov hdg) sub 1994 No. 7 s 13(1)  
**s 100** (prev 1949 13 Geo 6 No. 26 s 44) amd 1961 10 Eliz 2 No. 27 s 21; 1965  
No. 26 s 21; 1994 No. 7 s 13(2)–(5); 1997 No. 66 s 24; 1998 No. 43 s 4;  
1999 No. 42 s 54(1) sch s 100  
reloc as s 100 1999 No. 42 s 54(1) sch s 101  
amd 2000 No. 5 s 461 sch 3

**PART 6—REGULATED PARKING**

**pt hdg** ins 1999 No. 42 s 54(2) sch s 170

**Who may regulate parking**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44A prov hdg) amd 1999 No. 42 s 12(1)  
**s 101** (prev 1949 13 Geo 6 No. 26 s 44A) ins 1956 5 Eliz 2 No. 26 s 8  
sub 1960 9 Eliz 2 No. 44 s 4  
amd 1965 No. 26 s 23  
sub 1994 No. 7 s 14  
amd 1999 No. 42 s 12(2)–(3)  
reloc as s 101 1999 No. 42 s 54(1) sch s 111

**Parking regulation involves installing official traffic signs**

**s 102** (prev 1949 13 Geo 6 No. 26 s 44B) ins 1956 5 Eliz 2 No. 26 s 8  
amd 1957 6 Eliz 2 No. 13 s 6; 1957 6 Eliz 2 No. 34 s 7; 1960 9 Eliz 2  
No. 44 s 5  
sub 1965 No. 26 s 24  
amd 1968 No. 36 s 3; 1971 No. 33 s 11; 1982 No. 15 s 9; 1984 No. 102  
s 16; 1989 No. 76 s 2; 1990 No. 103 s 2.13; 1992 No. 19 s 3  
sub 1994 No. 7 s 14  
amd 1997 No. 66 s 25; 1999 No. 42 s 13  
reloc as s 102 1999 No. 42 s 54(1) sch s 111

**Examples of how parking may be regulated**

**s 103** (prev 1949 13 Geo 6 No. 26 s 44BA) ins 1994 No. 7 s 14  
amd 1995 No. 9 s 92 sch 1; 1999 No. 42 s 14, s 54(1) sch ss 102–103  
reloc as s 103 1999 No. 42 s 54(1) sch s 111

**Off-street regulated parking areas**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44BB prov hdg) sub 1999 No. 42 s 15(1)  
**s 104** (prev 1949 13 Geo 6 No. 26 s 44BB) ins 1997 No. 66 s 26  
amd 1999 No. 42 s 15(2)–(3)  
reloc as s 104 1999 No. 42 s 54(1) sch s 111



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**Paid parking**

- s 105** (prev 1949 13 Geo 6 No. 26 s 44C) ins 1956 5 Eliz 2 No. 26 s 9  
amd 1957 6 Eliz 2 No. 34 s 8; 1959 8 Eliz 2 No. 55 s 17; 1960 9 Eliz 2  
No. 44 s 6; 1965 No. 26 s 25; 1989 No. 76 s 3  
sub 1992 No. 19 s 4  
amd 1994 No. 7 s 15  
reloc as s 105 1999 No. 42 s 54(1) sch s 111

**Paid parking offences**

- s 106** (prev 1949 13 Geo 6 No. 26 s 44D) ins 1956 5 Eliz 2 No. 26 s 9  
amd 1957 6 Eliz 2 No. 13 s 7; 1957 No. 34 s 9; 1959 8 Eliz 2 No. 55 s 18;  
1965 No. 26 s 26; 1984 No. 102 s 17; 1989 No. 76 s 4  
sub 1992 No. 19 s 5  
amd 1994 No. 7 s 16; 1994 No. 7 s 39 (never proclaimed into force and  
om 1995 No. 9 s 93 sch 2); 1997 No. 66 s 27; 1999 No. 42 s 54(1) sch  
s 104  
reloc as s 106 1999 No. 42 s 54(1) sch s 111  
amd 1999 No. 70 s 166 sch 1

**Owner responsible for offence**

- s 107** (prev 1949 13 Geo 6 No. 26 s 44E) ins 1956 5 Eliz 2 No. 26 s 9  
amd 1957 6 Eliz 2 No. 34 s 10; 1965 No. 26 s 27; 1994 No. 7 s 17  
om 1994 No. 7 s 40 (never proclaimed into force and om 1995 No. 9 s 93  
sch 2)  
amd 1999 No. 42 s 16, s 54(1) sch s 105  
reloc as s 107 1999 No. 42 s 54(1) sch s 111

**Local laws about minor traffic offences**

- s 108** (prev 1949 13 Geo 6 No. 26 s 44F) ins 1956 5 Eliz 2 No. 26 s 10  
amd 1957 6 Eliz 2 No. 34 s 11; 1960 9 Eliz 2 No. 44 s 7; 1962 No. 23 s 3;  
1965 No. 26 s 28; 1982 No. 15 s 10; 1984 No. 102 s 18; 1989 No. 76 s 5;  
1994 No. 7 s 18 (as amd 1994 No. 15 s 3 sch 1)  
om 1994 No. 7 s 40 (never proclaimed into force and om 1995 No. 9 s 93  
sch 2); 1997 No. 66 s 28 (never proclaimed into force and om 1999  
No. 42 s 40)  
sub 1999 No. 42 s 17  
amd 1999 No. 42 s 54(1) sch s 106  
reloc as s 108 1999 No. 42 s 54(1) sch s 111  
amd 1999 No. 70 s 166 sch 1

**Agreement with local government on costs of administration**

- s 109** (prev 1949 13 Geo 6 No. 26 s 44J) ins 1956 5 Eliz 2 No. 26 s 11  
amd 1960 9 Eliz 2 No. 44 s 8; 1994 No. 7 s 3 sch  
reloc as s 109 1999 No. 42 s 54(1) sch s 111

**Notice restricting parking in special circumstances**

- s 110** (prev 1949 13 Geo 6 No. 26 s 44M) ins 1965 No. 26 s 33(b)  
sub 1992 No. 19 s 8  
amd 1994 No. 87 s 3 sch 1; 1999 No. 42 s 54(1) sch s 107  
reloc as s 110 1999 No. 42 s 54(1) sch s 111  
sub 2000 No. 5 s 461 sch 3

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**Parking permits for people with disabilities**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44N prov hdg) sub 1999 No. 42 s 54(1) sch s 108

