



# Tow Truck Act 1973

Reprinted as in force on 24 July 2010

Reprint No. 4D

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This Act is reprinted as at 24 July 2010. 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. Also see list of legislation for any uncommenced amendments.

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

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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## Queensland

# Tow Truck Act 1973

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# Tow Truck Act 1973

[as amended by all amendments that commenced on or before 24 July 2010]

## An Act to provide for the control and regulation of tow trucks and their operation

### Part 1 Preliminary provisions

#### 1 Short title

This Act may be cited as the *Tow Truck Act 1973*.

#### 2 Commencement

This Act shall come into operation on a date appointed by proclamation.

#### 4 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

#### 4A Further provision for definition *motor vehicle*

Where in the definition *motor vehicle* there is used an expression that is not itself defined in schedule 2 and to which a meaning is assigned by the *Transport Operations (Road Use Management) Act 1995*, that expression has the meaning assigned to it by that Act; but if by a regulation made under this Act a meaning is assigned to such an expression either generally or for a particular purpose the expression shall, for

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the purposes of the regulations, have the meaning so assigned by the regulation.

#### **4B Members of firm or partnership**

For the purposes of this Act, in cases where a firm or partnership is the holder of a licence or permit, every member of that firm or partnership shall be deemed to be a holder of that licence or permit.

#### **4C Who is an appropriate person**

- (1) Without limiting what the chief executive may take into account when deciding whether a person is an appropriate person to hold or continue to hold a licence or certificate under this Act, regard must be had to the following—
  - (a) the person's criminal history and, if the person is a corporation, the criminal history of each of its executive officers;
  - (b) the person's traffic history under the *Transport Operations (Road Use Management) Act 1995*;
  - (c) the person's conduct while performing activities under a licence or certificate;
  - (d) whether the person has been charged with or convicted of—
    - (i) an offence against this Act; or
    - (ii) a disqualifying offence;
  - (e) whether the person has held a licence or certificate that has been cancelled and, if so, why it was cancelled;
  - (f) whether the person holds a licence or certificate that has been or is suspended and, if so, why it was suspended;
  - (g) whether the person is capable of satisfactorily performing the activities authorised under a licence or certificate, including because of any known medical condition or physical or mental incapacity;



- (h) whether the person is subject to a domestic violence order or an interstate domestic violence order as defined in the *Domestic and Family Violence Protection Act 1989*;
  - (i) whether the person has been charged with or convicted of having committed an offence in another State or another country that, if committed in Queensland, would be an offence against the *Weapons Act 1990*;
  - (j) whether the person has been charged with or convicted of having committed an offence in another State or another country that, if committed in Queensland, would be an offence against the *Drugs Misuse Act 1986*.
- (2) In this section—
- certificate* means—
- (a) an assistant's certificate; or
  - (b) a driver's certificate.

## Part 2 Licences

### 5 Requirement as to licence for tow truck

A person must not personally, or by his or her servant or agent, operate a tow truck unless it is licensed and the person is the holder of the licence.

### 6 Application for licence

- (1) An application for a licence shall be made to the chief executive and the applicant shall comply with all conditions prescribed by the regulations.
- (2) The chief executive must consider any report of the commissioner of the police service given under section 36 about the applicant or an executive officer of the applicant,

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and any other matter the chief executive considers relevant, and if the chief executive is satisfied that—

- (a) the applicant is an appropriate person to hold a licence; and
- (b) the motor vehicle or motor vehicles in respect of which the application is made and its or their equipment are suitable;

the chief executive may grant and issue to the applicant a licence.

## **7 Form and authority of licence**

(1) A licence—

- (a) shall authorise the operation of the tow truck or tow trucks in respect of which it is issued, subject always to this Act; and
- (b) shall state the place from which the business of operating the tow truck or tow trucks in respect of which it is issued may be conducted; and
- (c) may be renewed from time to time; and
- (d) shall not be transferable.

(2) A licence shall not be issued or renewed unless the tow truck or tow trucks in respect of which the application is made is or are registered under a regulation under the *Transport Operations (Road Use Management) Act 1995*.

## **8 Duration of licence**

Unless sooner cancelled, suspended or surrendered, a licence shall subsist for a period of 12 months from and including the date of its grant or, as the case may be, its last renewal, and for the purpose of calculating the period of its duration a licence shall be deemed to have subsisted throughout any period for which it has in fact been suspended or is of no force or effect.

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## **9 Renewal of licence**

- (1) Upon application for a renewal of a licence made in accordance with the regulations and 2 weeks prior to the expiration of the period of duration of the licence and upon payment of the prescribed fee, the chief executive shall renew the licence if the chief executive is satisfied that the provisions of this Act applicable thereto have been complied with and the holder thereof continues to be an appropriate person to hold the licence.
- (2) When deciding whether or not the holder continues to be an appropriate person to hold the licence, the chief executive must have regard to any report of the commissioner of the police service given under section 36 about the holder or, if the holder is a corporation, any of the holder's executive officers.

## **10 Imposition of conditions of licence**

The chief executive may upon the grant or renewal of a licence impose such conditions as the chief executive thinks fit by inserting in or affixing to the licence particulars of those conditions and may at any time and from time to time vary the conditions to which a licence is subject by written notice to the holder.

## **11 Permits to tow motor vehicles**

- (1) The chief executive may upon application, payment of the prescribed fee and upon being satisfied as to the identity of the applicant for the permit issue a permit that authorises the holder thereof to tow motor vehicles by means of the tow truck specified therein pending the determination of an application for a licence.
- (2) A permit issued pursuant to subsection (1)—
  - (a) shall, subject to this Act, be in force for such period not exceeding 6 months as the chief executive determines; and

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- (b) may be revoked by the chief executive at any time; and
- (c) may be issued subject to all or any of the conditions to which a licence may be subject and to such other conditions as are specified in the permit.

## 12 Conditions of licence

- (1) Every licence shall be subject to the performance and observance by the holder thereof of the provisions of this Act with respect to the licence or to the tow truck or tow trucks to which the licence relates and of the conditions particularised in the licence or affixed thereto.
- (2) Without limiting the generality of the provisions of subsection (1), each of the following is a condition of every licence—
  - (a) that any tow truck to which the licence relates and its equipment comply with the provisions of any Act relating to the design, construction and serviceability of the tow truck or, as the case may be, its equipment;
  - (b) that the provisions of any Act relating to limits of weight or speed that are applicable to any tow truck to which the licence relates are complied with;
  - (c) that the provisions of any Act relating to the limitation of hours of driving are observed;
  - (d) that the holder of the licence shall not operate any tow truck to which the licence relates unless it has been inspected as required under a regulation under the *Transport Operations (Road Use Management) Act 1995* and there is a current certificate of inspection under that regulation for the vehicle;
  - (e) that a person shall not on a road tow a damaged or seized motor vehicle (not being a motor vehicle that is owned by the holder of the licence) by means of any tow truck to which the licence relates unless the person has obtained the consent of the owner thereof, the owner's agent or an authorised officer to remove that motor

vehicle and a duly signed towing authority relating to that motor vehicle dealt with as prescribed;

- (f) that a person shall not obtain or attempt to obtain a signature on a form of towing authority unless there has first been entered on that form the full address of the place to which the motor vehicle the subject of the towing authority will be towed and, where any business is carried on in that place, the name of the business;
- (g) that all reasonable precautions shall be taken by the holder of the licence and the driver of any tow truck to which the licence relates and any person employed thereon to prevent loss from, or damage to, a damaged or seized motor vehicle while being towed by the tow truck and that those precautions shall be taken by the holder of the licence while the motor vehicle is otherwise under his or her control;
- (h) that the holder of a licence shall cause to be made an inventory of movable property (including any radio or sound production device) found to be in the damaged or seized vehicle at the time of its arrival at the place referred to in paragraph (f) to which it has been towed and shall keep at the premises from which the holder of the licence conducts his or her business an inventory so made;
- (i) that a person shall not tow a damaged or seized motor vehicle from the scene of an incident or seizure by means of any tow truck to which the licence relates to a place other than the place referred to in paragraph (f);
- (j) that where a motor vehicle has been towed to the place referred to in paragraph (f), a person shall not, except to return the motor vehicle to the registered owner thereof or the registered owner's agent authorised in writing, remove the motor vehicle to another place without the written authority of that owner or agent given after the motor vehicle has been towed to the place from which it is to be removed;

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- (k) that where a damaged or seized motor vehicle has been towed to a place where it is under the control of the holder of the licence, a person shall not refuse to deliver the motor vehicle to the registered owner thereof or the registered owner's agent duly authorised in writing on request by the owner or the owner's agent after payment of reasonable charges for the towing and storing of the motor vehicle, and where repair work has been authorised by the owner or the owner's agent, for that repair work, has been made or tendered;
- (l) that a person other than the holder of a driver's certificate or an assistant's certificate shall not accompany the driver of any tow truck to which the licence relates while the tow truck is proceeding to the scene of an incident or seizure, or towing a damaged or seized motor vehicle from the scene of an incident or seizure, unless in either case the person was the owner or the owner's agent or the driver of or a passenger in that motor vehicle;
- (m) that a person shall not obtain or attempt to obtain at the scene of an incident or seizure authority for the towing of a damaged or seized motor vehicle by means of any tow truck to which the licence relates unless the person is the driver of the tow truck having the authority express or implied of the holder of the licence, his or her servants or agents;
- (n) that the holder of the licence shall not, unless he or she is the holder of a driver's certificate obtain or attempt to obtain any authority referred to in paragraph (e);
- (o) that the driver of any tow truck to which the licence relates shall not (except to the extent necessary to connect the towing equipment of the tow truck to a damaged or seized motor vehicle in respect of which the driver has obtained a towing authority) permit the tow truck to stand upon a road so as to cause an obstruction or to stand at the scene of an incident or seizure for a period longer than that which would reasonably be required to obtain a towing authority in respect of a

- damaged or seized motor vehicle for which no towing authority has been given;
- (p) that any tow truck to which the licence relates shall not be used to tow a damaged or seized motor vehicle while any person is travelling as a passenger in the damaged or seized motor vehicle;
  - (q) that the holder of the licence and any person employed by the holder of the licence on or in connection with the use of any tow truck to which the licence relates shall comply with the provisions of the *Radiocommunications Act 1992* (Cwlth), and shall not permit or suffer any other person to contravene the provisions of that Act;
  - (r) that the holder of the licence shall not charge a sum other than a reasonable sum for the towing, salvage or storage of a motor vehicle.

