



# **Transport Operations (Passenger Transport) Act 1994**

**Reprinted as in force on 2 January 2012**

**Reprint No. 8A**

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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—**

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Queensland

# Transport Operations (Passenger Transport) Act 1994

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# Transport Operations (Passenger Transport) Act 1994

[as amended by all amendments that commenced on or before 2 January 2012]

## An Act about passenger transport, and for other purposes

### Chapter 1 Preliminary

#### 1 Short title

This Act may be cited as the *Transport Operations (Passenger Transport) Act 1994*.

#### 2 Objectives of Act

- (1) This Act is intended to achieve the provision of the best possible public passenger transport at reasonable cost to the community and government, keeping government regulation to a minimum.
- (2) However, this Act recognises that market entry restrictions may be needed in the public interest.
- (3) The overall objectives of this Act are, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, to—
  - (a) enable the effective planning and efficient management of public passenger transport in the State; and
  - (b) provide a system of public passenger transport in the State that—
    - (i) is responsive to community needs; and

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- (ii) offers an attractive alternative to private transport in a way that reduces the overall environmental, economic and social costs of passenger transport; and
- (iii) addresses the challenges of future growth; and
- (iv) provides a high level of accountability; and
- (v) provides public passenger services at a reasonable cost to the community and government; and
- (c) promote the personal safety of persons using public passenger transport; and
- (d) provide a reasonable level of community access and mobility in support of the Government's social justice objectives; and
- (e) provide an adequate framework for coordinating the different forms of public passenger transport to form a comprehensive, integrated and efficient system.

### **3 Definitions—the dictionary**

- (1) The dictionary at the end of this Act defines particular words used in this Act.
- (2) To remove any doubt, the dictionary is a schedule.

### **4 Act binds all persons**

- (1) In this section—  
*government entity* includes—
  - (a) the State, the Commonwealth or another State; or
  - (b) an instrumentality or agent of the State, the Commonwealth or another State.
- (2) This Act binds all persons, including every government entity.
- (3) However, a regulation may exempt a government entity from this Act or a provision of this Act.

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**4A Act does not prevent local law from imposing additional requirements**

This Act does not prevent a local government from making a local law imposing requirements that are additional to requirements under this Act for the protection of property or infrastructure relating to public passenger transport in its local government area.

**4B Reference to offence against provision of an Act that is a *disqualifying offence* or a *driver disqualifying offence***

- (1) This section applies to any provision of this Act that defines a particular provision of an Act as a disqualifying offence or a driver disqualifying offence.
- (2) The reference to the particular provision includes the provision as it existed at any time before it was made, even though it was amended from time to time and even though the provision had a different number from time to time.
- (3) Subsection (2) does not limit the *Acts Interpretation Act 1954*, section 14H.

## **Chapter 2 Responsibilities for transport strategies and programs**

### **Part 1 Passenger transport strategies**

#### **5 Development of passenger transport strategies**

- (1) The chief executive must, from time to time, develop for the Minister's approval passenger transport strategies designed to

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give effect to the transport coordination plan in accordance with this Act's objectives.

- (2) In developing passenger transport strategies, the chief executive must take reasonable steps to engage in public consultation.
- (3) The Minister may, at any time, direct the chief executive to prepare new passenger transport strategies for the Minister's approval or to amend passenger transport strategies in the way the Minister directs.
- (4) The Minister may approve passenger transport strategies submitted for approval by the chief executive or require the chief executive to amend the strategies in the way the Minister directs.
- (5) The Minister must table a copy of each passenger transport strategy, and each amendment of a passenger transport strategy, approved by the Minister in the Legislative Assembly within 5 sitting days after it is approved.

## **6 Contents of passenger transport strategies**

- (1) Passenger transport strategies must include—
  - (a) a statement of the specific objectives sought to be achieved; and
  - (b) proposals for the provision of public passenger transport; and
  - (c) criteria for deciding priorities for government spending on public passenger transport, and options for raising the necessary finance; and
  - (d) appropriate performance indicators for deciding whether, and to what extent, the objectives of the strategies have been achieved.
- (2) Passenger transport strategies must aim to provide an adequate framework for coordinating and integrating the provision of passenger transport between the different transport modes and different levels of government.





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- (6) The Minister may at any time direct the chief executive to amend a passenger transport implementation program.
- (7) The Minister may approve passenger transport implementation programs submitted for approval by the chief executive or require the chief executive to amend the programs in the way the Minister directs.

## **8 Consistency with passenger transport strategies**

- (1) Subject to directions of the Minister, a passenger transport implementation program must be consistent with the passenger transport strategies.
- (2) If the Minister gives a direction under this section resulting in a passenger transport implementation program being inconsistent with passenger transport strategies, the Minister must table a copy of the direction in the Legislative Assembly within 5 sitting days after it is given.

## **9 Report on operation of passenger transport programs**

Each annual report of the department must include a report on the implementation of passenger transport implementation programs during the year to which the report relates.

# **Part 3 Chief executive's general accountabilities**

## **10 Obligations about public passenger transport**

- (1) The chief executive must ensure—
  - (a) public passenger transport is developed in a way that—
    - (i) takes into account best practice and national benchmarks; and

- 
- (ii) promotes, within overall transport objectives, the safety of passengers; and
  - (iii) encourages efficient, competitive and commercial behaviour in the provision of public passenger transport; and
  - (iv) ensures a strategic and integrated approach to the provision of public passenger transport; and
  - (v) promotes energy efficiency and reduces adverse environmental impact; and
- (b) public passenger transport operates to achieve—
- (i) efficiency; and
  - (ii) cost effectiveness; and
  - (iii) the highest quality and accessibility of services, and effective infrastructure, consistent with reasonable cost; and
- (c) funding provided by the State for public passenger transport is applied in an efficient, cost effective and equitable way.
- (2) Each annual report of the department must include a report on how effect has been given to subsection (1) during the year to which the report relates.

## Chapter 3 Operator accreditation

### 11 Purpose of operator accreditation

The purpose of operator accreditation is to encourage the high quality operation of public passenger services by—

- (a) raising standards and awareness of operators in the areas of safety, service delivery and business acumen; and

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- (b) ensuring public passenger service operators are held accountable for complying with appropriate standards.

## 12 What is operator accreditation

- (1) *Operator accreditation* is a qualification an operator of a public passenger service must attain and maintain to provide the service.
- (2) However, subsection (1) does not apply to the operator of any of the following public passenger services—
  - (a) a service using a fixed track vehicle provided by—
    - (i) a railway operator; or
    - (ii) a light rail operator for a light rail;
  - (b) an air service;
  - (c) a service prescribed under a regulation as a service to which this section does not apply.

## 14 Operator accreditation standards

Standards about operator accreditation may relate to—

- (a) the applicant's capacity to ensure the appropriate operation and maintenance of public passenger vehicles; and
- (b) the applicant's ability to provide a quality public passenger service; and
- (c) an operator's responsibility to comply with vehicle design, safety and operational requirements; and
- (d) the applicant's business management skills, including, expertise in timetabling, route planning, marketing, customer services and financial management; and
- (e) the operator's responsibility to comply with or ensure that a driver complies with an Act, or a provision of an Act, that would promote safety or customer service; and
- (f) other matters prescribed by regulation.

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*Note—*

Chapter 9 deals with the making of standards.

## **15 Duties of operators**

A person must not provide a public passenger service for which operator accreditation is required under this Act unless—

- (a) the person is accredited to operate the service; and
- (b) the person uses appropriately authorised drivers.

Maximum penalty—160 penalty units.

## **16 Responsibility for system of operator accreditation**

- (1) The chief executive is responsible for administering the scheme of operator accreditation.
- (2) If a person to whom the chief executive delegates powers about operator accreditation that are prescribed by regulation fails, without reasonable excuse, to comply with a condition of the delegation, the person commits an offence.

Maximum penalty—160 penalty units.

## **17 Granting, renewing or refusing operator accreditation**

- (1) A regulation may make provision about granting, renewing, or refusing to grant or renew, operator accreditation.
- (2) Without limiting subsection (1), a regulation may authorise the chief executive to refuse to grant a person operator accreditation if—
  - (a) for an individual—the person has been convicted of a disqualifying offence or has been charged with a disqualifying offence and the charge has not been finally disposed of; or
  - (b) for a member of a partnership—the person, or another member of the partnership, has been convicted of a

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disqualifying offence or has been charged with a disqualifying offence and the charge has not been finally disposed of; or

- (c) for a corporation—the corporation, or an executive officer of the corporation, has been convicted of a disqualifying offence or has been charged with a disqualifying offence and the charge has not been finally disposed of.

## **18 Provisional operator accreditation**

A regulation may provide for granting, or refusing to grant, operator accreditation on a provisional basis.

## **19 Applicant to notify charge for disqualifying offence etc.**

- (1) If an applicant for an operator accreditation is charged with a disqualifying offence, the applicant must immediately notify the chief executive under the regulations.
- (2) When the charge is dealt with, the applicant must immediately notify the chief executive under the regulations of the outcome of the charge.

Maximum penalty—10 penalty units.