**s 111** (prev 1949 13 Geo 6 No. 26 s 44N) ins 1982 No. 15 s 11  
amd 1984 No. 102 s 20  
sub 1990 No. 103 s 2.15; 1994 No. 7 s 19  
amd 1999 No. 42 s 54(1) sch ss 109–110  
reloc as s 111 1999 No. 42 s 54(1) sch s 111

**PART 7—DETECTION DEVICES**

**pt hdg** ins 1999 No. 42 s 54(2) sch s 170

**Division 1—Radar speed detection devices**

**div hdg** ins 1999 No. 42 s 54(2) sch s 170

**Use of radar speed detection devices**

**s 112** (prev 1949 13 Geo 6 No. 26 s 44O) ins 1990 No. 19 s 5  
sub 1994 No. 7 s 21  
amd 1994 No. 87 s 3 sch 1; 1999 No. 42 s 19  
reloc as s 112 1999 No. 42 s 54(1) sch s 112

**Division 2—Photographic detection devices**

**div hdg** ins 1999 No. 42 s 54(2) sch s 170

**Definitions for div 2**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44P prov hdg) sub 1999 No. 42 s 54(1) sch s 113

**s 113** (prev 1949 13 Geo 6 No. 26 s 44P) ins 1990 No. 19 s 5  
amd 1994 No. 7 s 23; 1994 No. 7 s 42 (never proclaimed into force and  
om 1995 No. 9 s 93 sch 2); 1999 No. 42 s 54(1) sch s 114  
reloc as s 113 1999 No. 42 s 54(1) sch s 120  
def “**camera-detected offence**” sub 1996 No. 62 s 4(1)  
amd 1999 No. 70 s 166 sch 1  
def “**corresponding transport law**” ins 1996 No. 62 s 4(2)  
def “**owner**” ins 1996 No. 62 s 4(2)  
def “**prescribed offence**” sub 1996 No. 62 s 4(1)  
def “**responsible operator**” ins 1996 No. 62 s 4(2)  
def “**transport Act**” ins 1996 No. 62 s 4(2)  
sub 1997 No. 9 s 82

**Offences detected by photographic detection device**

**s 114** (prev 1949 13 Geo 6 No. 26 s 44Q) ins 1990 No. 19 s 5  
amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 25  
om 1994 No. 7 s 43 (never proclaimed into force and om 1995 No. 9 s 93  
sch 2)  
sub 1996 No. 62 s 5  
reloc as s 114 1999 No. 42 s 54(1) sch s 120  
amd 1999 No. 70 s 166 sch 1

**Limitation of prosecution period extended in particular circumstances**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 44R prov hdg) amd 1994 No. 7 s 26(1)

**s 115** (prev 1949 13 Geo 6 No. 26 s 44R) ins 1990 No. 19 s 6

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amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 26(2)–(3)  
om 1994 No. 7 s 43 (never proclaimed into force and om 1995 No. 9 s 93  
sch 2)  
sub 1996 No. 62 s 6  
reloc as s 115 1999 No. 42 s 54(1) sch s 120

**Notice accompanying summons**

**s 116** (prev 1949 13 Geo 6 No. 26 s 44S) ins 1990 No. 19 s 6  
amd 1990 No. 73 s 3 sch 5  
sub 1994 No. 7 s 27  
om 1994 No. 7 s 43 (never proclaimed into force and om 1995 No. 9 s 93  
sch 2)  
amd 1996 No. 62 s 7; 1999 No. 42 s 54(1) sch ss 115–117  
reloc as s 116 1999 No. 42 s 54(1) sch s 120

**Use of penalties collected for camera detected offences**

**s 117** (prev 1949 13 Geo 6 No. 26 s 44T) ins 1990 No. 19 s 6  
amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 28  
om 1994 No. 7 s 43 (never proclaimed into force and om 1995 No. 9 s 93  
sch 2)  
sub 1996 No. 62 s 8  
reloc as s 117 1999 No. 42 s 54(1) sch s 120

**Photographic evidence—inspection and challenges**

**s 118** (prev 1949 13 Geo 6 No. 26 s 44U) ins 1990 No. 19 s 7  
amd 1990 No. 73 s 3 sch 5  
sub 1994 No. 7 s 29  
amd 1996 No. 62 s 9  
reloc as s 118 1999 No. 42 s 54(1) sch s 120

**Notice of dispute about traffic control device or sign**

**s 119** (prev 1949 13 Geo 6 No. 26 s 44V) ins 1992 No. 23 s 6  
amd 1994 No. 10 s 10  
sub 1994 No. 7 s 44 (as sub 1994 No. 87 s 3 sch 2)(never proclaimed into  
force and om 1995 No. 9 s 93 sch 2); 1996 No. 62 s 10  
reloc as s 119 1999 No. 42 s 54(1) sch s 120

**Evidentiary provisions**

**s 120** (prev 1949 13 Geo 6 No. 26 s 44W) ins 1994 No. 7 s 30  
amd 1996 No. 62 s 11  
reloc as s 120 1999 No. 42 s 54(1) sch s 120

**Application of the Justices Act, pt 4A**

**s 121** (prev 1949 13 Geo 6 No. 26 s 44X) ins 1996 No. 62 s 12  
amd 1999 No. 42 s 54(1) sch ss 118–119  
reloc as s 121 1999 No. 42 s 54(1) sch s 120  
sub 1999 No. 70 s 166 sch 1

**PART 8—PROCEEDINGS AND EVIDENCE**

**pt hdg** ins 1999 No. 42 s 54(2) sch s 170

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**Police may prosecute in all proceedings**

**s 122** (prev 1949 13 Geo 6 No. 26 s 47) reloc as s 122 1999 No. 42 s 54(1) sch s 131  
om 2000 No. 5 s 461 sch 3

**Records**

**s 123** (prev 1949 13 Geo 6 No. 26 s 48) amd 1952 1 Eliz 2 No. 14 s 16; 1953 2 Eliz 2 No. 11 s 7; 1961 10 Eliz 2 No. 27 s 26; 1971 No. 33 s 12; 1994 No. 7 s 3 sch  
sub 1997 No. 66 s 30  
amd 1999 No. 42 s 54(1) sch s 121  
reloc as s 123 1999 No. 42 s 54(1) sch s 131

**Facilitation of proof**

**s 124** (prev 1949 13 Geo 6 No. 26 s 49) amd 1953 2 Eliz 2 No. 11 s 8; 1959 8 Eliz 2 No. 21 s 27 sch; 1960 9 Eliz 2 No. 44 s 10; 1961 10 Eliz 2 No. 27 s 27; 1965 No. 26 s 36; 1971 No. 33 s 13; 1974 No. 18 s 16 (as amd 1984 No. 102 s 37); 1975 No. 13 s 5; 1982 No. 15 s 13; 1984 No. 102 s 21; 1985 No. 30 s 74; 1990 No. 73 s 3 sch 5; 1994 No. 7 s 32 (as amd 1994 No. 15 s 3 sch 1); 1996 No. 62 s 13; 1997 No. 66 s 31; 1999 No. 42 s 21, s 54(1) sch ss 122–128  
reloc as s 124 1999 No. 42 s 54(1) sch s 131