## **Part 3                      Certificates**

### **Division 1                General**

#### **13      Required certificates etc.**

A person must not—

- (a) operate a tow truck unless the person is the holder of—
  - (i) a driver's certificate; or
  - (ii) a permit under section 19 authorising the person to operate a tow truck; or
- (b) be employed on or in connection with the use of a tow truck at or near the scene of an incident or seizure of a motor vehicle unless the person is the holder of—
  - (i) a driver's certificate; or

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- (ii) an assistant's certificate; or
- (iii) a permit under section 19; or
- (c) travel in a tow truck going to the scene of an incident or seizure of a motor vehicle unless the person—
  - (i) is the holder of—
    - (A) a driver's certificate; or
    - (B) an assistant's certificate; or
    - (C) a permit under section 19; or
  - (ii) is the owner of the motor vehicle or the owner's agent; or
  - (iii) was the driver of, or a passenger in, the vehicle.

#### **14 Application for driver's or assistant's certificate**

- (1) A person may apply to the chief executive for the grant of a driver's certificate or an assistant's certificate.
- (2) The application must be made in accordance with a regulation.

#### **14A Decision on application**

- (1) Subject to section 19A(5), the chief executive must consider an application made under section 14 and do 1 of the following—
  - (a) grant the application;
  - (b) grant the application subject to conditions;
  - (c) refuse to grant the application.
- (2) However, before deciding an application, the chief executive—
  - (a) must consider the matters prescribed under a regulation for this section; and
  - (b) may consider any other matter the chief executive considers relevant.



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- (3) Also, the chief executive must not grant the application if the chief executive is not satisfied the applicant is an appropriate person to hold a driver's certificate or an assistant's certificate.

**15 Written notice of granting of certificate and of conditions or variations**

- (1) If the chief executive grants the application, the chief executive must give the applicant written notice—
- (a) that the person has been granted a driver's certificate or an assistant's certificate; and
  - (b) of any condition imposed on the certificate.

*Note—*

Under section 21A, the certificate may be cancelled or suspended if the holder of the certificate contravenes a condition.

- (2) The chief executive may, by written notice given to the holder of a driver's certificate or assistant's certificate, vary a condition to which the certificate is subject.

**16 What driver's or assistant's certificate authorises**

- (1) A driver's certificate (*driver's certificate*) authorises the holder of the certificate to operate a tow truck.
- (2) An assistant's certificate (*assistant's certificate*) authorises the holder of the certificate to be employed on or in connection with a tow truck.

**17 Term of driver's or assistant's certificate**

- (1) A driver's certificate or assistant's certificate is granted for the term, stated in the written notice given under section 15 for the certificate, of not longer than 5 years.
- (2) However, a driver's certificate or assistant's certificate may be renewed for successive terms of not longer than 5 years.

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### **17A Renewal of driver's or assistant's certificate**

- (1) The holder of a driver's certificate or assistant's certificate may apply for its renewal to the chief executive.
- (2) The application may be made no sooner than 2 weeks before the certificate expires.
- (3) Sections 14 to 17 apply to an application for renewal of a driver's certificate or assistant's certificate in the same way as they apply to an application for a driver's certificate or assistant's certificate.

### **18 Driver's certificate dependent on driver licence**

- (1) This section applies if—
  - (a) the driver licence held by the holder of a driver's certificate is suspended or cancelled; or
  - (b) the holder surrenders the licence.
- (2) The driver's certificate—
  - (a) if the licence is suspended—is automatically suspended on the day the licence is suspended and is of no effect while the licence is suspended; or
  - (b) if the licence is cancelled or surrendered—is automatically cancelled on the day the licence is cancelled or surrendered.

### **19 Permit for applicant for driver's or assistant's certificate**

- (1) The chief executive may, upon application and payment of the prescribed fee and upon the chief executive being satisfied as to the identity of the applicant for the permit, grant the applicant a permit that authorises the holder thereof to operate or as the case requires be employed on or in connection with the use of a tow truck pending the determination of an application for a driver's certificate or assistant's certificate.
- (2) A permit granted under subsection (1)—

- (a) shall, subject to this Act, be in force for such period not exceeding 6 months as the chief executive determines; and
- (b) may be revoked by the chief executive at any time; and
- (c) may be granted subject to all or any of the conditions to which a driver's certificate or an assistant's certificate may be subject and to such other conditions as are specified in the permit.

## **Division 2                      Biometric data and other information relating to driver's certificate or assistant's certificate**

### **19A    Obtaining digital photo and digitised signature**

- (1) A person must allow the chief executive to take and keep—
  - (a) a digital photo and digitised signature of the person, if the person applies for—
    - (i) the grant or renewal of a driver's certificate or assistant's certificate (the *authority applied for*); or
    - (ii) the replacement of a document evidencing a driver's certificate or assistant's certificate; or
  - (b) a digital photo or digitised signature of the person, if—
    - (i) the person applies for anything else in relation to a driver's certificate or an assistant's certificate; and
    - (ii) the chief executive has given the person written notice under subsection (3) or (4) in relation to the photo or signature.
- (2) Subsection (1)(a) does not apply to the person if—
  - (a) as allowed under this Act or a prescribed smartcard Act, the chief executive is keeping the person's most recent digital photo and digitised signature; and

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- (b) the chief executive is satisfied the person's most recent digital photo is still a true likeness of the person; and
  - (c) the shelf life of the person's most recent digital photo and digitised signature, or the most recent extension of the shelf life under section 19AA, has not ended and will not end before—
    - (i) the term of the authority applied for ends; or
    - (ii) if a replacement of a document evidencing the person's driver's certificate or assistant's certificate is applied for—the term of the driver's certificate or assistant's certificate ends.
- (3) If the chief executive considers it reasonably necessary to use facial recognition technology to establish a person's connection to the person's most recent digital photo, the chief executive may give the person a written notice requiring the person to allow the chief executive to take and keep a digital photo of the person.
- (4) If the chief executive is satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person's most recent digital photo, the chief executive may give the person a written notice requiring the person to allow the chief executive to take and keep a digitised signature of the person.
- (5) The chief executive must refuse to consider any application by the person relating to a driver's certificate or an assistant's certificate if—
- (a) the person does not comply with subsection (1); or
  - (b) the chief executive is not satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person's most recent digital photo.

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## **19AA Extending shelf life of digital photo and digitised signature**

- (1) The chief executive may, for this Act, extend the shelf life of the most recent digital photo and digitised signature of a person.
- (2) The period for which the shelf life may be extended under subsection (1) must not result in the shelf life being extended under the subsection for periods totalling more than 6 months.

*Example—*

If the shelf life has been extended previously under subsection (1) for 2 months, the next extension under the subsection must not be for more than 4 months.

## **19B Using digital photo and digitised signature**

- (1) The chief executive may, with a person's consent, use the person's most recent digital photo and digitised signature for any of the following purposes—
  - (a) to help identify the person for deciding whether or not to grant an application for a relevant certificate;
  - (b) to reproduce the person's digital photo and digitised signature on a document evidencing a relevant certificate;
  - (c) for a digital photo taken under section 19A(1)(b), to establish the person's connection to the person's most recent digital photo for the purposes of—
    - (i) a relevant certificate; or
    - (ii) a document evidencing a relevant certificate.
- (2) The chief executive may use a person's most recent digital photo and digitised signature to help in an investigation of, or proceeding for, an offence that—
  - (a) happens—
    - (i) in making the application for which the person's digital photo and digitised signature are taken under section 19A(1); or

[s 19C]

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- (ii) during the retention period for the digital photo and digitised signature; and
- (b) involves a person obtaining or attempting to obtain any of the following by a false statement, misrepresentation or any other dishonest way—
  - (i) a relevant certificate or its renewal;
  - (ii) a PIN or anything else for—
    - (A) a relevant certificate; or
    - (B) a document evidencing a relevant certificate.
- (3) In this section—
  - relevant certificate* means—
    - (a) a driver’s certificate or assistant’s certificate; or
    - (b) a replacement of a document evidencing a driver’s certificate or assistant’s certificate.

### **19C Restricted access to a digital photo**

- (1) The chief executive may allow a person to access a digital photo kept by the chief executive under this Act if each of the following applies—
  - (a) the person’s facial image is encoded on the digital photo;
  - (b) the person applies to the chief executive, in the approved form, for the access;
  - (c) the person establishes, to the chief executive’s reasonable satisfaction, the person’s connection to the digital photo by other evidence of his or her identity, or by facial recognition technology.

*Example of other evidence for paragraph (c)—*

a valid Australian passport

- (2) An application mentioned in subsection (1)(b) may be made by electronic communication.

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- (3) The chief executive must allow a police officer to access a digital photo kept by the chief executive under this Act or a prescribed smartcard Act if either of the following applies—
- (a) the access is for exercising a power in relation to this Act or the Criminal Code, section 328A;

*Note—*

The Criminal Code, section 328A creates offences for the dangerous operation of a vehicle.

- (b) the access is authorised under the *Police Powers and Responsibilities Act 2000*.
- (4) In this section—
- access*, a digital photo, means obtain a copy of the digital photo, including by electronic communication.