## **20 Amendment, suspension and cancellation of operator accreditation**

- (1) A regulation may make provision about amending, suspending or cancelling operator accreditation.
- (2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's operator accreditation if—
  - (a) for an individual—the person is convicted of a disqualifying offence; or
  - (b) for a member of a partnership—the person, or another member of the partnership, is convicted of a disqualifying offence; or

- 
- (c) for a corporation—the corporation, or an executive officer of the corporation, is convicted of a disqualifying offence.
- (3) Without limiting subsection (1), a regulation may authorise the chief executive to immediately suspend a person's operator accreditation if—
- (a) for an individual—the person is charged with a disqualifying offence or the chief executive otherwise considers it necessary in the public interest; or
  - (b) for a member of a partnership—the person, or another member of the partnership, is charged with a disqualifying offence or the chief executive otherwise considers it necessary in the public interest; or
  - (c) for a corporation—the corporation, or an executive officer of the corporation, is charged with a disqualifying offence or the chief executive otherwise considers it necessary in the public interest.

**21 Accredited operator to notify charge for disqualifying offence etc.**

- (1) A person who is an accredited operator must immediately notify the chief executive under the regulations if—
- (a) for an individual—the person is charged with a disqualifying offence; or
  - (b) for a member of a partnership—the person, or another member of the partnership, is charged with a disqualifying offence; or
  - (c) for a corporation—the corporation, or an executive officer of the corporation, is charged with a disqualifying offence.
- (2) When the charge is dealt with, the person must immediately notify the chief executive under the regulations of the outcome of the charge.

Maximum penalty—10 penalty units.

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**22 Member of partnership must inform another partner of charge for disqualifying offence etc.**

- (1) A member of a partnership that is an accredited operator must immediately inform, under the regulations, another member of the partnership if the member is charged with a disqualifying offence.
- (2) When the charge is dealt with, the member must immediately inform, under the regulations, another member of the partnership of the outcome of the charge.
- (3) An executive officer of a corporation that is an accredited operator must immediately inform, under the regulations, another executive officer of the corporation if the executive officer is charged with a disqualifying offence.
- (4) When the charge is dealt with, the executive officer must immediately inform, under the regulations, another executive officer of the corporation of the outcome of the charge.

Maximum penalty—10 penalty units.

**22A Operator accreditation is evidence of being the operator**

In a proceeding for an offence against this Act, evidence that a person—

- (a) is involved in providing a public passenger service; and
- (b) is accredited to operate the service;

is evidence that the person is the operator of the service.

**22B Accredited operator to notify if authorised driver charged with or convicted of driver disqualifying offence**

- (1) This section applies if an accredited operator reasonably believes that an authorised driver who drives a vehicle for the operator has been charged with, or convicted of, a driver disqualifying offence.
- (2) The accredited operator must immediately notify the chief executive, in writing, about the charging or conviction of the authorised driver.



Maximum penalty—10 penalty units.

- (3) However, the accredited operator need not comply with subsection (2) if the operator reasonably believes the chief executive has already been notified that the authorised driver has been charged with, or convicted of, the driver disqualifying offence.
- (4) The accredited operator is not liable, civilly, criminally or under an administrative process, for complying with subsection (2).
- (5) Without limiting subsection (4)—
  - (a) in a proceeding for defamation, the accredited operator has a defence of absolute privilege for publishing the information; and
  - (b) if the accredited operator would otherwise be required to maintain confidentiality about the information under an Act, oath, rule of law or practice—
    - (i) the accredited operator does not contravene the requirement by disclosing the information; and
    - (ii) the accredited operator is not liable to disciplinary action for giving the information.

## **Chapter 4      Driver authorisation**

### **Part 1            General**

#### **23      Purpose of driver authorisation**

- (1) The purpose of driver authorisation is to maximise public confidence in public passenger services in relation to the drivers of public passenger vehicles.

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- (2) Without limiting subsection (1), the purpose includes ensuring that drivers of public passenger vehicles—
  - (a) are suitable persons to drive public passenger vehicles having regard to the need to provide for the personal safety of passengers and their property, and the public; and
  - (b) conduct themselves responsibly with passengers and the public; and
  - (c) are responsible in the act of driving and are capable of safely operating the relevant type of vehicle; and
  - (d) are aware of their customer service responsibilities; and
  - (e) are held accountable for complying with appropriate standards.
- (3) Without limiting subsection (1) or (2), the purpose also includes ensuring that drivers do not damage the reputation of public passenger transport.
- (4) In deciding whether to grant driver authorisation to a person, or to renew or amend, impose a condition on, or suspend or cancel a person's driver authorisation, the chief executive must take into consideration—
  - (a) the purpose of driver authorisation mentioned in subsections (1) to (3); and
  - (b) the paramount principle mentioned in section 33A that children and other vulnerable members of the community must be protected.

## 24 What is driver authorisation

- (1) *Driver authorisation* is a qualification a driver of a vehicle providing a public passenger service must attain and maintain to operate the vehicle while providing the service.
- (2) However, subsection (1) does not apply to the driver of a vehicle providing any of the following public passenger services—

- (a) a service using a fixed track vehicle provided by—
  - (i) a railway operator; or
  - (ii) a light rail operator for a light rail;
- (b) an air service;
- (c) a service prescribed under a regulation as a service to which this section does not apply.

## **26 Driver authorisation standards**

Standards about driver authorisation may—

- (a) relate to the applicant's ability to operate safely a public passenger vehicle of the relevant category; and
- (b) include requirements about the medical fitness of applicants for, and holders of, driver authorisation; and
- (c) require compliance with the *Anti-Discrimination Act 1991*; and
- (d) relate to customer service and other matters prescribed by regulation; and
- (e) require compliance with another Act, or a provision of another Act, that would promote safety or customer service.

*Editor's note—*

Chapter 9 deals with the making of standards.

## **27 Driver must hold appropriate authorisation**

A person must not operate a public passenger vehicle providing a public passenger service for which driver authorisation is required unless the person is an appropriately authorised driver.

Maximum penalty—100 penalty units.

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## **28 Responsibility for system of driver authorisation**

- (1) The chief executive is responsible for administering the scheme of driver authorisation.
- (2) If a person to whom the chief executive delegates powers about driver authorisation that are prescribed by regulation fails, without reasonable excuse, to comply with a condition of the delegation, the person commits an offence.

Maximum penalty—160 penalty units.

## **28A Ineligibility for driver authorisation—category A driver disqualifying offences**

A person is ineligible to apply for or hold driver authorisation if the person has been convicted of a category A driver disqualifying offence.

## **28B Driver authorisation—category B driver disqualifying offences**

- (1) This section applies if the chief executive is aware that a person who is an applicant for driver authorisation or who holds driver authorisation has been convicted of a category B driver disqualifying offence.
- (2) The chief executive must give the person written notice of the chief executive's intention to refuse to grant or renew, or to cancel, the driver authorisation (the *exclusion action*) unless the person demonstrates to the chief executive's satisfaction that an exceptional case exists.

*Example of an exceptional case—*

A person with no other criminal history was convicted of unlawful carnal knowledge 30 years ago and placed on a good behaviour bond after being involved in a consensual sexual relationship with a 15 year old when the person was 17.

- (3) The chief executive must give the person a written notice about the exclusion action—

- (a) identifying the category B driver disqualifying offence of which the person has been convicted; and
  - (b) stating the requirements of subsection (7); and
  - (c) giving the person an opportunity to make written representations about the category B driver disqualifying offence and the exclusion action within 28 days.
- (3A) Subsection (4) applies only if the person has been convicted of a category B driver disqualifying offence that is also a serious offence or disqualifying offence under the CCYPCG Act to the extent that any qualification under the CCYPCG Act applies to the serious offence or disqualifying offence.
- (4) The chief executive must ask the Commissioner for Children and Young People and Child Guardian (the *children's commissioner*) whether the commissioner considers an exceptional case exists.
- (4A) For subsection (4), the chief executive may give to the children's commissioner the information, including any written representations mentioned under subsection (3)(c), the chief executive reasonably considers necessary for the children's commissioner to consider whether an exceptional case exists.
- (4B) Also for subsection (4), the chief executive is taken to have made the request under that subsection if the chief executive obtains confirmation, using the online validation service on the website of the children's commission, that a person is the holder of a current positive notice under the CCYPCG Act.
- (5) The children's commissioner may give the chief executive the advice requested under subsection (4).
- (5A) However, if subsection (4B) applies, the children's commissioner is taken to have advised the chief executive that the children's commissioner considers that an exceptional case exists.

*Editor's note—*

On the commencement of this section, the online validation of a positive notice can be accessed on the children's commission website at <<https://www.ccypcg.qld.gov.au>>.

- (6) Without limiting the chief executive's power to take the exclusion action if the children's commissioner's advice was requested under subsection (4), the chief executive—
  - (a) must take the advice of the children's commissioner into account; and
  - (b) can not be satisfied that an exceptional case exists if the children's commissioner advises the chief executive that the children's commissioner considers an exceptional case does not exist.
- (7) The chief executive must consider any written representations made by the person and must take the exclusion action unless the chief executive, subject to subsection (6) and the paramount principle mentioned in section 33A, is satisfied that an exceptional case exists.
- (8) Nothing in this section limits action the chief executive may take under any other provision of this Act.
- (9) In this section—

*children's commission* means the Commission for Children and Young People and Child Guardian under the CCYPCG Act.

## **28C Driver authorisation—category C driver disqualifying offences**

- (1) This section applies if the chief executive is aware that a person who is an applicant for driver authorisation or who holds driver authorisation has been convicted of a category C driver disqualifying offence.
- (2) Without limiting the grounds on which the chief executive may deal with the application or the driver authorisation, the

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chief executive may do any of the following (the *proposed action*)—

- (a) refuse to grant driver authorisation to the person;
  - (b) refuse to renew the person's driver authorisation;
  - (c) suspend or cancel the person's driver authorisation.
- (3) The chief executive must give the person written notice of the proposed action.
- (4) Nothing in this section limits action the chief executive may take under any other provision of this Act.