**When offences not to be dealt with summarily**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 51 prov hdg) amd 1999 No. 42 s 54(1) sch s 129

**s 125** (prev 1949 13 Geo 6 No. 26 s 51) amd 1999 No. 42 s 54(1) sch s 130  
reloc as s 125 1999 No. 42 s 54(1) sch s 131

**PART 9—GENERAL**

**pt hdg** ins 1999 No. 42 s 54(2) sch s 170

**Fraud and unlawful possession of licences**

**s 126** (prev 1949 13 Geo 6 No. 26 s 53) amd 1961 10 Eliz 2 No. 27 s 29; 1974 No. 18 s 18 (never proclaimed into force and om 1984 No. 102 s 37); 1984 No. 102 s 22; 1990 No. 73 s 3 sch 5; 1990 No. 103 s 2.16; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch s 132  
reloc as s 126 1999 No. 42 s 54(1) sch s 153

**Effect of disqualification**

**s 127** (prev 1949 13 Geo 6 No. 26 s 55) amd 1953 2 Eliz 2 No. 11 s 10; 1961 10 Eliz 2 No. 27 s 31; 1971 No. 33 s 14; 1974 No. 18 s 20 (as amd 1984 No. 102 s 36); 1975 No. 13 s 6(1); 1984 No. 102 s 24; 1990 No. 103 ss 2.18, 2.26; 1994 No. 7 s 3 sch; 1999 No. 42 s 54(1) sch ss 133–139  
reloc as s 127 1999 No. 42 s 54(1) sch s 153

**Effect of disqualification on subsequent issue of Queensland driver licence**

**prov hdg** (prev 1949 13 Geo 6 No. 26 s 55A prov hdg) amd 1999 No. 42 s 54(1) sch s 140

**s 128** (prev 1949 13 Geo 6 No. 26 s 55A) ins 1971 No. 33 s 15  
amd 1974 No. 18 s 21 (never proclaimed into force and om 1984 No. 102 s 37); 1984 No. 102 s 25; 1988 No. 94 s 5; 1990 No. 103 s 2.19; 1999

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No. 42 s 54(1) sch ss 141–146  
reloc as s 128 1999 No. 42 s 54(1) sch s 153

**Effect of cancellation pursuant to regulations**

**s 129** (prev 1949 13 Geo 6 No. 26 s 55B) ins 1990 No. 103 s 2.20  
amd 1994 No. 87 s 3 sch 1; 1999 No. 42 s 54(1) sch s 147  
reloc as s 129 1999 No. 42 s 54(1) sch s 153

**Effect of suspension of licence under State Penalties Enforcement Act 1999**

**s 129A** ins 1999 No. 70 s 166 sch 1

**Delivery of cancelled or suspended licences, or licences for endorsement**

**s 130** (prev 1949 13 Geo 6 No. 26 s 56) amd 1961 10 Eliz 2 No. 27 s 32; 1974  
No. 18 s 22(c) (as amd 1984 No. 102 s 36); 1974 No. 18 s 22(a)–(b)  
(as amd 1984 No. 102 s 36) (never proclaimed into force and om 1994  
No. 7 s 46); 1990 No. 103 ss 2.21, 2.26; 1994 No. 7 s 3 sch; 1999 No. 42  
s 54(1) sch s 147–148  
reloc as s 130 1999 No. 42 s 54(1) sch s 153

**Appeals with respect to issue of licences etc.**

**s 131** (prev 1949 13 Geo 6 No. 26 s 57) amd 1961 10 Eliz 2 No. 27 s 33; 1968  
No. 22 s 10; 1974 No. 18 s 23 (as amd 1984 No. 102 s 36) (never  
proclaimed into force and om 1994 No. 7 s 46); 1977 No. 35 s 2; 1982  
No. 15 s 14; 1990 No. 103 s 2.22; 1994 No. 7 s 3 sch; 1994 No. 87 s 3  
sch 1; 1997 No. 66 s 32; 1999 No. 42 s 54(1) sch s 149  
reloc as s 131 1999 No. 42 s 54(1) sch s 153  
amd 1999 No. 70 s 166 sch 1

**Appeals against licence cancellation under regulations**

**s 132** (prev 1949 13 Geo 6 No. 26 s 57B) ins 1990 No. 103 s 2.23  
reloc as s 132 1999 No. 42 s 54(1) sch s 153

**Occupiers of garages etc. to keep register of repairs**

**s 133** (prev 1949 13 Geo 6 No. 26 s 58) amd 1994 No. 7 s 3 sch; 1997 No. 66  
s 33  
reloc as s 133 1999 No. 42 s 54(1) sch s 153  
amd 2000 No. 5 s 461 sch 3

**Alteration and defacing of numbers etc.**

**s 134** (prev 1949 13 Geo 6 No. 26 s 59) amd 1994 No. 7 s 3 sch; 1999 No. 42  
s 54(1) sch s 150  
reloc as s 134 1999 No. 42 s 54(1) sch s 153

**Unlawfully interfering with, or detaining, vehicles etc.**

**s 135** (prev 1949 13 Geo 6 No. 26 s 60) amd 1974 No. 18 s 24; 1994 No. 7 s 3  
sch  
sub 1997 No. 66 s 34  
amd 1999 No. 42 s 22, s 54(1) sch ss 151–152  
reloc as s 135 1999 No. 42 s 54(1) sch s 153

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**Agreements for detaining vehicles**

- s 136** (prev 1949 13 Geo 6 No. 26 s 72) ins 1997 No. 66 s 36  
amd 1999 No. 42 s 54(1) sch ss 163–164  
reloc as s 136 1999 No. 42 s 54(1) sch s 165

**Injurious matter on roads**

- s 137** (prev 1949 13 Geo 6 No. 26 s 61) amd 1953 2 Eliz 2 No. 11 s 11; 1994  
No. 7 s 3 sch; 1999 No. 42 s 54(1) sch ss 154–155  
reloc as s 137 1999 No. 42 s 54(1) sch s 162

**Scheme to facilitate children crossing streets**

- s 138** (prev 1949 13 Geo 6 No. 26 s 63) orig om 1959 8 Eliz 2 No. 21 s 27 sch  
pres ins 1961 10 Eliz 2 No. 27 s 35  
amd 1968 No. 22 s 11; 1984 No. 102 s 26; 1990 No. 73 s 3 sch 5; 1994  
No. 7 s 3 sch  
sub 1999 No. 42 s 23  
reloc as s 138 1999 No. 42 s 54(1) sch s 162