#### **19D Deleting digital photo and digitised signature from register or similar record**

When the retention period for a digital photo and digitised signature taken under this Act ends, the chief executive must delete the photo and signature from any register or similar record kept by the chief executive under this Act.

#### **19E Restricted access to information stored electronically on a smartcard certificate**

- (1) A person must not access information stored electronically on a smartcard certificate, unless the person is—
- (a) the holder of the smartcard certificate; or
- (b) a person who has the holder's consent to access the information; or
- (c) an authorised officer, including a police officer, and the access is for exercising a power under this Act; or
- (d) a police officer who is authorised under the *Police Powers and Responsibilities Act 2000* to access the information.

[s 19F]

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Maximum penalty—20 penalty units.

(2) In this section—

*access*, in relation to information stored electronically on a smartcard certificate, means view or take a copy of the information.

### **19F Retention period for digital photo and digitised signature**

(1) This section sets out the retention period for a digital photo and digitised signature taken under this Act.

(2) Unless subsection (3) applies, the retention period for a digital photo and digitised signature taken under section 19A(1) is—

(a) if an application mentioned in section 19A(1)(a) is granted or a digital photo or digitised signature taken under section 19A(1)(b) is to be used under section 19B(1)(b)—30 years after the relevant day; or

(b) if an application mentioned in section 19A(1)(a) is not granted—

(i) 6 months after the relevant day; or

(ii) the period decided by the chief executive;

whichever is the shorter period; or

(c) if paragraph (a) or (b) does not apply—24 hours after the relevant day.

(3) Despite subsection (2), if—

(a) an investigation as mentioned in section 19B(2) is started before the end of the retention period worked out under subsection (2)(b) or (c) of this section for a digital photo and digitised signature; and

(b) the chief executive reasonably requires the digital photo and digitised signature to be kept for a longer period for the investigation or a proceeding resulting from the investigation;



the retention period for the digital photo and digitised signature is the longer period mentioned in paragraph (b) of this subsection.

(4) In this section—

*relevant day*, for a digital photo and digitised signature, means the day on which the digital photo and digitised signature are taken.

### **19G Annual report about access to digital photos**

- (1) Not later than 4 months after the end of each financial year, the chief executive must prepare and give to the Minister an annual report stating the number of occasions on which access within the meaning of section 19C was allowed under section 19C(3) during the financial year to digital photos kept under this Act.
- (2) The Minister must cause a copy of the report to be laid before the Legislative Assembly within 14 days after the Minister receives it.

## **Division 3                    Restricted release of information    about driver's certificate or    assistant's certificate**

### **19H Restricted release of information**

- (1) The chief executive may release information kept under this Act about a person's driver's certificate or assistant's certificate to—
  - (a) on receiving an application in the approved form—
    - (i) the person; or
    - (ii) with the person's written consent—another entity;  
or

[s 20]

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- (b) the commissioner of the police service for the purpose of any function of the commissioner or any function of the police service.
- (2) Also, the chief executive may release to an entity information kept under this Act about a person's driver's certificate or assistant's certificate if—
- (a) the person produces a document evidencing the certificate to the entity as proof of the person's identity; and
  - (b) the entity applies in the approved form for the information; and
  - (c) the information is necessary to verify the validity of the certificate.
- (3) Information that may be released under subsection (1) or (2) does not include a digital photo and digitised signature.
- (4) An application mentioned in subsection (1)(a) or (2)(b) may be made by electronic communication.

## **Part 4                      Authorities and permits**

### **Division 1                Preliminary**

#### **20        Definitions for pt 4**

In this part—

*authority* means—

- (a) an assistant's certificate; or
- (b) a driver's certificate; or
- (c) a licence.

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*authority holder* means a person to whom an authority granted under this Act is issued.

## 21 Consideration of public interest for pt 4

- (1) When considering whether it is in the public interest to cancel, suspend or immediately suspend an authority holder's authority, regard must be had to the following—
  - (a) the need to ensure that the reputation of the tow truck industry is not affected by the involvement in the industry of persons likely to adversely affect the industry's reputation;
  - (b) the legitimate expectation members of the public, particularly vulnerable members of the public, have that they will not be subject to assaults or aggressive, coercive or otherwise inappropriate behaviour from persons involved in the tow truck industry.

*Examples for subsection (1)—*

- 1 It may be in the public interest to cancel or suspend, or if authorised under section 21B, immediately suspend a tow truck driver's or an operator's authority because the person is charged with possessing a weapon in contravention of the *Weapons Act 1990* or a dangerous drug in contravention of the *Drugs Misuse Act 1986* and the offence was committed while performing activities under the authority.
  - 2 It may be in the public interest to cancel or suspend, or if authorised under section 21B, immediately suspend a tow truck driver's or an operator's authority because the person is charged with a number of offences of obstructing a police officer in the performance of the officer's duties and the alleged offences happened while the person was not performing activities under the authority.
  - 3 It may be in the public interest to cancel or suspend, or if authorised under section 21B, immediately suspend a tow truck driver's authority if the driver assaults a person at a crash scene.
- (2) Subsection (1) does not limit what may be considered in deciding the public interest for the purposes of this Act.

[s 21A]

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## **Division 2                      Cancellation and suspension of    authorities**

### **21A      Cancellation or suspension of authorities**

The chief executive may cancel or suspend an authority holder's authority under section 21D on any of the following grounds—

- (a) the authority—
  - (i) was issued in error; or
  - (ii) was granted or renewed because of a false or fraudulent document, statement or representation;
- (b) the authority holder—
  - (i) is convicted of an offence against this Act; or
  - (ii) has, since the issue of the authority, been charged with or convicted of a disqualifying offence; or
  - (iii) contravenes a condition of the authority; or
  - (iv) stops being a tow truck operator, driver or assistant;
- (c) for an authority holder that is a corporation—an executive officer of the holder is or has been—
  - (i) convicted of an offence against this Act; or
  - (ii) charged with or convicted of a disqualifying offence;
- (d) the authority holder can not properly drive the class of motor vehicle stated in the authority because of a medical condition, or physical or mental incapacity;
- (e) the motor vehicle stated in the authority is no longer suitable for use under the authority;
- (f) the authority holder has given false or misleading information to an authorised officer;

- (g) public safety has been endangered, or is likely to be endangered, because of the authority holder's conduct;
- (h) having regard to the conduct of the authority holder, when performing activities under the authority or at any other time, the chief executive believes, on reasonable grounds—
  - (i) the person is no longer an appropriate person to hold an authority; or
  - (ii) it is in the public interest to cancel or suspend the authority.

## **21B Immediate suspension of authority**

- (1) Despite section 21D, the chief executive may immediately suspend an authority holder's authority by written notice given to the authority holder on either of the following grounds—
  - (a) public safety has been endangered, or is likely to be endangered, because of the authority holder's conduct and the authority should be immediately suspended;
  - (b) having regard to the conduct of the authority holder, when performing activities under the authority or at any other time, the chief executive believes, on reasonable grounds—
    - (i) the person is no longer an appropriate person to hold an authority and the authority should be immediately suspended; or
    - (ii) it is in the public interest to immediately suspend the authority.
- (2) Without limiting the chief executive's powers under subsection (1), it is enough to immediately suspend an authority holder's authority if—
  - (a) a person complains to a police officer about the conduct of the authority holder and, having regard to the nature of the complaint, the chief executive believes, on

[s 21B]

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- reasonable grounds, the conduct complained of justifies taking action under subsection (1); or
- (b) having regard to statements or other information about the conduct of the authority holder given to the chief executive, the chief executive believes, on reasonable grounds, the statements or other information justifies taking action under subsection (1).
- (3) If the chief executive immediately suspends the authority, the suspension has effect under this section until the earlier of the following—
- (a) the chief executive informs the authority holder of the chief executive's decision under section 21D(5);
  - (b) the end of 56 days after the notice is given to the authority holder or the end of any further period or periods by which the suspension is extended under subsection (5).
- (4) The notice of immediate suspension must state—
- (a) the reasons for the decision; and
  - (b) the general effect of subsection (3); and
  - (c) the prescribed review information for the decision.
- (5) The chief executive may extend the period for which an authority is suspended under subsection (1) for a further period or periods of not more than 56 days on each occasion.
- (6) However, in deciding whether to extend or further extend the period of the suspension of an authority holder's authority, the chief executive must have regard to—
- (a) the information that was available to the chief executive when the chief executive first suspended the authority under subsection (1); and
  - (b) any further information relevant to the suspension that is in the chief executive's possession or of which the chief executive has since become aware; and
  - (c) whether in all the circumstances it is appropriate that the suspension be further extended.

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## **21C Further action after immediate suspension**

- (1) This section applies if—
  - (a) under section 21B, the chief executive immediately suspends an authority; and
  - (b) the chief executive also proposes to take proposed action under section 21D.
- (2) The notice under section 21B must also—
  - (a) state the information mentioned in section 21D(3)(a), (b) and (c) in relation to the proposed action; and
  - (b) if the proposed action is suspension of the authority—state the proposed suspension period; and
  - (c) invite the person to show cause in writing, within a stated time of at least 28 days, why the proposed action should not be taken.
- (3) Section 21D(4) to (6) applies to the proposed action as if the notice had been given under section 21D(3).
- (4) Despite subsection (3), section 21D(4)(a)(i) or (b)(ii) does not limit the chief executive's powers to extend the period of suspension under section 21B(5).