## **29 Granting, renewing or refusing driver authorisation**

- (1) A regulation may make provision about granting, renewing, or refusing to grant or renew, driver authorisation.
- (2) Without limiting subsection (1), a regulation may authorise the chief executive—
- (a) to impose a condition when granting driver authorisation to a person or renewing a person's driver authorisation; or
  - (b) to refuse to grant driver authorisation to a person or to renew the person's driver authorisation if the person—
    - (i) has been convicted of a category C driver disqualifying offence; or
    - (ii) has been charged with a driver disqualifying offence and the charge has not been finally disposed of.
- (3) Also, without limiting subsection (1), a regulation may provide for the following—
- (a) an authorising document;
  - (b) an authorising document to be in the form of a card or something similar approved by the chief executive and on which information may be stored electronically;

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- (c) a PIN to be used by the holder of driver authorisation as a security measure to protect information stored electronically on an authorising document.
- (4) Further, without limiting subsections (1) to (3), a regulation may provide that—
  - (a) an authorising document 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 driver authorisation 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) the *Tow Truck Act 1973*; or
- (b) the *Transport Operations (Road Use Management) Act 1995*.

***transport authority*** means—

- (a) a driver's certificate or an assistant's certificate under the *Tow Truck Act 1973*; or
- (b) a prescribed authority (other than a Queensland driver licence) under the *Transport Operations (Road Use Management) Act 1995*.

## **29AA Smartcard driver authorisation is property of the State**

- (1) A smartcard driver authorisation 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 driver authorisation or stored electronically on it; or
  - (b) has the right to have information stored on the smartcard driver authorisation.
- (3) The State is not legally liable for an act or omission relating to the keeping or use of the smartcard driver authorisation.

### **29A Restricted driver authorisation**

- (1) A regulation may make provision about an operator, who holds operator accreditation to operate a public passenger service, granting on behalf of the chief executive a restricted driver authorisation to authorise a person to operate a public passenger vehicle while, and only while, it is being used by the operator to provide the service.
- (2) Without limiting subsection (1), a regulation may—
- (a) limit the persons to whom restricted driver authorisation may be granted; or
  - (b) exclude an operator from granting restricted driver authorisation; or
  - (c) provide for restrictions applying to a driver under restricted driver authorisation.

### **30 Provisional driver authorisation**

A regulation may provide for granting, or refusing to grant, driver authorisation on a provisional basis, including provisional authorisation in an emergency.

### **31 Applicant to notify charge for driver disqualifying offence etc.**

- (1) If an applicant for driver authorisation is charged with a driver disqualifying offence, the applicant must immediately notify the chief executive under the regulations.

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Maximum penalty—100 penalty units.

- (2) When the charge is dealt with, the applicant must immediately notify the chief executive under the regulations of the outcome of the charge.

Maximum penalty—100 penalty units.

### **32 Amendment, suspension and cancellation of driver authorisations**

- (1) A regulation may make provision about amending, suspending or cancelling driver authorisations.
- (1A) Without limiting subsection (1), a regulation may authorise the chief executive to amend, including immediately amend, a person's driver authorisation by imposing a condition on the authorisation.
- (2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's driver authorisation if the person is convicted of a category B or category C driver disqualifying offence.
- (3) Without limiting subsection (1), a regulation may authorise the chief executive to immediately suspend a person's driver authorisation if the person is charged with a driver disqualifying offence or the chief executive otherwise considers it necessary in the public interest.

### **33 Authorised driver must notify charge for driver disqualifying offence etc.**

- (1) An authorised driver must immediately notify the chief executive under the regulations if the driver is charged with a driver disqualifying offence.

Maximum penalty—100 penalty units.

- (2) When the charge is dealt with, the authorised driver must immediately inform the chief executive under the regulations

of the outcome of the charge.

Maximum penalty—100 penalty units.

### **33A Protection of children and vulnerable members of the community**

- (1) This section applies to the following when making decisions about driver authorisation—
  - (a) the chief executive;
  - (b) persons constituting a review panel under the *Transport Planning and Coordination Act 1994*;
  - (c) a court hearing an appeal against a decision about driver authorisation.
- (2) If, because an applicant for, or a holder of, driver authorisation has been charged with or convicted of a driver disqualifying offence or for any other reason, the safety of children or other vulnerable members of the community becomes relevant, the paramount principle is that children and other vulnerable members of the community must be protected.

### **34 Authorised driver must notify suspension or cancellation of licence etc.**

If a licence or other authorisation required under another Act to drive a vehicle of a type to which a person's driver authorisation relates is suspended or cancelled, the person must immediately notify the chief executive under the regulations.

Maximum penalty—100 penalty units.

### **34A Authorised driver must notify damage, loss or theft of authorising document issued by chief executive**

- (1) If a person's authorising document issued by the chief executive is damaged, lost or stolen, the person must notify

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the chief executive, as soon as practicable, in the way prescribed under a regulation.

Maximum penalty—20 penalty units.

(2) In this section—

***damaged***, in relation to an authorising document—

(a) means—

(i) the document is damaged to an extent that—

(A) any information on the document is impossible or difficult to read without the use of technology; or

(B) a digital photo or a digitised signature on the document is impossible or difficult to recognise without the use of technology; or

(ii) any information stored electronically on the document is no longer accessible by using the holder's PIN; and

(b) includes destroyed.

### **35 Obligation to notify accredited operator of suspension or cancellation of licence etc.**

If—

(a) a licence or other authorisation required under another Act to drive a vehicle of a type to which a person's driver authorisation relates is suspended or cancelled; or

(b) a person's driver authorisation is suspended or cancelled;

and the authorised driver drives a vehicle for an accredited operator, the person must immediately notify the operator under the regulations.

Maximum penalty—100 penalty units.

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## Part 2 **Biometric data and other information relating to driver authorisation**

### **35A 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 driver authorisation (the *authority applied for*);
    - (ii) an amendment of driver authorisation;
    - (iii) the replacement of an authorising document; or
  - (b) a digital photo or digitised signature of the person, if—
    - (i) the person applies for anything else in relation to driver authorisation; 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
  - (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 35AA, has not ended and will not end before—
    - (i) the term of the authority applied for ends; or

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- (ii) if an amendment of the person's driver authorisation is applied for—the term of the driver authorisation ends; or
  - (iii) if replacement of an authorising document is applied for—the term of the driver authorisation 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 driver authorisation 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.

### **35AA 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.

### **35B 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 driver authorisation;
  - (b) to reproduce the person's digital photo and digitised signature on an authorising document;
  - (c) for a digital photo taken under section 35A(1)(b), to establish the person's connection to the person's most recent digital photo when the person makes any application relating to driver authorisation.
- (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 35A(1); or
    - (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) driver authorisation or its renewal;
    - (ii) a PIN or anything else for an authorising document.

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### **35C 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.
- (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.



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**35D Deleting digital photo and digital 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.

**35E Restricted access to information stored electronically on a smartcard driver authorisation**

- (1) A person must not access information stored electronically on a smartcard driver authorisation unless the person is—
- (a) the holder of the driver authorisation; or
  - (b) a person who has the holder's consent to access the information; or
  - (c) an authorised person, 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.

Maximum penalty—20 penalty units.

- (2) In this section—

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

**35F 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 35A(1) is—
- (a) if an application mentioned in section 35A(1)(a) is granted or a digital photo or digitised signature taken

[s 35G]

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- under section 35A(1)(b) is to be used under section 35B(1)(b)—30 years after the relevant day; or
- (b) if an application mentioned in section 35A(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 35B(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.

### **35G 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 35C was allowed under section 35C(3) during the financial year to digital photos kept under this Act.

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- (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.

## **Part 3**

# **Restricted release of information about driver authorisation**

### **35H Restricted written release of information**

- (1) The chief executive may release, in writing, information kept under this Act about a person's driver authorisation to—
- (a) on receiving an application in the approved form—
    - (i) the person; or
    - (ii) with the person's written consent—another person; or
  - (b) the commissioner 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, in writing, to an entity information kept under this Act about a person's driver authorisation if—
- (a) the person produces the person's authorising document 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 driver authorisation.
- (3) Information that may be released under subsection (1) or (2) does not include a digital photo and digitised signature.

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

### **35I Restricted oral release of particular information**

- (1) The chief executive may orally release, to a person, information kept under this Act about the person's driver authorisation.
- (2) However, subsection (1) applies only if the chief executive is satisfied that the person is the person to whom the information relates.

*Example for subsection (2)—*

The chief executive may be satisfied as required under subsection (2) if the person correctly answers a series of questions, or produces a document, for identifying the person.

## **Chapter 4A Taxi service bailment agreements**

### **35J Purpose of ch 4A**

The purpose of this chapter is to provide minimum requirements for taxi service bailment agreements.

### **35K Application of ch 4A**

This chapter does not apply if an authorised driver is employed by an accredited operator.

### **35L What is a *taxi service bailment agreement***

- (1) A *taxi service bailment agreement* is an agreement between an accredited operator and an authorised driver (the *parties*) for the bailment of a taxi for which the accredited operator is responsible that—

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- (a) is in writing; and
  - (b) is signed by both parties; and
  - (c) includes the information prescribed under a regulation for the taxi service bailment agreement.
- (2) A taxi service bailment agreement need not be limited to the bailment by an accredited operator of a particular taxi providing a taxi service.