**Service of determinations, notices, orders, and directions of the commissioner  
prov hdg** amd 1999 No. 70 s 166 sch 1

- s 139** (prev 1949 13 Geo 6 No. 26 s 64) amd 1974 No. 18 s 25 (as amd 1984  
No. 102 s 36) (never proclaimed into force and om 1994 No. 7 s 46);  
1999 No. 42 s 54(1) sch ss 156–157  
reloc as s 139 1999 No. 42 s 54(1) sch s 162  
amd 1999 No. 70 s 166 sch 1

**Service if address unknown etc.**

- s 140** (prev 1949 13 Geo 6 No. 26 s 65) amd 1961 10 Eliz 2 No. 27 s 36; 1974  
No. 18 s 26 (never proclaimed into force and om 1984 No. 102 s 37);  
1982 No. 15 s 15; 1984 No. 102 s 27; 1990 No. 73 s 3 sch 5  
sub 1994 No. 7 s 3 sch  
amd 1999 No. 42 s 54(1) sch s 158  
reloc as s 140 1999 No. 42 s 54(1) sch s 162

**Instruments not affected by error**

- s 141** (prev 1949 13 Geo 6 No. 26 s 66) amd 1961 10 Eliz 2 No. 27 s 37; 1974  
No. 18 s 27 (never proclaimed into force and om 1984 No. 102 s 37);  
1984 No. 102 s 28; 1990 No. 73 s 3 sch 5  
sub 1994 No. 7 s 3 sch  
reloc 1999 No. 42 s 54(1) sch s 162

**Health professional's disclosure not breach of confidence**

- s 142** (prev 1949 13 Geo 6 No. 26 s 67A) ins 1999 No. 42 s 24  
amd 1999 No. 42 s 54(1) sch s 160  
reloc 1999 No. 42 s 54(1) sch s 162

**Confidentiality**

- s 143** (prev 1949 13 Geo 6 No. 26 s 67B) ins 1999 No. 42 s 24  
reloc 1999 No. 42 s 54(1) sch s 162

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**Act does not apply to police officer in course of duty**

- s 144** (prev 1949 13 Geo 6 No. 26 s 68) amd 1961 10 Eliz 2 No. 27 s 39; 1965 No. 26 s 38; 1968 No. 22 s 13; 1974 No. 18 s 29 (never proclaimed into force and om 1984 No. 102 s 37); 1990 No. 73 s 3 sch 5  
sub 1994 No. 7 s 34  
amd 1999 No. 42 s 54(1) sch s 161  
reloc 1999 No. 42 s 54(1) sch s 162

**PART 10—FEES AND REGULATIONS**

- pt hdg** ins 1999 No. 42 s 54(2) sch s 170

**Fees for road use**

- s 145** (prev s 74) renum as s 145 1999 No. 42 s 54(2) sch s 179

**Regulating vehicle operations and road rules**

- prov hdg** (prev s 75 prov hdg) sub 1999 No. 42 s 54(2) sch s 172  
**s 146** (prev s 75) amd 1997 No. 66 s 125; 1999 No. 42 s 33  
renum as s 146 1999 No. 42 s 54(2) sch s 179  
amd 2000 No. 6 s 78 sch s 10

**Regulating vehicles etc. in public places**

- s 147** (prev 79M) ins 1997 No. 66 s 129  
renum as s 147 1999 No. 42 s 54(2) sch s 186  
amd 2000 No. 6 s 78 sch s 11

**Regulating vehicle standards**

- prov hdg** (prev s 76 prov hdg) sub 1999 No. 42 s 54(2) sch s 174  
**s 148** (prev s 76) sub 1997 No. 66 s 127  
renum as s 148 1999 No. 42 s 54(2) sch s 179  
amd 2000 No. 6 s 78 sch s 12

**Regulating identification of vehicles**

- prov hdg** (prev s 77 prov hdg) sub 1999 No. 42 s 54(2) sch s 175  
**s 149** (prev s 77) renum as s 149 1999 No. 42 s 54(2) sch s 179

**Regulating driver management**

- prov hdg** (prev s 78 prov hdg) sub 1999 No. 42 s 54(2) sch s 178  
**s 150** (prev s 78) amd 1997 No. 66 s 128; 1999 No. 42 s 35  
renum as s 150 1999 No. 42 s 54(2) sch s 179

**CHAPTER 5A—TRANSPORTING DANGEROUS GOODS**

- ch hdg** prev ch hdg ins 1997 No. 66 s 129  
om 1999 No. 42 s 54(2) sch s 185  
pres ch hdg ins 1999 No. 42 s 54(2) sch s 181

**Application of part**

- s 151** (prev s 79A) ins 1997 No. 66 s 129 (as amd 1999 No. 15 s 137 sch 1  
(amendment could not be given effect))  
renum as s 151 1999 No. 42 s 54(2) sch s 184  
amd 1999 No. 20 s 235 (as amd 2000 No. 46 s 3 sch amdt 9)

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**Regulations about dangerous goods**

- s 152** (prev s 79B) ins 1997 No. 66 s 129  
renum as s 152 1999 No. 42 s 54(2) sch s 184

**Exemptions**

- s 153** (prev s 79C) ins 1997 No. 66 s 129  
renum as s 153 1999 No. 42 s 54(2) sch s 184

**Failure to hold licence etc.**

- s 154** (prev s 79D) ins 1997 No. 66 s 129  
renum as s 154 1999 No. 42 s 54(2) sch s 184

**Goods too dangerous to be transported**

- s 155** (prev s 79E) ins 1997 No. 66 s 129  
renum as s 155 1999 No. 42 s 54(2) sch s 184

**Duties when transporting dangerous goods**

- s 156** (prev s 79F) ins 1997 No. 66 s 129  
renum as s 156 1999 No. 42 s 54(2) sch s 184

**Additional evidentiary aids for transporting dangerous goods**

- s 157** (prev s 79G) ins 1997 No. 66 s 129  
renum as s 157 1999 No. 42 s 54(2) sch s 184

**Recovery of costs from convicted person**

- s 158** (prev s s 79H) ins 1997 No. 66 s 129  
renum as s 158 No. 42 s 54(2) sch s 184

**Recovery of costs of government action**

- s 159** (prev s 79I) ins 1997 No. 66 s 129  
amd 1999 No. 42 s 54(2) sch s 182  
renum as s 159 1999 No. 42 s 54(2) sch s 184