## **21D Amending, suspending or cancelling authority**

- (1) This section applies if the chief executive considers a ground exists under section 21A to suspend or cancel an authority holder's authority.
- (2) However, this section does not apply if section 21E applies.
- (3) Before taking action to suspend or cancel the authority (the *proposed action*), the chief executive must give the authority holder a written notice—
  - (a) stating the proposed action; and
  - (b) stating the grounds for the proposed action; and
  - (c) outlining the facts and circumstances forming the basis for the grounds; and

[s 21D]

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- (d) if the proposed action is suspension of the authority—stating the proposed suspension period; and
  - (e) inviting the person to show cause in writing, within a stated time of at least 28 days, why the proposed action should not be taken.
- (4) 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 suspend the authority—
    - (i) suspend the authority for no longer than the period stated in the notice; or
    - (ii) amend the authority in the way the chief executive considers appropriate; or
  - (b) if the proposed action was to cancel the authority—
    - (i) cancel the authority; or
    - (ii) suspend the authority for a period; or
    - (iii) amend the authority in the way the chief executive considers appropriate.
- (5) However, if the proposed action relates to a matter that is the subject of a proceeding before a court that has not been finally decided, the chief executive—
- (a) need not make a decision under subsection (4) until the proceeding is finally decided; but
  - (b) must make the decision as soon as reasonably practicable after the proceeding is finally decided.
- (6) The chief executive must inform the person of the decision under subsection (4) by written notice.
- (7) If the chief executive decides to take action under subsection (4), the notice must state—
- (a) the reasons for the decision; and
  - (b) the prescribed review information for the decision.



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## **21E Other amendments of authorities**

- (1) This section applies only if the chief executive proposes to amend an authority holder's authority—
  - (a) for a formal or clerical reason; or
  - (b) in another way that does not adversely affect the person's interests; or
  - (c) if the person asks.
- (2) The chief executive may make amendments of a type mentioned in subsection (1) by written notice given to the authority holder.

## **21F Surrender of authority on authority holder's request**

- (1) An authority holder may surrender the authority holder's authority by giving the chief executive written notice of the surrender.
- (1A) The notice must be accompanied by any document evidencing the authority.

*Example—*

If the person holds a driver's certificate and has been given a smartcard certificate, the person must return the smartcard certificate with the notice of surrender.

- (2) On the surrender day, the authority stops having effect.
- (3) In this section—

***surrender day***, for a surrendered authority, means—

  - (a) the day stated in the notice of surrender as the day the surrender takes effect; or
  - (b) if no day is stated in the notice, the day the chief executive receives the notice.

## **21G Delivery of cancelled or suspended authority**

If the chief executive cancels or suspends an authority under this division, the authority holder must deliver any document

[s 21H]

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evidencing the authority to the chief executive within the time specified by the chief executive in the notice of cancellation or suspension.

Maximum penalty—20 penalty units.

## **Division 3                      Record keeping**

### **21H    Records**

The chief executive must keep the records the chief executive considers appropriate about the following in the way the chief executive considers appropriate—

- (a) applications for the grant of authorities and permits;
- (b) the grant, refusal, cancellation or suspension of authorities;
- (c) the revocation of permits.

## **Part 5                              Offences**

### **22        Authority to repair**

A person—

- (a) shall not at the scene of an incident obtain or attempt to obtain authority from another person for the repair of a damaged motor vehicle; or
- (b) shall not, where a damaged motor vehicle is towed by a tow truck, obtain or attempt to obtain from another person authority for the repair of the motor vehicle before it is delivered to the address entered on the towing authority relating to the motor vehicle.

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## 23 Consideration for obtaining certain information or work

- (1) A person—
- (a) shall not for the purpose of obtaining a towing authority or enabling any other person to obtain a towing authority, give or receive or agree to give or receive any valuable thing in consideration of the furnishing of information or advice about—
    - (i) the occurrence of an incident or seizure; or
    - (ii) the presence of—
      - (A) a damaged motor vehicle on a road; or
      - (B) a seized motor vehicle on a road that is an off-street regulated parking area for which there is an arrangement mentioned in the *Transport Operations (Road Use Management) Act 1995*, section 104; or
  - (b) shall not give or agree or offer to give any valuable thing in consideration of the obtaining for himself or herself or any other person of the work of repairing a damaged motor vehicle; or
  - (c) shall not receive or agree or offer to receive any valuable thing in consideration of the obtaining from any other person of the work of repairing a damaged motor vehicle.
- (2) In this section—
- valuable thing*** includes any money, loan, office, place, employment, benefit or advantage and any commission or rebate payment in excess of actual value of goods or service, deduction or percentage, bonus or discount or any forbearance to demand any money or money's worth or valuable thing, but does not include any reasonable charge in respect of the towing, salvage or storage of a damaged motor vehicle or the towing or storage of a seized motor vehicle.

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## **24 False statements and representations, and coercion**

A person shall not—

- (a) knowingly make any false statement in any application under this Act; or
- (b) falsely advertise himself or herself or hold himself or herself out as being the holder of a licence, certificate or permit under this Act, or suffer or allow any such advertisement or holding out; or
- (c) falsely represent to any person that a vehicle is a tow truck to which a licence under this Act relates; or
- (d) obtain or attempt to obtain by force or undue influence a consent to remove a damaged or seized motor vehicle or a signature on a towing authority.

## **25 Offences with respect to authorised officers**

A person shall not—

- (a) assault, resist or obstruct an authorised officer in the exercise of his or her powers or in the discharge of his or her duties under this Act, or attempt so to do; or
- (b) fail to facilitate by all reasonable means the entry into or on premises from which a tow truck operator conducts his or her business, or vehicle by an authorised officer; or
- (c) fail to answer any question put to the person in pursuance of this Act by an authorised officer or give to any such question an answer that is in any respect false or misleading; or
- (d) fail to comply with the lawful requisition or any part of the lawful requisition of an authorised officer; or
- (e) when required by or under this Act to furnish any assistance or to furnish any information to an authorised officer, fail to furnish that assistance or information, as the case may be, or, in the latter case, furnish information that is in any respect false or misleading; or

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- (f) fail, without reasonable excuse, the proof whereof shall lie upon the person, to produce any licence, certificate or permit, or book, notice, record, document or writing that the person is required under this Act by an authorised officer to produce or fail to allow an authorised officer to take a copy of or extract from any such licence, certificate or permit, book, notice, record, document or writing; or
  - (g) directly or indirectly prevent any person from appearing before or being questioned by an authorised officer, or attempt so to do; or
  - (h) use any threat or any abusive or insulting language to an authorised officer or to any other person with respect to any inspection, examination or interrogation.

## **26 Excess of authority**

A person shall not operate a tow truck otherwise than in conformity with the authority conferred by a licence relating to that tow truck.

## **27 Execution against motor vehicle**

- (1) Any warrant of execution for the amount of any penalty for an offence against section 5 or 26 may be executed by seizure and sale of the goods and chattels of the offender and, where the motor vehicle in respect of which the offence was committed is not the sole and absolute property of the offender, by seizure and sale of that motor vehicle as if it were the sole and absolute property of the offender.
- (1A) Where the motor vehicle in respect of which the offence was committed comprised a trailer attached to a motor vehicle the warrant may be executed by seizure and sale of the trailer or the motor vehicle to which it was attached, or both of them.
- (2) If it appears to the person to whom the warrant is directed that the motor vehicle is not, at the time of its seizure, the sole and absolute property of the offender, such person shall pay the whole of the proceeds of the sale of the motor vehicle to the

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clerk of the court to whom the warrant orders the person to pay the amount to be levied thereunder.

- (2A) So much of such proceeds as exceeds the amount ordered to be levied and the costs and charges of the execution shall be deemed to have come into the custody of the clerk of the court in connection with the proceedings in respect of the offence.
- (3) Any justice shall, upon the application of the chief executive or a person acting under the general or particular authority of the chief executive, issue a warrant of execution for any amount that has not been paid of any penalty for an offence against section 5 or 26.
- (3A) Notwithstanding the provisions of the *Justices Act 1886* a justice—
- (a) shall not postpone the issue of the warrant of execution; and
  - (b) shall issue the warrant of execution notwithstanding that the decision adjudging the penalty made no provision for the levy thereof by distress or execution, or directed that in default of payment thereof forthwith or within a time allowed the offender should be imprisoned.
- (4) This section does not authorise the execution of a warrant for recovery of any amount of penalty for an offence against section 5 or 26—
- (a) before the expiration of the time (if any) for payment of the penalty allowed by the justices adjudging the penalty as part of their decision; or
  - (b) after the offender has been imprisoned for default in paying the penalty.
- (5) In this section—
- penalty* includes any costs or fees which the justices adjudging the penalty ordered, as part of their decision, to be paid.

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## Part 6 Review of decisions

### 28 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 1 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision 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 person may apply to QCAT to have the original decision stayed.

### 29 External review of decisions

- (1) If a reviewed decision is not the decision sought by the applicant for the review, the chief executive must give the applicant a QCAT information notice for the reviewed decision.
- (2) The applicant may apply, as provided under the QCAT Act, to QCAT for a review of the reviewed decision.

*Note—*

The QCAT Act, section 22(3) provides that QCAT may stay the operation of the reviewed decision, either on application by a person or on its own initiative.

- (3) In this section—

***QCAT information notice*** means a notice complying with the QCAT Act, section 157(2).

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*reviewed decision* means the chief executive's decision on a review under section 28.

## **Part 7                      General provisions**

### **34            Smartcard certificate is property of the State**

- (1) A smartcard certificate is and remains the property of the State.
- (2) Subsection (1) applies even though a person other than the State—
  - (a) has the right to use information that is on the smartcard certificate or stored electronically on it; or
  - (b) has the right to have information stored on the smartcard certificate.
- (3) The State is not legally liable for an act or omission relating to the keeping or use of the smartcard certificate.

### **35            Production of document evidencing licence, certificate or permit to authorised officer**

The holder of a licence, driver's certificate, assistant's certificate or permit must, if asked by an authorised officer, produce to the officer the document evidencing the licence, certificate or permit.

### **35A          Production of document evidencing driver's certificate or permit before commencing a tow**

- (1) This section applies if the driver of a tow truck makes an offer or intends to make an offer to tow a damaged motor vehicle by means of a tow truck.
- (2) The driver must, either before or when making the offer to tow the motor vehicle, produce the document evidencing the



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driver's certificate or permit held by the driver for inspection by the person to whom the offer is made or intended to be made.