**35M Accredited operator must ensure taxi service bailment agreement entered into**

- (1) This section applies to an accredited operator of a taxi service.
- (2) The accredited operator must not permit an authorised driver to drive a taxi for which the accredited operator is responsible unless the accredited operator has entered into a taxi service bailment agreement for the bailment of the taxi with the authorised driver.

Maximum penalty—40 penalty units.

**35N Accredited operator may only enter into taxi service bailment agreement with set pay in arrangement in particular circumstances**

- (1) An accredited operator of a taxi service must not enter into a taxi service bailment agreement providing for a set pay in arrangement with an authorised driver unless the authorised driver has held driver authorisation for at least 12 months, consecutively or cumulatively, within the 5 years before the agreement is entered into.

Maximum penalty—40 penalty units.

- (2) In this section—

*set pay in amount*, for a taxi service bailment agreement for the bailment of a taxi, means a fixed amount for the bailment of the taxi that does not relate to the takings of the authorised driver of the taxi.

[s 35O]

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*set pay in arrangement*, for a taxi service bailment agreement between an accredited operator of the taxi service and an authorised driver for the bailment of a taxi, means an arrangement between the accredited operator and authorised driver stating the authorised driver pays the accredited operator a set pay in amount.

**35O Accredited operator must give authorised driver copy of taxi service bailment agreement**

An accredited operator who has entered into a taxi service bailment agreement with an authorised driver must give a copy of the taxi service bailment agreement to the authorised driver.

Maximum penalty—20 penalty units.

**35P Accredited operator must keep a copy of taxi service bailment agreement**

An accredited operator of a taxi service entering into a taxi service bailment agreement with an authorised driver must, unless the accredited operator has a reasonable excuse, keep a copy of the agreement for—

- (a) the duration of the agreement; and
- (b) 5 years from the day the agreement ends.

Maximum penalty—20 penalty units.

*Note—*

See the *Electronic Transactions (Queensland) Act 2001*, section 20 about keeping written documents.

**35Q Authorised driver must not drive taxi unless taxi service bailment agreement entered into**

An authorised driver must not drive a taxi for an accredited operator unless a taxi service bailment agreement with the accredited operator is entered into.

Maximum penalty—10 penalty units.

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**35R Authorised person may request particular information**

- (1) An authorised person may ask an accredited operator to give the authorised person—
  - (a) a copy of a taxi service bailment agreement the accredited operator has entered into with an authorised driver; or
  - (b) if the accredited operator states that an authorised driver is an employee of the accredited operator—a statutory declaration that the authorised driver is an employee of the accredited operator.
- (2) When making a request under subsection (1), the authorised officer must warn the accredited operator it is an offence to fail to comply with the request, unless the accredited operator has a reasonable excuse.
- (3) An accredited operator must, unless the accredited operator has a reasonable excuse, comply with the request under subsection (1).

Maximum penalty—20 penalty units.

- (4) In this section—

*authorised person* means an authorised person under section 111(1) or (2)(a).

*statutory declaration* means a declaration made under the *Oaths Act 1867*.

## Chapter 5 Market entry restrictions

### 36 Market entry restrictions

- (1) A regulation may declare that a public passenger service is to be provided with market entry restrictions.

[s 36A]

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- (2) Before a regulation is made under subsection (1), the Minister must be of the opinion that the following criteria are met, or can be met or substantially met—
  - (a) the level of services would be greater than the level that would otherwise be provided;
  - (b) access to public passenger transport would be greater than would otherwise be achieved;
  - (c) service innovation would be greater than would otherwise be achieved;
  - (d) the particular public passenger services would better meet the Government's social justice objectives at a lower cost to the Government than would otherwise be achieved.

## **Chapter 5A    Essential public transport infrastructure**

### **36A    Declaration of essential public transport infrastructure**

- (1) A regulation may declare infrastructure to be essential public transport infrastructure.
- (2) However, the declaration may be made only if—
  - (a) the infrastructure is used, or may be used, for the provision of a public passenger service; and
  - (b) the Minister is satisfied that the infrastructure—
    - (i) makes up part of the transport network for public passenger services; and
    - (ii) is essential to the continuity of public passenger services.
- (3) The declaration must identify the infrastructure and the public passenger service.



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- (4) In this section—  
*infrastructure* includes land and any other property.

**36B Chief executive's power to give direction about use of essential public transport infrastructure**

- (1) The chief executive may, by written notice, give the owner of essential public transport infrastructure a direction—
- (a) to allow any operator of the relevant service for the infrastructure to use the infrastructure on stated conditions fixed by the chief executive; and
  - (b) not to change the infrastructure in a way that restricts that use.
- (2) However, before giving the direction, the chief executive must—
- (a) give the relevant parties a reasonable opportunity to make written submissions about the proposed direction; and
  - (b) consider any submissions made under paragraph (a); and
  - (c) be satisfied that—
    - (i) the relevant parties have not been able to reach an agreement about the use under the proposed declaration; and
    - (ii) there is no other reasonably practicable alternative to the direction that will secure the use.
- (3) The direction must—
- (a) identify the infrastructure and the relevant service; and
  - (b) state a reasonable period within which the direction must be complied with; and
  - (c) include, or be accompanied by, an information notice about the decision to give the direction and the decision to fix the conditions.

[s 36C]

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- (4) The direction is an *essential infrastructure direction*.
- (5) In this section—
- relevant parties* means—
- (a) the owner and anyone else who would, under section 36C, be bound by the proposed direction; and
  - (b) any operator of the relevant service.
- relevant service* means the public passenger service identified in the declaration that declared the essential public transport infrastructure.

### **36C Persons bound by essential infrastructure direction**

An essential infrastructure direction binds—

- (a) the owner and any lessee of the infrastructure to which the direction relates; and
- (b) to the extent the infrastructure consists of land—any person with an interest in the land; and
- (c) a transferee of the infrastructure from a person mentioned in paragraph (a) or (b); and
- (d) a transferee of the infrastructure from a person mentioned in paragraph (c); and
- (e) anyone else who has control of the infrastructure.

### **36D Failure to comply with essential infrastructure direction**

A person who is bound by an essential infrastructure direction must comply with the direction.

Maximum penalty—1665 penalty units.

### **36E Record of essential infrastructure direction in land registry**

- (1) This section applies if an essential infrastructure direction relates to land.

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- (2) As soon as practicable after giving the direction, the chief executive must give the registrar written notice of the giving of the direction.
  - (3) The registrar must keep records showing that the direction has been given.
  - (4) The registrar must keep the records in a way that a search of any register kept by the registrar will show that the direction has been given.
  - (5) If the direction is amended or repealed, the chief executive must give written notice of that fact to the registrar.
  - (6) As soon as practicable after receiving a notice under subsection (5), the registrar must—
    - (a) for an amendment—change the records to reflect the amendment; or
    - (b) if the direction is repealed—remove the particulars of the direction from the records.
  - (7) In this section—

*registrar* means the registrar of titles under the *Land Title Act 1994* or another person responsible for keeping a register for dealings in land.

### **36F Compensation**

- (1) A person bound by an essential infrastructure direction may claim compensation from the State for costs incurred by the person in complying with the direction.
- (2) The amount of the compensation is to be decided by agreement between the chief executive and the claimant or, if there is no agreement, by an arbitrator.
- (3) The arbitrator must be appointed by—
  - (a) agreement between the chief executive and the claimant; or
  - (b) if the chief executive and the claimant can not agree—the Institute of Arbitrators & Mediators

[s 36G]

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Australia or, if that body ceases to exist, another body that represents arbitrators.

- (4) The compensation must not include any component for—
  - (a) loss of income or profit for any use of the infrastructure other than that required to be allowed under the direction; or
  - (b) diminution in the value of the infrastructure or land related to the infrastructure because of the direction.
- (5) Without limiting the matters an arbitrator may or may not take into account, a regulation may provide for matters to be considered, or not considered, in deciding the amount of compensation.
- (6) The *Commercial Arbitration Act 1990* applies to the arbitration.

### **36G Chief executive's power to decide matters about rail safety unaffected**

To remove any doubt, it is declared that this chapter does not limit or otherwise affect the chief executive's power to make a decision under the *Transport (Rail Safety) Act 2010*, section 132(2) about rail transport infrastructure.

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## Chapter 6 Service contracts

### Part 1 Preliminary

#### Division 1 Application of service contracts

##### 37 Purpose of service contracts

The purpose of service contracts is to hold operators accountable for minimum performance levels to ensure the communities served under the contracts receive, at a reasonable cost, quality and innovative public passenger services.

##### 38 What are service contracts

- (1) A *service contract* is a contract between the chief executive for the State and an operator under which the operator is required to provide a public passenger service for an area or route in a way that meets or exceeds performance levels stated in the contract.
- (2) If—
  - (a) a regulation has been made under section 36 (Market entry restrictions) for a public passenger service; and
  - (b) the chief executive has declared, under section 42 (Declaration that service contracts are required), that a service contract is required to provide the service for an area or a route;

a service contract may provide the operator with the exclusive right to operate the public passenger service for the area or route.

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### **38B Chief executive may enter into service contracts**

The chief executive may, for the State, enter into a service contract.

### **39 Scope of service contracts**

The categories of public passenger service for which service contracts may be required are—

- (a) scheduled passenger services; and
- (b) services for the administration of taxi services; and
- (c) ferry services; and
- (d) another category of public passenger services prescribed by regulation.