**Prohibition from involvement in the transport of dangerous goods by road**

- s 160** (prev s 79J) ins 1997 No. 66 s 129  
renum as s 160 1999 No. 42 s 54(2) sch s 184

**Forfeiting dangerous goods**

- s 161** (prev s 79K) ins 1997 No. 66 s 129  
renum as s 161 1999 No. 42 s 54(2) sch s 184

**Helping in emergencies or accidents**

- s 162** (prev s 79L) ins 1997 No. 66 s 129  
amd 1999 No. 42 s 54(2) sch s 183  
renum as s 162 1999 No. 42 s 54(2) sch s 184

**CHAPTER 5B—EXTREME OVERLOADING**

- ch hdg** ins 1999 No. 42 s 36

**Forfeiture on conviction**

- s 163** (prev s 79N) ins 1999 No. 42 s 36  
renum as s 163 1999 No. 42 s 54(2) sch s 187



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**Court orders for payment**

**s 164** (prev s 80) renum as s 164 1999 No. 42 s 54(2) sch s 188

**Special provision for serving documents**

**s 165** (prev s 81) renum as s 165 1999 No. 42 s 54(2) sch s 188  
amd 2000 No. 6 s 78 sch s 13

**Official traffic sign approvals**

**s 166** (prev s 82) renum as s 166 1999 No. 42 s 54(2) sch s 188

**Protection from liability**

**s 167** (prev s 83) renum as s 167 1999 No. 42 s 54(2) sch s 188

**Effect of failure to comply with ch 2**

**s 168** (prev s 84) renum as s 168 1999 No. 42 s 54(2) sch s 188

**Approval of forms**

**s 169** (prev s 84A) ins 1997 No. 66 s 130  
renum as s 169 1999 No. 42 s 54(2) sch s 188

**Nomination of responsible operator**

**s 170** (prev s 77A) ins 1996 No. 62 s 18  
amd 1999 No. 42 s 34  
renum as s 170 1999 No. 42 s 54(2) sch s 176  
amd 2000 No. 6 s 78 sch ss 14–17

**Regulation-making power**

**prov hdg** (prev s 85 prov hdg) sub 1998 No. 33 s 23(1)  
**s 171** (prev s 85) amd 1997 No. 66 s 131; 1998 No. 33 s 23(2)  
renum as s 171 1999 No. 42 s 54(2) sch s 188  
amd 2000 No. 40 s 32

**CHAPTER 7—TRANSITIONAL PROVISIONS, AMENDMENTS AND  
REPEALS**

**PART 1—TRANSITIONAL PROVISIONS FOR TRANSPORT OPERATIONS  
(ROAD USE MANAGEMENT) ACT 1995**

**pt hdg** ins 1998 No. 33 s 24(1)

**Reference provisions operate only after repeal of relevant Act**

**s 172** (prev s 85A) ins 1995 No. 58 s 4 sch 1  
amd 1999 No. 42 s 54(2) sch s 189  
renum as s 172 1999 No. 42 s 54(2) sch s 191

**Carriage of Dangerous Goods by Road Act 1984 references**

**s 173** (prev s 86) amd 1995 No. 58 s 4 sch 1  
renum as s 173 1999 No. 42 s 54(2) sch s 191

**Main Roads Act 1920 references**

**s 174** (prev s 87) amd 1995 No. 58 s 4 sch 1  
renum as s 174 1999 No. 42 s 54(2) sch s 191

**Motor Vehicles Control Act 1975 references**

**s 175** (prev s 88) amd 1995 No. 58 s 4 sch 1  
renum as s 175 1999 No. 42 s 54(2) sch s 191

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**Motor Vehicles Safety Act 1980 references**

**s 176** (prev s 89) amd 1995 No. 58 s 4 sch 1  
renum as s 176 1999 No. 42 s 54(2) sch s 191

**State Transport Act 1960 references**

**s 177** (prev s 90) amd 1995 No. 58 s 4 sch 1  
renum as s 177 1999 No. 42 s 54(2) sch s 191

**Transport Infrastructure (Roads) Act 1991 references**

**s 178** (prev s 91) amd 1995 No. 58 s 4 sch 1  
renum as s 178 1999 No. 42 s 54(2) sch s 191

**Transitional provisions for Motor Vehicle Driving Instruction School Act 1969**

**s 179** (prev s 92B) ins 1997 No. 66 s 132  
renum as s 179 1999 No. 42 s 54(2) sch s 191

**Exemption of regulations from expiry**

**s 181** (prev 93A) ins 1997 No. 66 s 133  
exp 1 January 1999 (see s 93A(2))  
ins 1999 No. 29 s 50 sch  
amd 1999 No. 42 s 54(2) sch s 190  
renum as s 181 1999 No. 42 s 54(2) sch s 191

**PART 2—TRANSITIONAL PROVISIONS FOR TRANSPORT LEGISLATION  
AMENDMENT ACT 1998**

**pt hdg** ins 1998 No. 33 s 24(2)

**Transitional provisions for Motor Vehicles Control Act 1975 about local laws**

**s 182** (prev s 94) ins 1995 No. 32 s 23 sch  
exp 14 June 1994 (see s 94(4))  
AIA s 20A applies (see s 94(3) as ins 1995 No. 32 s 23 sch)  
ins 1998 No. 33 s 24(2)  
renum as s 182 1999 No. 42 s 54(2) sch s 193

**Transport Infrastructure (Roads) Regulation 1991**

**s 183** (prev s 95) ins 1998 No. 33 s 24(2)  
renum as s 183 1999 No. 42 s 54(2) sch s 193

**Carriage of Dangerous Goods by Road Regulation 1989—transition of approvals**

**s 184** (prev s 96) ins 1998 No. 33 s 24(3)  
renum as s 184 1999 No. 42 s 54(2) sch s 193

**Carriage of Dangerous Goods by Road Act 1984—exemptions**

**s 185** (prev s 97) ins 1998 No. 33 s 24(4)  
amd 1999 No. 42 s 54(2) sch s 192  
renum as s 185 1999 No. 42 s 54(2) sch s 193