- (3) This section applies whether or not the person to whom the offer is made or intended to be made asks the driver to produce the document.

**36 Chief executive may obtain information from the commissioner of the police service**

- (1) The chief executive may ask the commissioner of the police service for a written report about a person's criminal history to help in deciding whether—
- (a) the person is an appropriate person to hold, or continue to hold, a licence or certificate under this Act; or
  - (b) a corporation of which the person is an executive officer is an appropriate person to hold, or continue to hold, a licence under this Act.
- (2) For subsection (1), the chief executive's request may include the following information—
- (a) the person's name and any other name the chief executive believes the person may use or may have used;
  - (b) the person's sex and date and place of birth;
  - (c) details of the person's driver licence under the *Transport Operations (Road Use Management) Act 1995*;
  - (d) details of the person's licence or certificate under this Act.
- (3) If asked by the chief executive, the commissioner must give the chief executive a written report about the person's criminal history.
- (4) Subsection (3) applies to the criminal history in the commissioner's possession or to which the commissioner has access.

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### **36A Notice of change in police information about a person**

- (1) This section applies if—
  - (a) the commissioner of the police service reasonably suspects a person is—
    - (i) the holder of a licence or certificate under this Act; or
    - (ii) an executive officer of a corporation that is the holder of a licence under this Act; and
  - (b) the person's criminal history changes.
- (2) The commissioner may notify the chief executive that the person's criminal history has changed.
- (3) The commissioner's notice to the chief executive must state the following—
  - (a) the person's name and any other name the commissioner believes the person may use or may have used;
  - (b) the person's gender and date and place of birth;
  - (c) whether the change is—
    - (i) a charge made against the person for an offence; or
    - (ii) a conviction of the person;
  - (d) details of the charge or conviction.

### **36B Chief executive may enter into arrangement about giving and receiving information with commissioner of the police service**

- (1) This section applies only to the extent another provision of this Act allows the chief executive to give information to the commissioner of the police service or the commissioner to give information to the chief executive.
- (2) The chief executive and the commissioner may enter into a written arrangement by which the information is given or received.

- (3) Without limiting subsection (2), the arrangement may provide for the electronic transfer of information, including on a daily basis.
- (4) However, if information is to be electronically transferred and, under this Act, there is a limitation on who may access the information or the purposes for which the information may be used, the arrangement must provide for the limitation.

### **36C Confidentiality**

- (1) A person must not disclose, record or use information the person gained—
  - (a) through involvement in the administration of this Act; or
  - (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) in a proceeding before a court or tribunal 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.

*information* includes a digital photo and digitised signature.

### **37 Evidentiary provisions**

- (1) A certificate purporting to be signed by the person having custody of the records kept pursuant to section 21H certifying

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that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in section 21H did or did not appear in or from those records shall upon its production in any proceeding be admissible as evidence and in the absence of evidence to the contrary conclusive evidence of the matters contained in the certificate.

- (2) A document purporting to be a report furnished to the chief executive for the purposes of this Act in relation to any applicant, holder of a licence, certificate or permit and relevant to the matter of inquiry shall upon its production in an appeal against the chief executive's decision, be admissible as evidence of the matters contained therein.

### **38 Exemptions**

- (1) Where pursuant to the regulations, exemption or conditional exemption from compliance with all or any of the provisions of this Act is granted, the provisions in respect of which the exemption or conditional exemption is granted shall, while the exemption or conditional exemption remains in force, cease to apply to the extent provided by the regulations subject, in the case of a conditional exemption, to the conditions imposed.
- (2) However, even though a person is exempt under a regulation from stated provisions of this Act, a regulation made under section 43 for the purposes of the *Police Powers and Responsibilities Act 2000*, chapter 4, 5 or 22 applies to the person.

### **39 Service of documents**

A notice or other document required by this Act to be given by the chief executive to any person may be given—

- (a) by serving it personally on the person to whom it is directed; or
- (b) by leaving it at the address of the place of residence of the person to whom it is directed last known to the person by whom it is required to be given; or

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- (c) by prepaid post letter addressed to the person to whom it is directed at the address of the place of the person's residence last known to the person by whom it is required to be given.

#### **40 Offences generally and penalty**

- (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.
- (2) Where in relation to a condition of a licence referred to in section 12(2)(e)–(p) a person—
  - (a) does that which by the condition the person is forbidden to do; or
  - (b) fails to do that which by the condition the person is required or directed to do;

the person and, where the person is not the holder of the licence, the holder of the licence commits an offence against this Act.

- (3) Save where a specific penalty is otherwise prescribed a person who commits an offence against this Act is liable to a penalty of 40 penalty units.
- (4) A penalty imposed by this Act may be recovered by way of summary proceedings before a Magistrates Court constituted under the *Justices Act 1886*.
- (5) A court before which a person is convicted of an offence against this Act shall cause particulars of the conviction to be furnished to the chief executive.

#### **41 Offences by corporation**

- (1) Where a corporation commits an offence against this Act each of the following persons shall be deemed to have committed the offence, and shall be liable to be proceeded against and punished accordingly—

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- (a) the managing director, manager or other governing officer, by whatever name called, and every member of the governing body thereof, by whatever name called;
  - (b) every person who in Queensland manages, or acts or takes part in the management, administration or government of the business in Queensland of the corporation.
- (2) This section applies so as not to limit or affect howsoever the liability of a corporation to be proceeded against and punished for an offence against this Act committed by it.

## **42 Indemnity to persons administering Act**

A person does not incur liability for anything done for the purposes of this Act or done in good faith and purporting to be for the purposes of this Act.

## **42A Approval of forms**

The chief executive may approve forms for use under this Act.

## **43 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may make provision about the following—
  - (a) the making of applications for licences, certificates or permits;
  - (b) the grant and renewal of licences or certificates and the grant of permits;
  - (c) the return or destruction of documents evidencing a licence or certificate after expiry of the licence or certificate;
  - (d) obtaining and dealing with towing authorities;

- 
- (e) the identification of the holder of a licence, certificate or permit in a document evidencing that the person holds the licence, certificate or permit;
  - (f) the damaging of documents;
  - (fa) the replacement of documents;
  - (fb) the notification of a change of personal particulars;
  - (fc) the carrying of documents;
  - (g) the duties and standard of conduct of persons operating tow trucks and of persons employed on or in connection with the use of tow trucks;
  - (h) the inspection of tow trucks by an authorised officer for the purposes of determining whether or not they comply with this Act and the action to be taken if tow trucks do not so comply, and in connection with any inspection authorising the entry in or upon any tow truck, building or place;
  - (i) the powers of an authorised officer to enter upon premises from which a tow truck operator conducts his or her business and to inspect, seize and make copies of those records, and the production of those records by any person having custody thereof upon the requisition of an authorised officer;
  - (j) the production to authorised officers and other prescribed persons of licences, certificates, permits and other documents;
  - (k) the fees payable under this Act and the purposes for which those fees are payable, and the fixing of those fees;
  - (l) the design, classification, construction, equipment and identification of tow trucks;
  - (m) the qualifications and ages of drivers of tow trucks;
  - (n) the conditions under which tow trucks may be operated;
  - (o) premises or places to which tow truck operators deliver or cause to be delivered motor vehicles towed by the tow

[s 43]

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- truck they operate and the use of those premises or places by those operators and the towing of motor vehicles thereto;
- (p) the making of investigations into the charges being made or that should be made for towing seized motor vehicles, or towing or salvaging damaged motor vehicles; the appointment of persons to make such investigations; the powers and duties of such persons;
  - (q) the amount to be charged by operators of tow trucks for the towing or salvaging of motor vehicles and fixing maximum and minimum charges therefor;
  - (r) the amounts to be charged for towing and keeping vehicles impounded under the *Police Powers and Responsibilities Act 2000*, chapter 4 or 22;
  - (s) notification of the sale, disposal or acquisition of licensed tow trucks or tow trucks in respect of which permits have been issued;
  - (t) the granting of exemption or conditional exemption from compliance with all or any of the provisions of this Act and the revocation of any exemption or conditional exemption so granted;
  - (u) penalties of not more than 20 penalty units for each offence against a regulation.
- (3) Without limiting subsection (1) or (2), a regulation may provide for the following—
- (a) a document evidencing a driver's certificate or assistant's certificate to be in the form of a card or something similar approved by the chief executive and on which information may be stored electronically;
  - (b) a PIN to be used by the holder of a driver's certificate or assistant's certificate as a security measure to protect information stored electronically on a document evidencing the certificate.
- (4) Also, without limiting subsections (1) to (3), a regulation may provide that—



- 
- (a) a document evidencing a person's driver's certificate or assistant's certificate may include on it information about another transport authority held by the person under a prescribed transport Act, if allowed under that Act; or
  - (b) information about a driver's certificate or an assistant's certificate may be included on another transport authority.

*Note—*

See also the *Transport Planning and Coordination Act 1994*, section 36G for smartcard transport authorities.

- (5) In this section—

***prescribed transport Act*** means—

- (a) this Act; or
- (b) the *Transport Operations (Passenger Transport) Act 1994*; or
- (c) the *Transport Operations (Road Use Management) Act 1995*.

***transport authority*** means—

- (a) a driver's certificate or an assistant's certificate; or
- (b) driver authorisation under the *Transport Operations (Passenger Transport) Act 1994*; or
- (c) a prescribed authority (other than a Queensland driver licence) under the *Transport Operations (Road Use Management) Act 1995*.

## Part 8 Transitional provisions

### 44 Tow-truck Act 1973 references

In an Act or document, a reference to the *Tow-truck Act 1973* is a reference to this Act.