### **40 Service contracts to include minimum service levels**

- (1) A service contract must state minimum service levels to be complied with by the holder.
- (2) Minimum service levels for a particular public passenger service must specify—
  - (a) the periods when the public passenger service is to be provided; and
  - (b) the nature, frequency and extent of the public passenger service during the periods or particular parts of the periods.
- (3) Minimum service levels must have regard to—
  - (a) the needs of the community for whose benefit the service is provided; and
  - (b) service levels in comparable communities, whether in Queensland, elsewhere in Australia or in a foreign country; and
  - (c) the cost of service provision.

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## **41 Other matters to be included in service contracts**

- (1) A service contract may—
- (a) establish performance outcomes for frequency, regularity, punctuality and accessibility; and
  - (b) establish performance outcomes for customer information and service; and
  - (c) establish principles for fare setting; and
  - (ca) establish principles for fare collection; and
  - (d) establish performance levels for the quality and type of public passenger vehicles; and
  - (e) establish criteria for government payments under the contract; and
  - (ea) require the holder to charge fares decided by the chief executive; and
  - (f) require the holder to provide or fund infrastructure associated with providing the public passenger service; and
  - (g) require the holder to have or develop a business plan outlining how the performance levels are to be achieved; and
  - (h) require the holder to establish a management information system to monitor, record and report periodically on performance; and
  - (i) require the holder to provide the chief executive with information the chief executive may require; and
  - (j) establish performance outcomes for other aspects of the way the holder provides the public passenger service or carries on business; and
  - (k) provide for the payment of compensation by the holder if the holder contravenes a condition of the contract, including, for example, compensation for the cost of providing the service through another holder; and

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- (1) include other terms required by the chief executive.
- (2) The chief executive—
  - (a) is obliged under a service contract to act in a reasonable way to facilitate the contract's operation; and
  - (b) has the other obligations stated in the contract.

## **Division 2 Requirement for service contracts**

### **42 Declaration that service contracts are required**

- (1) This section applies to a public passenger service to which a regulation under section 36 applies.
- (2) The chief executive may, by public notice, declare that a service contract will be required to provide a public passenger service of a specified kind for a specified area or route.
- (3) In the notice given under subsection (2) or another public notice, the chief executive must fix the day on and from which the service contract is required.
- (4) Before deciding to make a declaration under subsection (2), the chief executive must—
  - (a) give written notice of the proposed declaration to all operators providing a public passenger service of the kind and for the area or route to be specified in the proposed declaration; and
  - (b) allow the operators at least 28 days to make written submissions to the chief executive, about the proposed declaration; and
  - (c) consider any submissions made under paragraph (b).

### **42A Other declarations that service contracts are required**

A regulation may declare that, on and from a day to be fixed by the chief executive by gazette notice, a service contract will



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be required to provide a scheduled passenger service that is a ferry service operating in a specified area or on a specified route.

#### **42B Amendment of service contract area or route**

- (1) The chief executive may, by public notice, amend the service contract area or route the subject of a declaration under section 42.
- (2) However, the amendment may be made only if the chief executive is satisfied the amendment is necessary—
  - (a) to extend the service into developing areas; or
  - (b) because of changed traffic conditions; or
  - (c) for public safety; or
  - (d) to improve the service in the public interest.
- (3) The public notice must fix the day on which the amendment takes effect.
- (4) Before deciding to make the amendment, the chief executive must—
  - (a) give written notice of the proposed amendment to each affected operator; and
  - (b) allow each affected operator at least 28 days to make written submissions to the chief executive about the proposed amendment; and
  - (c) consider any submissions made under paragraph (b).
- (5) In this section—

***affected operator*** means—

  - (a) each holder of a service contract for the service contract area or route whose interests are materially affected by the proposed amendment; and
  - (b) if the amendment is to add an area or route—any operator providing a public passenger service of the

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kind specified in the declaration for the additional area or the additional route.

### **43 Obligation to hold service contracts**

- (1) A person must not provide a public passenger service for an area or route if the area or route is a service contract area or route for public passenger services of that kind unless the person is entitled to provide the public passenger service under—
    - (a) if the service contract area or route is in the TransLink area—
      - (i) a TransLink service contract; or
      - (ii) a written agreement with the chief executive; or
      - (iii) with the chief executive's approval, a written agreement with the holder of a TransLink service contract; or
    - (b) in any other case—
      - (i) a service contract; or
      - (ii) a written agreement with the chief executive; or
      - (iii) with the chief executive's approval, a written agreement with the holder of a service contract.
- Maximum penalty—
- (a) if a holder of a service contract has the exclusive right to operate the public passenger service for the area or route—160 penalty units; or
  - (b) if the service contract area or route is in the TransLink area—160 penalty units; or
  - (c) in any other case—30 penalty units.
- (2) A written agreement with the chief executive mentioned in subsection (1)(b)(ii) may be made only if—

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- (a) the chief executive has invited a service contract holder for the service contract area or route to offer to provide the public passenger service and the holder—
- (i) refused the invitation; or
  - (ii) makes an offer that, in the chief executive's opinion, is not appropriate for the public passenger service; or
  - (iii) did not respond to the invitation within the time allowed for a response to it; or
- (b) the public passenger service is not a service of a kind to which an existing service contract applies.
- (3) A person must not provide a service for which a service contract is required under section 42A unless the person is entitled to provide the service under a service contract.

Maximum penalty—30 penalty units.

## **Division 3                      Administrative provisions**

### **44            Term of service contracts**

- (1) A service contract is for a term of not more than 7 years.
- (2) Subsection (1) is also subject to sections 47 and 47A.

### **45            Conditions of service contracts**

- (1) A service contract is subject to conditions agreed by the parties.
- (2) A service contract may provide for payment, by the holder, of an amount to the chief executive for a breach of a key performance indicator.
- (3) The payment can not be more than the equivalent of 40 penalty units.

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- (4) The payment is payable on demand by the chief executive and may be recovered as a debt payable to the chief executive.
- (5) This section does not limit section 47 or the chief executive's right to damages for a breach of service contract, including damages arising out of a breach of a key performance indicator.
- (6) In this section—  
*key performance indicator*, for a service contract, means a term of the service contract identified in the contract as a key performance indicator.

#### **46 Review of holder's performance**

- (1A) This section does not apply to a prescribed school service contract or a ferry service contract.
- (1B) Subsections (4) to (7) do not apply to a TransLink service contract.
  - (1) The chief executive may arrange for reviews of a holder's performance under a service contract.
  - (2) However, each service contract, other than an emergency service contract or a service contract for a term of less than 2 years, must be reviewed as near as practicable to the middle of the term of the contract (a *midterm review*).
  - (3) A service contract may also be reviewed at another time if the parties agree.
  - (4) Each holder under a service contract must, for a midterm review, conduct a market based needs assessment for public passenger services of the relevant type for the contract area or route.
  - (5) The chief executive may make, and distribute to holders, guidelines to which operators must have regard in conducting assessments under subsection (4).
  - (6) The chief executive must take into account any relevant research done by the holder.

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- (7) If, on a review, it is shown that the holder—
- (a) has taken all reasonable steps to fulfil the contract and actively promoted the use of public passenger transport; but
  - (b) has not achieved the patronage levels agreed to by the chief executive and the holder;
- the chief executive may review the holder's minimum service levels or work with the holder to achieve increased patronage.
- (7A) On a review of a TransLink service contract, the chief executive must take into account whether the holder is meeting the requirements of the holder's service contract.
- (8) If, after a review, the chief executive is of the opinion the holder's performance has been inadequate in a significant respect, the chief executive—
- (a) must notify the holder of the inadequacy; and
  - (b) may require the holder to take specified steps to remedy the inadequacy.
- (9) If a holder fails to take the required steps to remedy the inadequacy within the time allowed by the chief executive, the chief executive may, by notice to the holder, terminate the service contract.
- (10) Compensation is not recoverable from anyone (including the chief executive and the State) for or in relation to the termination of the service contract under subsection (9).

**47 Amendment, suspension or cancellation of service contracts for breach of service contracts**

- (1) The chief executive may, by notice given to a holder, amend, suspend or cancel the holder's service contract if—
- (a) the holder contravenes a condition of the contract; or
  - (b) the chief executive reasonably believes a contravention of the contract by the holder is imminent.

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- (1A) However, the chief executive may not amend a holder's service contract to increase an amount payable to the chief executive for a breach of a key performance indicator.
- (2) Before taking action against a holder under subsection (1), the chief executive must give the holder written notice of the intended action, and allow the holder an opportunity to make written representations about the intended action within 10 working days.
- (3) The chief executive may, by notice given to a holder, immediately amend, suspend or cancel the holder's service contract if the chief executive reasonably believes that the holder is unable to provide any or all of the services required under the contract.
- (4) A holder may claim compensation from the State if the holder incurs a cost, damage or loss because of the amendment, suspension or cancellation of the holder's service contract under subsection (3).
- (5) Compensation or costs that may be recovered under subsection (4) may be claimed and ordered in a proceeding brought in a court having jurisdiction for the recovery of a debt in the amount claimed.
- (6) A court may order the payment of compensation only if it is satisfied—
  - (a) there were no reasonable grounds for believing that the holder was unable to provide any or all of the services required under the contract; and
  - (b) it is just to make the order in the circumstances of the particular case.
- (7) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.
- (8) Subsection (4) has effect to the exclusion of any other remedy.
- (9) The amendment, suspension or cancellation of a service contract under this section is declared to be an excluded

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matter for the Corporations Act, section 5F in relation to the Corporations Act, section 440C.