**PART 3—TRANSITIONAL PROVISIONS FOR ROAD TRANSPORT REFORM  
ACT 1999**

**pt hdg** ins 1999 No. 42 s 52

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**Definitions for pt 3**

**s 186** ins 1999 No. 42 s 52  
def “**Traffic Act**” amd 2000 No. 6 s 78 sch s 18

**Relocation of Traffic Act provisions**

**s 187** ins 1999 No. 42 s 52

**Person’s traffic history**

**s 188** ins 1999 No. 42 s 52

**Licence references**

**s 189** ins 1999 No. 42 s 52

**Traffic Regulation 1962**

**s 190** ins 1999 No. 42 s 52

**Acts or authorities under Traffic Act continue under this Act**

**s 191** ins 1999 No. 42 s 52

**Fees**

**s 192** ins 1999 No. 42 s 52

**Application of Acts Interpretation Act, s 20**

**s 193** ins 1999 No. 42 s 52

**Wheeled recreational devices and wheeled toys**

**s 194** ins 2000 No. 6 s 78 sch s 19

**SCHEDULE 1—DISQUALIFYING OFFENCES—APPROVALS**

**sch hdg** sub 1999 No. 42 s 54(2) sch s 194

**sch 1** prev sch 1 amd 1995 No. 9 s 94 (as ins 1995 No. 32 s 23 sch)  
om R1 (see RA s 40)  
pres sch 1 ins 1997 No. 66 s 134  
amd 1999 No. 18 s 6 sch; 1999 No. 42 s 37

**SCHEDULE 2—DISQUALIFYING OFFENCES—CROSSING SUPERVISORS**

prev sch 2 amd R1 (see RA s 40); 1995 No. 9 s 93(7); 1995 No. 57 s 4  
sch 2  
om 1999 No. 42 s 54(2) sch s 195  
pres sch 2 (prev 1949 13 Geo 6 No. 26 sch 2) ins 1999 No. 42 s 25  
amd 1999 No. 42 s 54(1) sch s 166  
reloc as sch 2 1999 No. 42 s 54(1) sch s 167

**SCHEDULE 3—REVIEWABLE DECISIONS**

prev sch 3 renum as sch 4 1999 No. 42 s 54(2) sch s 202  
pres sch 3 (prev sch 2A) ins 1997 No. 66 s 135  
amd 1998 No. 33 s 25  
renum as sch 3 1999 No. 42 s 54(2) sch s 202

**SCHEDULE 4—DICTIONARY**

(prev sch 3) renum as sch 4 1999 No. 42 s 54(2) sch s 202  
def “**address**” (prev 1949 13 Geo 6 No. 26 s 9) amd 1961 10 Eliz 2  
No. 27 s 4(a)–(b)  
reloc 1999 No. 42 s 54(1) sch s 20

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- def **“air cushion vehicle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1971 No. 33 s 4(a)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“analyst”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1968 No. 22 s 4(a)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“animal”** (prev 1949 13 Geo 6 No. 26 s 9, def) sub 1961 10 Eliz 2 No. 27 s 4(c)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“approval”** ins 1997 No. 66 s 136(2)
- def **“approved form”** sub 1997 No. 66 s 136(1)–(2)  
 amd 1999 No. 42 s 54(2) s 198
- def **“arrest”** (prev 1949 13 Geo 6 No. 26 s 9, def) amd 1999 No. 42 s 4(3)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“articulated motor vehicle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1990 No. 103 s 2.4(a)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“Australian court”** ins 1999 No. 42 s 53
- def **“Australian driver licence”** ins 1999 No. 42 s 53
- def **“B-double”** ins 1999 No. 42 s 38
- def **“bicycle”** ins 1999 No. 42 s 53
- def **“breath analysing instrument”** prev def om 1999 No. 42 s 54(2) sch s 196  
 pres def ins 1999 No. 42 s 53
- def **“bus”** ins 1999 No. 42 s 53
- def **“car”** (prev 1949 13 Geo 6 No. 26 s 9, def “motor car”) sub 1990 No. 103 s 2.4(k); 1994 No. 7 s 6(2)–(3)  
 amd 1999 No. 42 s 54(1) sch ss 12, 13  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“coin”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1956 5 Eliz 2 No. 26 s 5(ii)  
 sub 1990 No. 103 s 2.4(e); 1994 No. 7 s 6(2)–(3)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“combination”** ins 1999 No. 42 s 38
- def **“commercial vehicle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1968 No. 36 s 2(a)  
 amd 1994 No. 7 s 6(4)–(5), 1999 No. 42 s 54(1) sch ss 7–9  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“complaint”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“convicted”** ins 1997 No. 66 s 136(2)  
 om 1999 No. 42 s 54(2) sch s 196
- def **“convicting”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 99 s 4(2)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“corresponding document”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1994 No. 7 s 6(3)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“corresponding law”** prev def om 1999 No. 42 s 54(2) sch s 197

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- pres def ins 1999 No. 42 s 54(2) sch s 196
- def **“court”** (prev 1949 13 Geo 6 No. 26 s 9, def) sub 1968 No. 22 s 4(c)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“current driver licence receipt”** ins 1999 No. 42 s 53
- def **“dangerous goods”** ins 1997 No. 66 s 136(2)
- def **“dangerous situation”** ins 1997 No. 66 s 136(2)
- def **“dangerous situation notice”** ins 1997 No. 66 s 136(2)
- def **“declared road”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1965  
No. 26 s 9(d)  
sub 1994 No. 7 s 6(2)–(3)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“designated parking space”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins  
1992 No. 19 s 2  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“disqualifying offence”** ins 1997 No. 66 s 136(2)  
amd 1999 No. 42 s 54(2) sch ss 199–201
- def **“doctor”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42 s 4(2)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“driver”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42  
s 54(1) sch s 20
- def **“driver licence”** ins 1999 No. 42 s 53
- def **“drug”** (prev 1949 13 Geo 6 No. 26 s 9, def) amd 1961 10 Eliz 2  
No. 27 s 4(e); 1994 No. 7 s 6(6)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“escort vehicle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42  
s 4(2)  
amd 1999 No. 42 s 54(1) sch s 10  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“escort vehicle driver”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins  
1999 No. 42 s 4(2)  
amd 1999 No. 42 s 54(1) sch s 11  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“executive officer”** ins 1997 No. 66 s 136(2)
- def **“fixed hours”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1956 5 Eliz 2  
No. 26 s 5(iii)  
sub 1965 No. 26 s 9(e)  
amd 1961 10 Eliz 2 No. 27 s 4(f)  
sub 1992 No. 19 s 2  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“footpath”** ins 1999 No. 42 s 53
- def **“foreign driver licence”** ins 1999 No. 42 s 53
- def **“for sale”** ins 1997 No. 66 s 136(2)
- def **“goods”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42  
s 54(1) sch s 20
- def **“government entity”** ins 1997 No. 66 s 136(2)
- def **“grievous bodily harm”** ins 1997 No. 66 s 136(2)
- def **“GVM”** amd 1995 No. 48 s 16
- def **“heavy vehicle”** sub 1997 No. 66 s 136(1)–(2)