## **Schedule 1      Reviewable decisions**

section 28

### **Part 1                      Licences**

- 1 Failing to grant and issue a licence under section 6
- 2 Failing to renew a licence under section 9
- 3 Imposing a condition on the grant or renewal of a licence under section 10
- 4 Varying licence conditions under section 10
- 5 Suspending or cancelling a licence under section 21B or 21D
- 6 Amending a licence under section 21D

### **Part 2                      Driver's certificates and assistant's certificates**

- 1 Failing to grant a certificate under section 14A
- 2 Imposing a condition on the grant or renewal of a certificate under section 14A
- 3 Varying a condition of a certificate under section 15
- 4 Failing to renew a certificate under section 17A
- 5 Suspending or cancelling a certificate under section 21B or 21D
- 6 Amending a certificate under section 21D

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## Schedule 2 Dictionary

## section 4

***approved form*** see section 42A.

***articulated motor vehicle*** means a motor vehicle having at its rear a portion on wheels that is pivoted on and partly superimposed on the forward part of the vehicle.

***assistant's certificate*** see section 16(2).

***authorised officer*** means an authorised officer under the *Transport Operations (Road Use Management) Act 1995* or a person acting under the authority of the chief executive.

***criminal history***, of a person—

- (a) means the person's criminal history under the *Criminal Law (Rehabilitation of Offenders) Act 1986*; and
- (b) includes a charge of a disqualifying offence or a charge of an offence against any of the following—
  - (i) the *Drugs Misuse Act 1986*;
  - (ii) the *Police Powers and Responsibilities Act 2000*, section 790;
  - (iii) the *Weapons Act 1990*; and
- (c) does not include a charge of an offence for which the proceeding for the offence ended without the person being convicted.

***damaged*** means damaged in an incident.

***digital photo*** means a facial image encoded in a digital form.

***digitised signature*** means a person's signature encoded in a digital form.

***disqualifying offence*** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4, definition *disqualifying offence*, paragraph (b).

***driver licence*** has the meaning given by the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

***driver's certificate*** see section 16(1).

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

***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.

***incident*** means a collision or impact, however caused—

- (a) that happens on a road and results in damage to a motor vehicle; or
- (b) that happens off a road and results in damage to a motor vehicle, if immediately before the collision or impact the motor vehicle was travelling on the road.

***licence*** means a licence with respect to a tow truck issued under this Act and in force at any material time.

***most recent digital photo***, of a person—

- (a) means the most recent digital photo of the person taken and kept by—
  - (i) the chief executive under section 19A; or
  - (ii) any chief executive under a prescribed smartcard Act; and
- (b) includes the most recent digital photo taken and kept under the *Transport Operations (Marine Safety) Act 1994* by the general manager appointed under the *Maritime Safety Queensland Act 2002*.

***most recent digitised signature***, of a person—

- (a) means the most recent digitised signature of the person taken and kept by—
  - (i) the chief executive under section 19A; or
  - (ii) any chief executive under a prescribed smartcard Act; and

- (b) includes the most recent digitised signature taken and kept under the *Transport Operations (Marine Safety) Act 1994* by the general manager appointed under the *Maritime Safety Queensland Act 2002*.

**motor vehicle** means a motor car, motorcycle, motor omnibus, motor truck, motor utility truck, trolley vehicle, tractor or traction engine, a trailer attached to or drawn by a motor vehicle, and any other vehicle propelled or designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, steam or other mechanical power: the term includes an articulated motor vehicle but does not include a vehicle used on a railway or tramway.

**operate**, with respect to a tow truck, means to tow or offer to tow a motor vehicle by means of a tow truck, for hire or for any consideration or in the course of any trade or business.

**permit** means—

- (a) a permit issued under section 11; or  
 (b) a permit granted under section 19.

**prescribed review information**, for a decision, means information that a person to whom a notice about the decision is given under section 21B(1) or 21D(6) may—

- (a) under section 28—ask for the decision to be reviewed by the chief executive; and  
 (b) under the *Transport Planning and Coordination Act 1994*, part 5, division 2—apply to QCAT for the decision to be stayed; and  
 (c) under section 29—ask for the chief executive’s decision on the review (the **reviewed decision**) to be reviewed by QCAT; and  
 (d) under the QCAT Act—apply for the reviewed decision to be stayed.

**prescribed smartcard Act** means any of the following Acts—

- (a) the *Adult Proof of Age Card Act 2008*;  
 (b) the *Transport Operations (Marine Safety) Act 1994*;

- (c) the *Transport Operations (Passenger Transport) Act 1994*;
- (d) the *Transport Operations (Road Use Management) Act 1995*.

**road** has the meaning assigned to that term by the *Transport Operations (Road Use Management) Act 1995*.

**retention period**, for a digital photo and digitised signature, means the retention period worked out under section 19F.

**seized**, for a motor vehicle, means seized by a police officer under the *Police Powers and Responsibilities Act 2000*, section 124 because of section 125(d) or (e) of that Act, from a road that is an off-street regulated parking area for which there is an arrangement mentioned in the *Transport Operations (Road Use Management) Act 1995*, section 104.

**shelf life**, of a digital photo and digitised signature, means 10 years after the photo and signature are taken.

**smartcard assistant's certificate** means an assistant's certificate in the form provided for under section 43(3)(a).

**smartcard certificate** means a smartcard driver's certificate or a smartcard assistant's certificate.

**smartcard driver's certificate** means a driver's certificate in the form provided for under section 43(3)(a).

**take**, in relation to a digital photo or digitised signature, includes obtain.

**tow** with respect to a motor vehicle includes carry, lift and tow, lift and carry and lift for the purpose of towing.

**towing authority** means an authority given, on the approved form, for the towing of a motor vehicle.

**tow truck** means a motor vehicle—

- (a) equipped with a lifting or loading device capable of being used for the towing of a motor vehicle; or
- (b) being used at the material time for the towing of a trailer on which a damaged or seized motor vehicle is being carried.

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## 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 24 July 2010. Future amendments of the Tow Truck Act 1973 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
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	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1991 Act No. 97	17 December 1991	27 September 1994
2	1995 Act No. 57	28 November 1995	7 December 1995
3	1997 Act No. 66	12 December 1997	13 January 1998
3A	1999 Act No. 42	1 December 1999	4 January 2000
3B	2000 Act No. 5	1 July 2000	1 September 2000
3C	2001 Act No. 79	21 December 2001	4 January 2002

Reprint No.	Amendments included	Effective	Notes
3D	2002 Act No. 33	4 November 2002	
3E	2002 Act No. 71	13 December 2002	
3F	2003 Act No. 19	9 May 2003	
3G	2004 Act No. 40	20 December 2004	
3H	2005 Act No. 64	1 July 2006	



Reprint No.	Amendments included	Effective	Notes
3I	2006 Act No. 26 2000 Act No. 5 (amd 2006 Act No. 26)	21 July 2006	
3J	2007 Act No. 6	1 June 2007	
3K	2006 Act No. 57	1 July 2007	
3L	2007 Act No. 36	29 August 2007	R3L withdrawn, see R4
4	—	29 August 2007	
4A	2008 Act No. 31	21 May 2008	
4B	2008 Act No. 67	30 November 2009	
4C	2009 Act No. 24	1 December 2009	
4D	2008 Act No. 71 (amd 2010 Act No. 13)	24 July 2010	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **Tow Truck Act 1973 No. 39 (prev Tow-truck Act 1973)**

date of assent 26 April 1973

commenced 1 October 1973 (proc pubd gaz 1 September 1973 p 1)

amending legislation—

### **Motor Vehicles Safety Act and Other Acts Amendment Act 1985 No. 30 pts 1, 7**

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)

### **Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 sch**

date of assent 25 October 1989

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)

**Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 1**

date of assent 17 December 1991

commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2**

date of assent 1 December 1994

commenced on date of assent (see s 2)

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1 (this Act is amended, see amending legislation below)**

date of assent 28 November 1995

commenced on date of assent

amending legislation—

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2(1) sch 1 (amends 1995 No. 57 above)**

date of assent 28 November 1995

commenced on date of assent (see s 2(1))

**Transport Legislation Amendment Act 1997 No. 66 pts 1–2**

date of assent 1 December 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 12 December 1997 (1997 SL No. 439)

**Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3**

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1999 (see s 2(1))

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev 373) sch 3**

date of assent 23 March 2000

ss 1–2, 461 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 2001 No. 79 ss 1–2(3), pt 4**

date of assent 29 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 21 December 2001 (2001 SL No. 279)

**Police Powers and Responsibilities and Another Act Amendment Act 2002 No. 33 pts 1, 3**

date of assent 16 August 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 4 November 2002 (2002 SL No. 284)

**Transport Legislation Amendment Act (No. 2) 2002 No. 71 s 1, pt 3**

date of assent 13 December 2002

commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 2003 No. 19 ss 1, 3 sch**

date of assent 9 May 2003

commenced on date of assent

**Transport and Other Legislation Amendment Act (No. 2) 2004 No. 40 pts 1–1A**

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 20 December 2004 (2004 SL No. 299)

**Police Powers and Responsibilities (Motorbike Noise) Amendment Act 2005 No. 64  
pts 1, 3**

date of assent 28 November 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2006 (2006 SL No. 107)

**Police Powers and Responsibilities and Other Acts Amendment Act 2006 No. 26 ss  
1–2(1), 119 sch 2**

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 21 July 2006 (2006 SL No. 185)

**Police Powers and Responsibilities Act 2000 No. 5 s 810 sch 4 (prev s 459A sch 3A)  
(this Act is amended, see amending legislation below)**

amending legislation—

**Police Powers and Responsibilities and Other Acts Amendment Act 2006  
No. 26 ss 1–2, 84, 86 (amends 2000 No. 5 above)**

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 21 July 2006 (2006 SL No. 185)

**Police Powers and Responsibilities and Other Legislation Amendment Act 2006 No.  
57 ss 1–2(1), pt 5**

date of assent 7 December 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2007 (see s 2(1))