#### **47A Renewal of service contracts**

- (1) Despite section 44(1), a service contract, other than an emergency service contract, may contain a provision giving the holder of the contract the option of renewing the contract for 1 further term only.
- (2) However, the option for renewal may not be exercised if the chief executive has given the holder a notice under subsection (3).
- (3) The chief executive may, for this section, decide that the holder's performance under the contract has been unsatisfactory and give the holder written notice of the decision and the reasons for it.
- (4) This section does not limit sections 62 and 62AAD.

#### **48 Transfer or surrender of service contracts etc.**

- (1) The holder of a service contract may, with the chief executive's approval—
  - (a) transfer to another person all the holder's rights and liabilities in relation to providing future services under the contract; or
  - (b) if the contract relates to more than 1 area, route or service, transfer to another person all the holder's rights and liabilities in relation to providing future services under the contract for 1 or more of the areas, routes or services; or
  - (c) surrender the contract.
- (2) On the transfer of rights and liabilities under subsection (1), for all purposes of this Act—
  - (a) the transferee becomes the holder of a new service contract consisting of the transferred rights and

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liabilities for the remaining period of the original contract; and

- (b) the transferor becomes the holder of a new service contract for the balance of the original rights and liabilities under the contract.

*Example—*

If an original service contract is for 2 school service routes, and 1 of the routes is transferred under this section, there are now 2 separate contracts for the purposes of an entitlement to a first opportunity to an offer for a new contract under section 62AC.

## **Division 4                      Emergency service contracts**

### **48A    Chief executive may enter into emergency service contract**

The chief executive may enter into a service contract if the chief executive is satisfied the contract is necessary as a matter of urgency—

- (a) to establish a public passenger service; or
- (b) to ensure the continuity of a public passenger service; or
- (c) to provide a public passenger service in an interim period while another service contract for the service is being offered or negotiated.

### **48B    Entering into an emergency service contract**

- (1) The chief executive may—
  - (a) invite offers from the public or operators, in whatever way the chief executive considers appropriate, for an emergency service contract; and
  - (b) decide the period within which offers must be made.
- (2) Despite subsection (1), the chief executive may enter into an emergency service contract without inviting offers for the



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contract if satisfied the contract is necessary to ensure the continuity of a public passenger service.

#### **48C Term of emergency service contract**

- (1) An emergency service contract is, despite section 44(1), for the term of not more than 2 years decided by the chief executive.
- (2) However, if the chief executive has entered into an emergency service contract without inviting offers for the contract, the contract can not be for a term of more than 6 months.

## **Part 2 Scheduled passenger services**

### **Division 1 Preliminary**

#### **49 Application of part**

This part applies only to scheduled passenger services.

#### **51 Conditions of funding**

- (1) If a holder is required under a service contract to provide concessions, the contract must also provide for a scheme under which the holder will be reimbursed for the concessions by government funding.
- (2) Subsection (1) does not apply to a TransLink service contract.
- (3) A service contract may require the holder to provide improved levels of productivity.
- (4) A service contract may require the holder to provide a discount for infants, children and school students.

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## **52 Approval of basis for funding or other financial assistance by State**

- (1) The chief executive may enter into a service contract providing for funding or other financial assistance by the State only if the Minister has approved the basis on which the funding or other financial assistance is to be provided.
- (2) In considering whether to give an approval under subsection (1), the Minister must have regard to the principle that funding or other financial assistance by the State for scheduled passenger services should be provided principally for—
  - (a) scheduled passenger services that the Government requires to be provided and that would not be provided, or provided at the same level, without funding or other financial assistance by the State; and
  - (b) reimbursement for government specified fare concessions.
- (3) Each annual report of the department must include—
  - (a) for each holder of a service contract, other than a service contract for the TransLink area, who received State funding or other financial assistance during the year to which the report relates—details of the funding or other financial assistance; and
  - (b) reasons for the funding or other financial assistance.

## **Division 2 General provisions for service contracts for general route services**

### **54A Application of div 2**

This division applies to all service contracts for general route services, other than TransLink service contracts.

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**55 Entering into a service contract for a general route service—no existing operators**

If—

- (a) an area or route is identified under section 42 for a general route service; and
- (b) no-one has an entitlement under section 56(1) for the area or route;

the chief executive must, by public notice, invite offers from the public, whether by tender or in another way, for a service contract to provide the general route service for the area or route.

**56 Entitlement of existing operators**

- (1) This section applies if—
  - (a) the chief executive proposes to enter into a service contract (a *new contract*) under section 38B for an area or route declared under section 42; and
  - (b) there is an operator (an *existing operator*) who already provides a general route service of the same kind for part or all of the area or route as the service that is to be provided under the new contract; and
  - (c) there is no holder of an existing service contract who must be invited to offer for the contract under section 62(1A).
- (2) The existing operator is entitled to the first opportunity, exercised in the way set out in section 57, to offer for the new contract.
- (3) This section does not apply to—
  - (a) a service contract holder operating under a service contract for the area or route—
    - (i) that states that section 62 does not apply to it; or
    - (ii) if the chief executive has—

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- (A) issued a notice under section 46(9) or 62A to the holder; or
  - (B) issued a notice to the holder suspending or cancelling the holder's service contract under section 47(1); or
  - (C) received notice from the holder that the holder intends to surrender the holder's service contract; or
- (b) a person providing a service, of the kind that is required to be provided under the service contract, under a written agreement with the holder.

## **57 Entering into a service contract for a general route service**

- (1) This section applies if an existing operator has an entitlement under section 56 in relation to a new contract.
- (2) The chief executive must, by written notice, invite the operator to offer, whether by tender or in another way, for a service contract to provide the public passenger service for the area or route under the new contract.
- (3) However, the chief executive must, by public notice, invite offers from the public, whether by tender or in another way, for the service contract if—
  - (a) no offer is made to the invitation within 60 days after it is made, or any extended time under subsection (4); or
  - (b) the operator makes an offer that the chief executive decides is unacceptable under section 59.
- (4) The chief executive may by written notice to the existing operator, within the 60 days, extend that time, once only, by a maximum of 60 days.
- (5) Despite subsection (3)(b), if—
  - (a) the operator makes an offer within the time allowed under subsection (3)(a); and

- (b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 59;

the chief executive may defer inviting public offers to allow an opportunity for a contract to be concluded with the operator.

## 59 Matters to be considered

- (1) The chief executive—
  - (a) is not obliged to accept any offer for a service contract; and
  - (b) may only accept an offer for a service contract if the chief executive considers the offer to be acceptable for the contract.
- (2) In deciding if an offer for a service contract is acceptable, the chief executive must have regard to at least the following—
  - (a) the needs of the community for whose benefit the service is to be provided;
  - (b) the ability of each offerer to meet the minimum service levels and other standards of performance specified in the offer;
  - (c) the cost of providing the service;
  - (d) the need for sustainability and continuity of services;
  - (e) any matters prescribed under a regulation.
- (3) In deciding between 2 or more acceptable offers, the chief executive must select the offer the chief executive considers to be the best having regard to the matters mentioned in subsection (2)(a) to (e).
- (4) In this section—

*offer for a service contract*, includes an offer under section 60(2) to provide a service for an amended service area or route.

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## **60 Service contract for amended service contract area or route**

- (1) This section applies if, under section 42B, a service contract area or route for a general route service is amended to add an area or route to the service contract area or route.
- (2) The chief executive must, by written notice, invite the existing holder of the service contract for the service contract area or route the first opportunity to offer to provide the service for the amended area or route.
- (3) If—
  - (a) the existing holder makes no offer within 60 days after the notice is given; or
  - (b) the holder makes an offer that the chief executive decides is unacceptable under section 59;

the chief executive must, by public notice, invite offers from the public to provide the service for the amended area or route (a *public invitation*).

- (4) Despite subsection (3), if—
  - (a) the holder makes an offer within the 60 days; and
  - (b) the chief executive considers the offer substantially complies with the requirements of an offer that would be acceptable under section 59;

the chief executive may defer the making of a public invitation to allow an opportunity for a service contract for the amended area or route to be concluded with the holder.

## **61 Compensation**

- (1) This section applies if—
  - (a) an existing operator is not awarded a service contract for the service contract area or route, or part of the service contract area or route, for which the operator was providing services; or

- (b) a decision is made under section 60, and an existing service contract holder—
  - (i) does not offer to provide the service for the amended service contract area or route; or
  - (ii) is not awarded a service contract to provide the service for the amended service contract area or route.
- (1A) The chief executive may require the holder of the new or amended service contract, as a condition of it, to pay compensation to the existing operator or service contract holder.
- (2) If offers for the new service contract were invited from the public, the chief executive may act under subsection (1A) only if the invitation stated that this section applied to the contract.
- (3) The amount of compensation is to be decided by agreement between the holder of the new or amended service contract and the existing operator or service contract holder or, if there is no agreement, by an arbitrator appointed by the parties.
- (4) Without limiting the matters an arbitrator may or may not take into account, a regulation may make provision about matters to be considered, or not considered, in deciding the amount of compensation.
- (5) The *Commercial Arbitration Act 1990* applies to the arbitration.

## **62 Offer of new service contract**

- (1) This section applies if the chief executive—
  - (a) decides a service contract holder's performance under a service contract (the *existing contract*) has been satisfactory; and
  - (b) proposes to offer a new service contract for the same kind of service provided under the existing contract, at

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the end of its term, for the same, or substantially the same, service contract area or route.