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- def **“holder”** ins 1997 No. 66 s 136(2)
- def **“horse”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1956 5 Eliz 2 No. 26 s 5(iv)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“indication”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1994 No. 7 s 6(3)  
amd 1997 No. 66 s 16(3)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“interstate scheme”** sub 1998 No. 33 s 26
- def **“learner licence”** ins 1999 No. 42 s 53
- def **“left”** ins 1999 No. 42 s 53
- def **“liquor”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“loading zone”** ins 1999 No. 42 s 53
- def **“metered space”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1956 5 Eliz 2 No. 26 s 5(v)  
sub 1965 No. 26 s 9(h)  
amd 1971 No. 33 s 4(c)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“motorbike”** ins 1999 No. 42 s 53
- def **“motor car”** reloc as def “car” 1999 No. 42 s 54(1) sch s 20
- def **“MUTCD”** prev def om 1999 No. 42 s 54(2) sch s 197  
pres def ins 1999 No. 42 s 54(2) sch s 196
- def **“officer in charge of a police station”** (prev 1949 13 Geo 6 No. 26 s 9) sub 1994 No. 7 s 6(2)–(3)  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“official traffic sign”** prev def om 1999 No. 42 s 54(2) sch s 197  
pres def ins 1999 No. 42 s 54(2) sch s 196
- def **“off-street regulated parking area”** (prev 1949 13 Geo 6 No. 26 s 9)  
prev def ins 1971 No. 33 s 4(d)  
amd 1994 No. 7 s 6(9)  
pres def sub 1999 No. 42 s 14(1)–(2)  
amd 1999 No. 42 s 54(1) sch s 14  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“open licence”** ins 1999 No. 42 s 53
- def **“operator”** sub 1998 No. 33 s 26
- def **“oversize vehicle”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42 s 4(2)  
amd 1999 No. 42 s 54(1) sch s 15  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“owner”** amd 1997 No. 66 s 136(3)
- def **“paid parking”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1992 No. 19 s 2  
reloc 1999 No. 42 s 54(1) sch s 20
- def **“park”** ins 1999 No. 42 s 53
- def **“parkatarea”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1961 10 Eliz 2 No. 27 s 4(j)  
reloc 1999 No. 42 s 54(1) sch s 20

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- def “**parkatarea space**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1961 10  
Eliz 2 No. 27 s 4(j)  
sub 1965 No. 26 s 9(m)  
amd 1971 No. 33 s 4(e)  
reloc 1999 No. 42 s 54(1) sch s 20
- def “**parking bay**” ins 1999 No. 42 s 53
- def “**parking meter**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1956 5  
Eliz 2 No. 26 s 5(vi)  
reloc 1999 No. 42 s 54(1) sch s 20
- def “**parking permit for people with disabilities**” ins 1999 No. 42 s 53
- def “**passenger**” (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42  
s 54(1) sch s 20
- def “**pedestrian**” ins 1999 No. 42 s 53
- def “**people with disabilities symbol**” ins 1999 No. 42 s 53
- def “**permit**” (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42  
s 54(1) sch s 20
- def “**pilot vehicle**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999 No. 42  
s 4(2)  
amd 1999 No. 42 s 54(1) sch s 16  
reloc 1999 No. 42 s 54(1) sch s 20
- def “**pilot vehicle driver**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1999  
No. 42 s 4(2)  
amd 1999 No. 42 s 54(1) sch s 17  
reloc 1999 No. 42 s 54(1) sch s 20
- def “**police station**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1968 No. 22  
s 4(e)  
reloc 1999 No. 42 s 54(1) sch s 20
- def “**power-assisted bicycle**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins  
1997 No. 66 s 16(2)  
reloc 1999 No. 42 s 54(1) sch s 20
- def “**power-assisted cycle**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1997  
No. 66 s 16(2)  
reloc 1999 No. 42 s 54(1) sch s 20
- def “**power-assisted tricycle**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins  
1997 No. 66 s 16(2)  
reloc 1999 No. 42 s 54(1) sch s 20
- def “**power source**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1997 No. 66  
s 16(2)  
reloc 1999 No. 42 s 54(1) sch s 20
- def “**prevent**” ins 1997 No. 66 s 136(2)
- def “**previously convicted**” (prev 1949 13 Geo 6 No. 26 s 9, def) ins  
1999 No. 42 s 4(2)  
reloc 1999 No. 42 s 54(1) sch s 20
- def “**prime mover**” ins 1999 No. 42 s 38
- def “**probationary licence**” ins 1999 No. 42 s 53
- def “**provisional licence**” ins 1999 No. 42 s 53
- def “**public place**” ins 1997 No. 66 s 136(2)
- def “**Queensland driver licence**” ins 1999 No. 42 s 53

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- def **“railway”** (prev 1949 13 Geo 6 No. 26 s 9, def) amd 1990 No. 103 s 2.4(q)  
 sub 1994 No. 7 s 6(2)–(3)  
 amd 1999 No. 42 s 54(1) sch s 18  
 reloc 1999 No. 42 s 54(1) sch s 20  
 amd 1999 No. 51 s 228 sch 1 (as amd 2000 No. 25 s 3(1) sch 1)
- def **“registered operator”** ins 2000 No. 6 s 78 sch s 20
- def **“regulated parking”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1965 No. 26 s 9(n)  
 amd 1971 No. 33 s 4(f)  
 sub 1994 No. 7 s 6(2)–(3)  
 om 1994 No. 7 s 37(2) (never proclaimed into force and om 1995 No. 9 s 93 sch 2)  
 amd 1999 No. 42 s 54(1) sch s 19  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“remedial action notice”** ins 1997 No. 66 s 136(2)
- def **“restricted licence”** ins 1999 No. 42 s 53
- def **“reviewed decision”** ins 1997 No. 66 s 136(2)
- def **“right”** ins 1999 No. 42 s 53
- def **“road”** prev def om 1999 No. 42 s 54(2) sch s 196  
 pres def ins 1999 No. 42 s 53
- def **“roadside vending”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1994 No. 7 s 6(3)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“road train”** ins 1999 No. 42 s 38
- def **“semitrailer”** ins 1999 No. 42 s 38
- def **“stop”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“superintendent”** ins 1999 No. 42 s 53
- def **“superintendent of traffic”** ins 1999 No. 42 s 53
- def **“tare”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“traffic”** (prev 1949 13 Geo 6 No. 26 s 9, def) amd 1971 No. 33 s 4(g)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“traffic area”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1961 10 Eliz 2 No. 27 s 4(p)  
 amd 1965 No. 26 s 9(o); 1971 No. 33 s 4(h)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“traffic history”** (prev 1949 13 Geo 6 No. 26 s 9, def) ins 1994 No. 7 s 6(3)  
 reloc 1999 No. 42 s 54(1) sch s 20
- def **“train”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“tram”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“tramcar”** (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42 s 54(1) sch s 20
- def **“transport”** ins 1997 No. 66 s 136(2)