**Transport Legislation and Another Act Amendment Act 2007 No. 6 pts 1, 4**

date of assent 28 February 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 2007 (2007 SL No. 93)

**Statute Law (Miscellaneous Provisions) Act 2007 No. 36**

date of assent 29 August 2007

commenced on date of assent

**Transport Legislation Amendment Act 2008 No. 31 ss 1, 72 sch**

date of assent 21 May 2008

commenced on date of assent

**Transport and Other Legislation Amendment Act 2008 No. 67 ss 1, 2(3)(e), pt 11 div  
1**

date of assent 1 December 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 30 November 2009 (2009 SL No. 249)

**Transport (New Queensland Driver Licensing) Amendment Act 2008 No. 71 pts 1, 3  
(this Act is amended, see amending legislation below)**

date of assent 11 December 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 24 July 2010 (2010 SL No. 181)

amending legislation—

**Transport and Other Legislation Amendment Act 2010 No. 13 ss 1, 2(2)(b),  
58, 60–65 (amends 2008 No. 71 above)**

date of assent 1 April 2010

ss 1–2 commenced on date of assent

remaining provisions commenced on date of assent (see s 2(2)(b))

**Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment  
Act 2009 No. 24 ss 1–2, ch 13 pt 3**

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

## **7 List of annotations**

### **Short title**

**s 1** amd 1994 No. 87 s 3 sch 2

### **Arrangement**

**s 3** om 1991 No. 97 s 3 sch 1

### **Definitions**

**prov hdg** sub 1997 No. 66 s 4(1)

**s 4** Note—s 4 contained definitions for this Act. Definitions are now located in schedule 2 (Dictionary). Annotations for definitions contained in s 4 are located in annotations for sch 2.

amd 2007 No. 6 s 10(1)

### **Further provision for definition “motor vehicle”**

**prov hdg** ins 1997 No. 66 s 4(4)

**s 4A** (prev s 4(1A)) renum 1997 No. 66 s 4(6)

amd 1999 No. 42 s 54(3) sch pt 3; 2007 No. 6 s 11

### **Members of firm or partnership**

**prov hdg** ins 1997 No. 66 s 4(5)

**s 4B** (prev s 4(2)) renum 1997 No. 66 s 4(6)

### **Who is an appropriate person**

**s 4C** ins 2004 No. 40 s 2C

amd 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86); 2007 No. 6 s 12(1);  
2008 No. 67 s 274

### **Requirement as to licence for tow truck**

**s 5** amd 1997 No. 66 s 5

**Application for licence**

**s 6** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1; 2004 No. 40 s 2D; 2007 No. 6 s 13; 2008 No. 67 s 275

**Form and authority of licence**

**s 7** amd 1991 No. 97 s 3 sch 1; 2002 No. 71 s 8; 2008 No. 31 s 72 sch

**Renewal of licence**

**s 9** amd 1990 No. 73 s 3 sch 5; 2004 No. 40 s 2E; 2008 No. 67 s 276

**Imposition of conditions of licence**

**s 10** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1

**Permits to tow motor vehicles**

**s 11** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1; 2008 No. 31 s 72 sch

**Conditions of licence**

**s 12** amd 1985 No. 30 s 72; 1994 No. 87 s 3 sch 2; 1997 No. 66 s 6; 2002 No. 71 s 9; 2007 No. 36 s 2 sch

**Division 1—General**

**div hdg** ins 2008 No. 71 s 8

**Required certificates etc.**

**s 13** sub 1997 No. 66 s 7

**Application for driver's or assistant's certificate**

**s 14** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1; 2004 No. 40 s 2F; 2007 No. 6 s 14; 2008 No. 67 s 277  
sub 2008 No. 71 s 8A (amd 2010 No. 13 s 60)

**Decision on application**

**s 14A** ins 2008 No. 71 s 8A (amd 2010 No. 13 s 60)

**Written notice of granting of certificate and of conditions or variations**

**s 15** amd 1991 No. 97 s 3 sch 1; 1997 No. 66 s 8; 2007 No. 36 s 2 sch  
sub 2008 No. 71 s 8A (amd 2010 No. 13 s 60)

**What driver's or assistant's certificate authorises**

**s 16** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1  
sub 2008 No. 71 s 8A (amd 2010 No. 13 s 60)

**Term of driver's or assistant's certificate**

**s 17** amd 1990 No. 73 s 3 sch 5; 2004 No. 40 s 2G; 2008 No. 67 s 278  
sub 2008 No. 71 s 8A (amd 2010 No. 13 s 60)

**Renewal of driver's or assistant's certificate**

**s 17A** ins 2008 No. 71 s 8A (amd 2010 No. 13 s 60)

**Driver's certificate dependent on driver licence**

**prov hdg** amd 1999 No. 42 s 54(3) sch pt 3  
**s 18** amd 1990 No. 73 s 3 sch 5; 1999 No. 42 s 54(3) sch pt 3  
sub 2008 No. 71 s 8A (amd 2010 No. 13 s 60)

**Permit for applicant for driver's or assistant's certificate**

s 19           amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1; 1997 No. 66 s 9; 2007 No. 36 s 2 sch; 2008 No. 71 s 8B (amd 2010 No. 13 s 60)

**Division 2—Biometric data and other information relating to driver's certificate or assistant's certificate**

div hdg       ins 2008 No. 71 s 9

**Obtaining digital photo and digitised signature**

s 19A         ins 2008 No. 71 s 9 (amd 2010 No. 13 s 61(1))

**Extending shelf life of digital photo and digitised signature**

s 19AA       ins 2008 No. 71 s 9 (amd 2010 No. 13 s 61(1))

**Using digital photo and digitised signature**

s 19B         ins 2008 No. 71 s 9 (amd 2010 No. 13 s 61(1))

**Restricted access to a digital photo**

s 19C         ins 2008 No. 71 s 9 (amd 2010 No. 13 s 61(2))

**Deleting digital photo and digitised signature from register or similar record**

s 19D         ins 2008 No. 71 s 9

**Restricted access to information stored electronically on a smartcard certificate**

s 19E         ins 2008 No. 71 s 9 (amd 2010 No. 13 s 61(3))

**Retention period for digital photo and digitised signature**

s 19F         ins 2008 No. 71 s 9 (amd 2010 No. 13 s 61(4))

**Annual report about access to digital photos**

s 19G         ins 2008 No. 71 s 9

**Division 3—Restricted release of information about driver's certificate or assistant's certificate**

div hdg       ins 2008 No. 71 s 9

**Restricted release of information**

s 19H         ins 2008 No. 71 s 9 (amd 2010 No. 13 s 61(5))

**PART 4—AUTHORITIES AND PERMITS**

pt hdg        sub 2004 No. 40 s 2H

**Division 1—Preliminary**

div hdg       ins 2004 No. 40 s 2H

**Definitions for pt 4**

s 20           amd 1990 No. 73 s 3 sch 5  
              sub 2004 No. 40 s 2H

**Consideration of public interest for pt 4**

s 21           amd 1990 No. 73 s 3 sch 5; 2001 No. 79 s 15  
              sub 2004 No. 40 s 2H

**Division 2—Cancellation and suspension of authorities**

div hdg       ins 2004 No. 40 s 2H

**Cancellation or suspension of authorities**

**s 21A** ins 2004 No. 40 s 2H  
amd 2008 No. 67 s 279

**Immediate suspension of authority**

**s 21B** ins 2004 No. 40 s 2H  
amd 2009 No. 24 s 1705

**Further action after immediate suspension**

**s 21C** ins 2004 No. 40 s 2H

**Amending, suspending or cancelling authority**

**s 21D** ins 2004 No. 40 s 2H  
amd 2009 No. 24 s 1706

**Other amendments of authorities**

**s 21E** ins 2004 No. 40 s 2H

**Surrender of authority on authority holder's request**

**s 21F** ins 2004 No. 40 s 2H  
amd 2008 No. 71 s 9A (amd 2010 No. 13 s 62)

**Delivery of cancelled or suspended authority**

**s 21G** ins 2004 No. 40 s 2H  
amd 2008 No. 71 s 9B (amd 2010 No. 13 s 62)

**Division 3—Record keeping**

**div 3 (s 21H)** ins 2004 No. 40 s 2H

**Consideration for obtaining certain information or work**

**s 23** amd 1997 No. 66 s 10; 1999 No. 42 s 54(3) sch pt 3

**False statements and representations, and coercion**

**s 24** amd 1997 No. 66 s 11; 2007 No. 36 s 2 sch

**Excess of authority**

**s 26** amd 1989 No. 103 s 3 sch

**Execution against motor vehicle**

**s 27** amd 1990 No. 73 s 3 sch 5; 2007 No. 36 s 2 sch

**PART 6—REVIEW OF DECISIONS**

**pt hdg** sub 2001 No. 79 s 16  
amd 2009 No. 24 s 1707

**Internal review of decisions**

**prov hdg** amd 1990 No. 73 s 3 sch 5  
**s 28** amd 1990 No. 73 s 3 sch 5  
sub 2001 No. 79 s 16  
amd 2007 No. 6 s 15  
sub 2009 No. 24 s 1708

**External review of decisions**

- s 29 prev s 29 amd 1990 No. 73 s 3 sch 5  
om 2001 No. 79 s 16  
pres s 29 ins 2009 No. 24 s 1708

**Secretary to appeal tribunal**

- s 30 amd 1990 No. 73 s 3 sch 5  
om 2001 No. 79 s 16

**Procedure on appeal**

- s 31 amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1  
om 2001 No. 79 s 16

**Venue and nature of appeal**

- s 32 amd 1990 No. 73 s 3 sch 5  
om 2001 No. 79 s 16

**Determination of appeal**

- s 33 amd 1990 No. 73 s 3 sch 5  
om 2001 No. 79 s 16

**Smartcard certificate is property of the State**

- s 34 prev s 34 amd 1990 No. 73 s 3 sch 5  
om 2001 No. 79 s 16  
pres s 34 ins 2008 No. 71 s 9C (amd 2010 No. 13 s 62)