- (1A) The chief executive must, by written notice, invite the holder to offer, whether by tender or in another way, for the new service contract.
- (2) The chief executive may invite offers from the public or someone else only if the holder—
  - (a) refuses the invitation; or
  - (b) fails to respond to the invitation within a time (of at least 60 days) allowed by the chief executive; or
  - (c) fails to make an offer that is acceptable or, despite section 59, is substantially acceptable.
- (3) This section does not apply in relation to an existing contract—
  - (a) that is—
    - (i) an emergency service contract; or
    - (ii) a service contract in relation to which an option to renew may be exercised; or
  - (b) that states that this section does not apply to it.

## **62A Notice to be given**

If the chief executive decides, for section 62, a service contract holder's performance under a service contract has not been satisfactory, the chief executive must give the holder written notice of the decision and the reasons for it.

## **Division 2AA TransLink service contracts**

### **62AAB Definition for div 2AA**

In this division—



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*prescribed day*, in relation to a notice under this division, means the day stated in the notice, being not less than 28 days after the date of the notice.

### **62AAC What is a TransLink service contract**

- (1) A *TransLink service contract* is a service contract for a general route service relating to the functions of the TransLink Transit Authority under the *Transport Operations (TransLink Transit Authority) Act 2008*, under which contract—
  - (a) the holder charges the fare set by the chief executive; and
  - (b) the State retains the revenue; and
  - (c) the State pays the holder for the services provided.
- (2) A TransLink service contract does not give the holder the exclusive right to operate a general route service in the service contract area or route the subject of the contract.
- (3) For subsection (1), it does not matter whether the service contract was entered into before or after the commencement of this section.

### **62AACA Entering into a TransLink service contract**

- (1) This section applies if—
  - (a) a declaration under section 42 is made for a service contract area or route (the *new area or route*); and
  - (b) the chief executive proposes to provide a general route service (the *new service*) for the new area or route, under a TransLink service contract.
- (2) The chief executive may—
  - (a) invite an affected operator, by written notice, to offer, by the prescribed day, to provide the new service (an *operator invitation*); or

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- (b) invite any or all holders of TransLink service contracts, by written notice, to offer, by the prescribed day, to provide the new service (a *holder invitation*); or
  - (c) invite the public, by public notice, to offer to provide the new service (a *public invitation*).
- (3) If the chief executive makes an operator invitation and either—
  - (a) an affected operator makes no offer, or if there is more than 1 affected operator, no affected operator makes an offer, by the prescribed day; or
  - (b) if 1 or more offers are made, the chief executive decides no offer made is acceptable under section 62AAE;the chief executive may make a holder invitation or a public invitation.
- (4) If the chief executive makes a holder invitation and no holder of a TransLink service contract—
  - (a) makes an offer by the prescribed day; or
  - (b) makes an offer that the chief executive decides is acceptable under section 62AAE;the chief executive may make a public invitation.
- (5) However, if—
  - (a) an offer is made in response to an operator invitation or a holder invitation by the prescribed day; and
  - (b) the chief executive considers the offer substantially complies with the requirements of an offer that would be acceptable under section 62AAE;the chief executive may defer the making of a public invitation to allow an opportunity for a service contract to be concluded with the offerer.
- (6) In this section—

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*affected operator* means an operator providing a general route service of the kind specified in the declaration for all or part of the new area or route.

### **62AAD Offer of new TransLink service contract**

- (1) This section applies if the chief executive—
  - (a) decides the performance of a holder of a TransLink service contract (the *existing contract*) has been satisfactory; and
  - (b) proposes, at the end of the term of the existing contract, to invite offers for a new TransLink service contract—
    - (i) for the same kind of general route service provided under the existing contract; or
    - (ii) for those services and additional services for the same area or route defined in the existing contract.
- (2) The chief executive must, by written notice, invite the holder to offer for the new TransLink service contract.
- (3) The chief executive may invite offers from any or all other holders of TransLink service contracts or from the public only if the holder—
  - (a) refuses the invitation; or
  - (b) fails to respond to the invitation by the prescribed day; or
  - (c) fails to make an offer that is acceptable or, despite section 62AAE, is substantially acceptable.
- (4) This section does not apply in relation to an existing contract—
  - (a) that is an emergency service contract; or
  - (b) that is a service contract in relation to which an option to renew may be exercised; or
  - (c) that states this section does not apply to it.

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### **62AAE Matters to be considered generally when considering offers for TransLink service contracts**

- (1) The chief executive—
  - (a) is not obliged to accept any offer for a TransLink service contract; and
  - (b) may only accept an offer for a TransLink service contract if the chief executive considers the offer to be acceptable for the contract.
- (2) In deciding if an offer for a TransLink service contract is acceptable, the chief executive must have regard to at least the following—
  - (a) the ability of each offerer to meet the minimum service levels and other standards of performance specified in the invitation to offer;
  - (b) the cost of providing the general route service;
  - (c) the need for sustainability and continuity of services;
  - (d) any matters prescribed under a regulation.
- (3) In deciding between 2 or more acceptable offers, the chief executive must select the offer the chief executive considers to be the best having regard to the matters mentioned in subsection (2)(a) to (d).

### **62AAF Unsatisfactory performance of TransLink service contract holder**

If the chief executive decides, for section 62AAD, that a service contract holder's performance under a TransLink service contract has not been satisfactory, the chief executive must give the holder written notice of the decision and the reasons for it.

### **62AAG Service contract for amended service contract area or route**

- (1) This section applies if—

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- (a) under section 42B, a service contract area or route is amended (the ***amended service area or route***); and
    - (b) the chief executive proposes to provide a general route service (the ***amended service***) for the amended service area or route, under a TransLink service contract.
  - (2) The chief executive may—
    - (a) invite an affected operator, by written notice, to offer, by the prescribed day, to provide the amended service (an ***operator invitation***); or
    - (b) invite any or all holders of TransLink service contracts, by written notice, to offer, by the prescribed day, to provide the amended service (a ***holder invitation***); or
    - (c) invite the public, by public notice, to offer to provide the amended service (a ***public invitation***).
  - (3) If the chief executive makes an operator invitation and either—
    - (a) an affected operator makes no offer, or if there is more than 1 affected operator, no affected operator makes an offer, by the prescribed day; or
    - (b) if 1 or more offers are made, the chief executive decides no offer made is acceptable under section 62AAE;the chief executive may make a holder invitation or a public invitation.
  - (4) If the chief executive makes a holder invitation and no holder of a TransLink service contract—
    - (a) makes an offer by the prescribed day; or
    - (b) makes an offer that the chief executive decides is acceptable under section 62AAE;the chief executive may make a public invitation.
  - (5) However, if—
    - (a) an offer is made in response to an operator invitation or a holder invitation by the prescribed day; and

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- (b) the chief executive considers the offer substantially complies with the requirements of an offer that would be acceptable under section 62AAE;

the chief executive may defer the making of a public invitation to allow an opportunity for a service contract to be concluded with the offerer.

- (6) In this section—

*affected operator* means—

- (a) the holder of a TransLink service contract providing a general route service of the specified kind within the area or route incorporated into the amended service area or route under the amendment under section 42B (the *incorporated area*); or
- (b) any other operator providing a general route service of that kind within the incorporated area; or
- (c) each holder of a service contract for the service contract area or route whose interests are materially affected by the amendment.

*specified kind* means the kind of general route service specified under the declaration under section 42A for the service.

### **62AAH Compensation**

- (1) This section applies if an affected operator under section 62AACA or 62AAG—
  - (a) did not offer to provide the new service or the amended service under that section; or
  - (b) is not awarded a TransLink service contract to provide the new service or the amended service.
- (2) The affected operator may claim compensation from the State.
- (3) The amount of compensation payable to the affected operator is to be decided by agreement between the chief executive and

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the operator or, if there is no agreement, by an arbitrator appointed by the chief executive and the operator.

- (4) Without limiting the matters an arbitrator may or may not take into account, a regulation may provide for matters to be considered, or not considered, in deciding the amount of compensation.
- (5) The *Commercial Arbitration Act 1990* applies to the arbitration.

### **62AAI What happens when TransLink service contract is surrendered, cancelled or terminated**

- (1) This section applies if a TransLink service contract is surrendered, cancelled or terminated, whether by the chief executive or by the operator.
- (2) The chief executive may do either of the following—
  - (a) invite any or all holders of TransLink service contracts, by written notice, to offer by the prescribed day for the TransLink service contract;
  - (b) invite the public, by public notice, to offer for the TransLink service contract.
- (3) If the chief executive acts under subsection (2)(a) and either—
  - (a) no holder of a TransLink service contract makes an offer by the prescribed day; or
  - (b) if 1 or more offers are made, the chief executive decides no offer made is acceptable under section 62AAE;the chief executive may invite offers from the public under subsection (2)(b) for the TransLink service contract.
- (4) However, if—
  - (a) an offer is made under subsection (2)(a) by the prescribed day; and

[s 62AA]

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- (b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 62AAE;

the chief executive may defer inviting offers from the public under subsection (2)(b) to allow an opportunity for a contract to be concluded with the offerer.

## **Division 2A            Inviting offers for prescribed school service contracts**

### **62AA Application of div 2A to previous prescribed school service contracts**

A reference in this division to a prescribed school service contract that has been entered into with the chief executive includes a contract entered before the commencement of this division.

### **62AC Entitlement of satisfactorily performing existing operator under a service contract**

- (1) This section applies if—
  - (a) an operator is providing a school service for an area or route under a prescribed school service contract; and
  - (b) the chief executive proposes, at the end of the contract's term, to enter into a prescribed school service contract for the same, or substantially the same, area or route; and
  - (c) no notice has been given to the operator under subsection (4) for the contract.
- (2) The chief executive must give the operator the first opportunity to offer for the contract by giving the operator a notice under subsection (3).