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def “**transport Act**” amd 1996 No. 53 s 12  
def “**tricycle**” (prev 1949 13 Geo 6 No. 26 s 9, def) reloc 1999 No. 42  
s 54(1) sch s 20  
def “**truck**” ins 1999 No. 42 s 53  
def “**vessel**” (prev 1949 13 Geo 6 No. 26 s 9, def) amd 1977 No. 26 s 2  
reloc 1999 No. 42 s 54(1) sch s 20  
def “**wheelchair**” ins 1999 No. 42 s 53  
def “**wheeled recreational device**” ins 2000 No. 6 s 78 sch s 20  
def “**wheeled toy**” ins 2000 No. 6 s 78 sch s 20

## **8 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992 s 5(c)).

**State Penalties Enforcement Act 1999 No. 70 s 166 sch 1 reads as follows—**

### **TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995**

#### **1. Section 78—**

*insert—*

‘**(1A)** A person who commits an offence against subsection (1) while the person’s driver licence is suspended under the *State Penalties Enforcement Act 1999* is liable to a penalty of not more than 40 penalty units or 1 year’s imprisonment, unless the person satisfies the court on the balance of probabilities the person did not receive the notice of intention to suspend a driver licence under that Act for the offence for which the person’s licence was suspended.

‘**(1B)** In addition, the person is disqualified from holding or obtaining a Queensland driver licence for 6 months from the day the person is found to have committed the offence, whether or not a conviction is recorded for the offence.’.

**2. Section 106(3)(b)—**

*omit, insert—*

‘(b) an infringement notice, under the *State Penalties Enforcement Act 1999*, for the offence is placed on or attached to the vehicle; and’.

**3. Section 108(2) and (3), ‘the *Justices Act 1886*, part 4A’—**

*omit, insert—*

‘*State Penalties Enforcement Act 1999*’.

**4. Section 113, definition “camera-detected offence”, paragraph (a)—**

*omit, insert—*

‘(a) the infringement notice under the *State Penalties Enforcement Act 1999*; or’.

**5. Section 114(5)(b)—**

*omit, insert—*

‘(b) an infringement notice under the *State Penalties Enforcement Act 1999*.’.

**6. Section 121—**

*omit, insert—*

**‘Application of the *State Penalties Enforcement Act 1999***

‘**121.(1)** The *State Penalties Enforcement Act 1999*, part 3 applies to camera-detected offences subject to this division.

**(2)** If there is any inconsistency between the *State Penalties Enforcement Act 1999* and this division, the provisions of this division prevail.

**(3)** Without limiting subsection (1) or (2), for the *State Penalties Enforcement Act 1999*—

(a) “**owner**” means the owner as defined in this division; and

- (b) a reference to “**person in charge**” or “**user**” is, if the context permits, taken to be a reference to the driver of the vehicle; and
- (c) a reference to “**illegal user declaration**”, “**known user declaration**”, “**sold vehicle declaration**” or “**unknown user declaration**” or ‘declaration’ generally is taken to be a reference to the appropriate approved form for section 114; and
- (d) the *State Penalties Enforcement Act 1999* sections 18(2), 19(5), 20(5) and 21(2) are subject to section 114 and in particular section 114(6) applies instead of the *State Penalties Enforcement Act 1999*, section 21(2)(b).’.

## 7. After section 129—

*insert—*

### **‘Effect of suspension of licence under State Penalties Enforcement Act 1999**

**‘129A.(1)** This section applies if a person’s driver licence is suspended under the *State Penalties Enforcement Act 1999*, but is subject to section 106 of that Act.

**‘(2)** Suspension of the driver licence under the *State Penalties Enforcement Act 1999*—

- (a) has, while the licence is suspended, the same effect as if the licence were cancelled under this Act; and
- (b) if the period of the suspension ends before the licence would ordinarily expire, does not extend the period during which the licence would, apart from the suspension, have remained in force.

**‘(3)** If under this Act, a person must hold a driver licence for a stated period—

- (a) the stated period is extended by the length of the period for which the licence is suspended under the *State Penalties Enforcement Act 1999*; and
- (b) the period of the suspension does not break the continuous period for which the person must hold the licence.

‘(4) If the period of the licence expires before the period of the suspension ends, the person must not apply for or obtain a Queensland driver licence until—

- (a) the person pays the amount stated in the enforcement order under the *State Penalties Enforcement Act 1999* as the amount owing for the offence for which the licence was suspended; or
- (b) the amount is otherwise discharged under that Act.

Maximum penalty—20 penalty units or 18 months imprisonment.

‘(5) A suspension of a driver licence under the *State Penalties Enforcement Act 1999* also suspends any other driver licence authorising the person in question to drive a vehicle.

‘(6) A person must not apply for or obtain a Queensland driver licence while the person’s licence is suspended under the *State Penalties Enforcement Act 1999* or a corresponding law of another State.

Maximum penalty for subsection (6)—20 penalty units or 18 months imprisonment.

‘(7) A person who is disqualified from applying for or obtaining a driver licence under the *State Penalties Enforcement Act 1999*, section 106(4) must not apply for or obtain a driver licence while the person is disqualified under that section.

Maximum penalty—20 penalty units or 18 months imprisonment.’.

## **8. Section 131, ‘131.(1) Any person’—**

*omit, insert—*

‘**131.(1)** This section does not apply in relation to a licence that is suspended under the *State Penalties Enforcement Act 1999*.

‘(1AA) A person’.

## **9. Section 139, heading, after ‘Commissioner’—**

*insert—*

‘or the chief executive’.

**10. Section 139(1) and (3), after ‘commissioner’—**

*insert—*

‘or the chief executive’.

**Transport (Busway and Light Rail) Amendment Act 2000 No. 40 s 32 reads as follows—**

**PART 4—AMENDMENT OF TRANSPORT  
OPERATIONS (ROAD USE MANAGEMENT) ACT  
1995**

**Amendment of s 171 (Regulation-making power)**

**32. Section 171(3)—**

*insert—*

‘(ga) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of busway land—

- (i) buses operating on a busway established on the busway land;
- (ii) persons having the permission of the chief executive to be on the busway land; or

(gb) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of light rail land—

- (i) light rail vehicles operating on a light rail established on the light rail land;
- (ii) persons having the permission of the chief executive or a light rail manager for the light rail to be on the light rail land; or’.