**Production of document evidencing licence, certificate or permit to authorised officer**

- s 35 sub 2008 No. 71 s 9D (amd 2010 No. 13 s 62)

**Production of document evidencing driver's certificate or permit before commencing a tow**

- s 35A ins 2008 No. 71 s 9D (amd 2010 No. 13 s 62)

**Chief executive may obtain information from the commissioner of the police service**

- s 36 prev s 36 amd 1990 No. 73 s 3 sch 5  
om 1995 No. 57 ss 1–2, 4 sch 1  
pres s 36 ins 2007 No. 6 s 16  
sub 2008 No. 67 s 280

**Notice of change in police information about a person**

- s 36A ins 2007 No. 6 s 16  
amd 2008 No. 67 s 281

**Chief executive may enter into arrangement about giving and receiving information with commissioner of the police service**

- s 36B ins 2007 No. 6 s 16

**Confidentiality**

- s 36C ins 2007 No. 6 s 16  
amd 2008 No. 71 s 10

**Evidentiary provisions**

- s 37 amd 1990 No. 73 s 3 sch 5; 2004 No. 40 s 2I



**Exemptions**

**s 38** amd 2002 No. 33 s 15; 2005 No. 64 s 30; 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86); 2006 No. 57 s 51

**Service of documents**

**s 39** amd 1990 No. 73 s 3 sch 5; 2007 No. 36 s 2 sch

**Offences generally and penalty**

**s 40** amd 1990 No. 73 s 3 sch 5; 1997 No. 66 s 12

**Offences by corporation**

**prov hdg** amd 2008 No. 67 s 282

**s 41** amd 2007 No. 36 s 2 sch; 2008 No. 67 s 282

**Approval of forms**

**s 42A** ins 1995 No. 57 ss 1–2, 4 sch 1

**Regulation-making power**

**prov hdg** amd 2006 No. 57 s 52(1)

**s 43** amd 1990 No. 73 s 3 sch 5; R1 (see RA s 39); 1995 No. 57 ss 1–2, 4 sch 1; 1997 No. 66 s 13; 2002 No. 33 s 16; 2005 No. 64 s 31; 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86); 2006 No. 57 s 52(2); 2009 No. 24 s 1709; 2008 No. 71 s 11 (amd 2010 No. 13 s 63)

**PART 8—TRANSITIONAL PROVISIONS**

**pt hdg** ins 1995 No. 57 ss 1–2, 4 sch 1

**Tow-truck Act 1973 references**

**s 44** ins 1995 No. 57 ss 1–2, 4 sch 1

**Approved forms**

**s 45** ins 1995 No. 57 ss 1–2, 4 sch 1  
exp 28 February 1996 (see s 45(3))

**SCHEDULE 1—REVIEWABLE DECISIONS**

**sch 1** (prev sch) ins 2001 No. 79 s 17  
sub 2004 No. 40 s 2J  
renum 2007 No. 6 s 17  
amd 2008 No. 71 s 11A (amd 2010 No. 13 s 64)

**SCHEDULE 2—DICTIONARY**

**sch hdg** ins 2007 No. 6 s 18

**sch 2** Note—definitions for this Act were originally located in s 4.

def “**approved form**” ins 1995 No. 57 ss 1–2, 4 sch 1  
reloc 2007 No. 6 s 10(5)

def “**articulated motor vehicle**” reloc 2007 No. 6 s 10(5)

def “**assistant’s certificate**” reloc 2007 No. 6 s 10(5)

sub 2008 No. 71 s 12 (amd 2010 No. 13 s 65(1)–(3))

def “**authorised officer**” amd 1985 No. 30 s 71; 1990 No. 73 s 3 sch 5; 1999 No. 42 s 54(3) sch pt 3; 2000 No. 5 s 461 sch 3

reloc 2007 No. 6 s 10(5)

def “**Commissioner**” om from prev s 4 1990 No. 73 s 3 sch 5

def “**criminal history**” reloc 2007 No. 6 s 12(2)

Endnotes

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- def **“damaged”** reloc 2007 No. 6 s 10(5)
- def **“department”** ins 1990 No. 73 s 3 sch 5  
om from prev s 4 1991 No. 97 s 3 sch 1
- def **“digital photo”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def **“digitised signature”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def **“Director-General”** ins 1990 No. 73 s 3 sch 5  
om from prev s 4 R1 (see RA s 36)
- def **“disqualifying offence”** ins 2004 No. 40 s 2B  
amd 2007 No. 6 s 10(3)  
reloc 2007 No. 6 s 10(5)
- def **“driver licence”** ins 2007 No. 6 s 10(2)  
reloc 2007 No. 6 s 10(5)
- def **“driver’s certificate”** reloc 2007 No. 6 s 10(5)  
sub 2008 No. 71 s 12 (amd 2010 No. 13 s 65(1)–(3))
- def **“electronic communication”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def **“executive officer”** ins 2008 No. 67 s 283
- def **“incident”** ins 1997 No. 66 s 4(2)  
reloc 2007 No. 6 s 10(5)
- def **“licence”** reloc 2007 No. 6 s 10(5)
- def **“most recent digital photo”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1), (4))
- def **“most recent digitised signature”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1), (4))
- def **“motor vehicle”** reloc 2007 No. 6 s 10(5)
- def **“operate”** reloc 2007 No. 6 s 10(5)
- def **“permit”** reloc 2007 No. 6 s 10(5)  
sub 2008 No. 71 s 12 (amd 2010 No. 13 s 65(1)–(3))
- def **“prescribed review information”** ins 2009 No. 24 s 1710
- def **“prescribed smartcard Act”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def **“retention period”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def **“road”** amd 1999 No. 42 s 54(3) sch pt 3  
reloc 2007 No. 6 s 10(5)
- def **“seized”** ins 1997 No. 66 s 4(2)  
amd 1999 No. 42 s 54(3) sch pt 3; 2000 No. 5 s 461 sch 3; 2003 No. 19 s 3 sch; 2006 No. 26 s 119 sch 2; 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86)  
reloc 2007 No. 6 s 10(5)
- def **“shelf life”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1), (3))
- def **“smartcard assistant’s certificate”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def **“smartcard certificate”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1), (3))
- def **“smartcard driver’s certificate”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def **“take”** ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def **“tow”** reloc 2007 No. 6 s 10(5)

- def “**towing authority**” amd 1995 No. 57 ss 1–2, 4 sch 1  
reloc 2007 No. 6 s 10(5)
- def “**tow truck**” amd 1997 No. 66 s 4(3); 2007 No. 6 s 10(4)  
reloc 2007 No. 6 s 10(5)

## **8 List of forms notified or published in the gazette**

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

**Form F6 Version 1—Performance Guideline for Excess Dimension Special Purpose Vehicles and Vehicles Carrying Indivisible Articles Requiring Pilots/Escorts**  
pubd gaz 14 September 2001 pp 132–3

**Form F7 Version 2—Performance Guideline for Pilot and Escort Vehicles and Drivers**  
pubd gaz 14 September 2001 pp 132–3

**Form F9 Version 1—Performance Guidelines for Queensland Street Rods**  
pubd gaz 14 September 2001 pp 132–3

**Form F10 Version 1—Performance Guidelines for Increased Mass Limits for Vehicles with Road Friendly Suspensions**  
pubd gaz 14 September 2001 pp 132–3

**Form F12 Version 1—Performance Guidelines for School Bus Lights and Signs Utilised by School Buses Required to Cross the Queensland/New South Wales border**  
pubd gaz 14 September 2001 pp 132–3

**Form F1785—Towing Authority Forms**  
pubd gaz 14 September 2001 pp 132–3

**Form F1853—Certificate of Modification**  
pubd gaz 14 September 2001 pp 132–3

**Form F1855—Approved Person’s Application**  
pubd gaz 14 September 2001 pp 132–3

**Form F1947—Certificate of Inspection**  
pubd gaz 14 September 2001 pp 132–3

**Form F2161—Specialist Driver’s/Assistant’s Application**  
pubd gaz 14 September 2001 pp 132–3

**Form F2259—Business Licence/Registration Application**  
pubd gaz 14 September 2001 pp 132–3

Endnotes

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- Form F2260—Business Licence/Registration/Owner’s Renewal**  
pubd gaz 14 September 2001 pp 132–3
- Form F2261—Specialist Driver’s/Assistant’s Renewal**  
pubd gaz 14 September 2001 pp 132–3
- Form F2498—Safety Certificate, Cars or Light Commercial Vehicles**  
pubd gaz 14 September 2001 pp 132–3
- Form F2499—Safety Certificate, Caravans and Trailers**  
pubd gaz 14 September 2001 pp 132–3
- Form F2500—Safety Certificate, Motorcycle**  
pubd gaz 14 September 2001 pp 132–3
- Form F2877—Seized Documents/Items Receipt**  
pubd gaz 14 September 2001 pp 132–3
- Form F3632—Driver Prohibition Notice**  
pubd gaz 14 September 2001 pp 132–3
- Form F3712 Version August 2007—Medical Certificate for Motor Vehicle Driver**  
pubd gaz 5 October 2007 p 721
- Form F4481 Version September 2007—Tow Truck Driver/Assistant’s Certificate Application**  
pubd gaz 19 October 2007 p 957
- Form F4644 Version 1—Tow Truck Licence Application**  
pubd gaz 28 August 2009 p 1490
- Driver Certification Manual**  
pubd gaz 14 September 2001 pp 132–3
- Heavy Vehicle Driver Log Book**  
pubd gaz 14 September 2001 pp 132–3
- Modification Plate (Heavy Vehicle)**  
pubd gaz 14 September 2001 pp 132–3
- Modification Plate (Motorcycle)**  
pubd gaz 14 September 2001 pp 132–3