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- (3) The notice must invite the operator to make an offer, in a stated way, for the contract within a stated period of not less than 60 days.
  - (4) The chief executive may, for this section, decide that a contract holder's performance under the contract has been unsatisfactory and give the holder written notice of the decision and the reasons for it.
  - (5) This section does not apply in relation to a contract—
    - (a) that is an emergency service contract; or
    - (b) that states that this section does not apply to it.

**62AD First opportunity to offer may be given to existing operator of school services under a service contract**

- (1) This section applies if—
  - (a) no operator is entitled under section 62AC to a first opportunity to offer for the contract; and
  - (b) 1 or more operators are providing school services for a school under a service contract; and
  - (c) the chief executive proposes to enter into a prescribed school service contract for school services for the school.
- (2) The chief executive may give each operator the first opportunity to offer for the contract by giving a notice under subsection (3) to each operator.
- (3) The notice must invite the operator to make an offer, in a stated way, for the contract within a stated time of not less than 60 days.
- (4) This section does not apply in relation to an emergency service contract.

[s 62AE]

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**62AE When public offer must be invited, and when offers may be invited in another way**

- (1) This section applies if the chief executive proposes to enter into a prescribed school service contract and—
  - (a) no operator is entitled to, or is to be given, the first opportunity to make an offer for the contract under section 62AC or 62AD; or
  - (b) an operator has been given a notice under section 62AC or 62AD inviting the operator to offer for the contract and—
    - (i) the operator fails to make an offer within the time stated in the notice; or
    - (ii) the operator refuses the invitation; or
    - (iii) the operator makes an offer that the chief executive decides is unacceptable under section 59.
- (2) The chief executive must, by public notice, invite offers from the public, within a stated reasonable time, for a service contract to provide the service.
- (3) However if—
  - (a) an operator makes an offer, within the time stated in a notice given under section 62AC or 62AD; and
  - (b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 59;the chief executive may defer inviting public offers to allow an opportunity for a contract to be concluded with the operator.
- (4) The chief executive may invite offers, other than by public notice under subsection (2), in any way the chief executive considers appropriate, but only if the chief executive has already invited offers from the public under subsection (2).
- (5) A time allowed to a person, under a notice or otherwise, for making an offer does not prevent the person from making an offer or further offer after that time.

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**62AF Prohibition on making offers to allow first opportunity**

- (1) This section applies if the chief executive proposes to enter into a prescribed school service contract and 1 or more operators are entitled to, or are to be given, the first opportunity to make an offer for the contract under section 62AC or 62AD.
- (2) The chief executive must not invite anyone else to offer for the contract other than under section 62AE(2) or (4).

**Part 3 Administration of taxi services**

**63 Application of part**

This part applies only to the administration of taxi services.

**64 Provision of taxi services**

A person administers a taxi service if the person carries on a business in the course of which—

- (a) bookings for taxi services are accepted; and
- (b) taxis are assigned to customers;

whether or not the person operates all or some of the taxis used to provide the services.

**65 Taxi services to be provided only by taxis**

- (1) If a person who administers a taxi service receives a request for the services of a taxi, the person must not—
  - (a) provide a vehicle that is not a taxi; or
  - (b) suggest to the person who made the request that the person accept a vehicle that is not a taxi.

Maximum penalty—160 penalty units.

[s 66]

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- (2) To meet demand during peak patronage periods, the chief executive may exempt a person from subsection (1).

## **66 Regulation may declare that service contracts are required**

A regulation may declare that, on and from a day to be fixed by the chief executive by gazette notice, the administration of taxi services in an area must be performed under a service contract.

## **67 Amendments of taxi service contracts**

- (1) The chief executive may amend the conditions of a taxi service contract if the chief executive is satisfied that the amendment is necessary to extend services into developing areas or for improvement of services in the public interest.
- (2) Before making a decision under this section, the chief executive must give the holder written notice of the intended action, and allow the holder a reasonable opportunity to make written representations about the intended action within 10 working days.

## **67A Peak demand management plans**

- (1) A person who administers a taxi service in a relevant area must have a plan to provide taxis for the area during peak patronage periods (a *peak demand management plan*).
- (2) A person who administers a taxi service in a relevant area and who does not give the chief executive a peak demand management plan for the relevant area within the time prescribed under a regulation commits an offence.

Maximum penalty—40 penalty units.

- (3) A peak demand management plan must deal with the following matters—

- (a) strategies for managing the demand for taxi services during peak patronage periods in the relevant area;
  - (b) achievable objectives under the plan;
  - (c) the number of peak demand taxis, if any, needed under the plan;
  - (d) the days, starting times and finishing times of the peak demand taxi shifts, if any, needed under the plan;
  - (e) the persons responsible for achieving the objectives;
  - (f) strategies to inform taxi drivers, taxi service operators and the local community in the relevant area about the content of the plan and achievement of its objectives;
  - (g) monitoring performance of the plan and evaluating its effectiveness;
  - (h) reporting the matters mentioned in paragraph (g) to the chief executive.
- (4) Nothing in a peak demand management plan affects—
- (a) a service contract holder's rights and liabilities under a service contract; or
  - (b) the chief executive's right to damages for a breach of a service contract, including damages arising out of a breach of a key performance indicator.
- (5) A regulation may provide for matters relating to peak demand management plans, including, for example, the following—
- (a) when a plan must be given to the chief executive;
  - (b) duration of a plan;
  - (c) amendment of a plan.

## **Part 4                      Special events**

### **Division 1                      Special events in TransLink area**

#### **67B      Declaration of special event**

- (1) TransLink may declare that an event to be carried out in the TransLink area is a special event (a *special event declaration*).
- (2) A special event declaration may be for a stated event or all events, or all events of a stated type, to be carried out at a stated place.
- (3) A special event declaration may be made only if TransLink considers that—
  - (a) there will be at least 5000 participants or spectators at the event or events the subject of the declaration; and
  - (b) either—
    - (i) significant road closures or bus stop relocations are likely to be part of the management of transport to or from the event or events; or
    - (ii) the provision of transport services to or from the event or events is likely to rely on an increased use of vehicles or other facilities funded or managed by TransLink.
- (4) For subsection (3)(b)(i), a road closure or bus stop relocation is significant if it is likely to affect the provision of scheduled passenger services generally in the TransLink area.
- (5) A special event declaration is sufficiently made if TransLink publishes the declaration on its website or in a newspaper circulating in the TransLink area.

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**67C Coordination power for scheduled passenger services to special events**

TransLink may coordinate the provision of scheduled passenger services to and from a special event in the TransLink area.

**67D TransLink approval required for special event services**

- (1) A person must not enter into or perform a contract or arrangement for the provision of scheduled passenger services to or from a special event in the TransLink area without TransLink's written approval.

Maximum penalty—200 penalty units.

- (2) A contract or arrangement made or entered into in contravention of subsection (1) has no effect to the extent of the contravention.

**67E Special event approvals**

- (1) An approval by TransLink under section 67D(1) (a *special event approval*) may—
- (a) be given on TransLink's own initiative; and
  - (b) be given for a specific scheduled passenger service to or from a special event or generally for a stated type of scheduled passenger service to or from a special event.
- (2) A special event approval is sufficiently given if TransLink publishes the approval on its website or in a newspaper circulating in the TransLink area.
- (3) TransLink may impose conditions on the giving of a special event approval.
- (4) The conditions may include a requirement that, before the special event approval applies to a person, the person must pay TransLink a contribution to TransLink's costs of coordinating the relevant scheduled passenger services.





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**67G Coordination power for scheduled passenger services to special events**

The chief executive may coordinate the provision of scheduled passenger services to and from a special event in a non-TransLink area.

**67H Chief executive's approval required for special event services**

- (1) A person must not enter into or perform a contract or arrangement for the provision of scheduled passenger services to or from a special event in a non-TransLink area without the chief executive's written approval.

Maximum penalty—200 penalty units.

*Note—*

See however section 187 (Deferral of application of s 67H for particular contracts and arrangements for special event services).

- (2) A contract or arrangement made or entered into in contravention of subsection (1) has no effect to the extent of the contravention.

**67I Special event approvals**

- (1) An approval by the chief executive under section 67H(1) (a *special event approval*) may—
- (a) be given on the chief executive's own initiative; and
  - (b) be given for a specific scheduled passenger service to or from a special event or generally for a stated type of scheduled passenger service to or from a special event.
- (2) A special event approval is sufficiently given if the chief executive publishes the approval on the department's website or in a newspaper circulating in the non-TransLink area.
- (3) The chief executive may impose conditions on the giving of a special event approval.

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- (4) The conditions may include a requirement that, before the special event approval applies to a person, the person must pay the chief executive a contribution to the chief executive's costs of coordinating the relevant scheduled passenger services.

## Chapter 7 Taxi service licences

### 68 Purpose of taxi service licences

The purpose of taxi service licences is to ensure that the communities served by taxis receive quality and innovative taxi services at a reasonable cost.

### 69 What are taxi service licences

A *taxi service licence* is a licence issued by the chief executive under which the holder is required to provide a taxi service in an area in a way that meets or exceeds specified performance levels.

### 70 Requirement for taxi service licence or peak demand taxi permit

- (1) A person must not provide a taxi service using a vehicle unless—
- (a) the person has a taxi service licence to provide the service with the vehicle; or
  - (b) the person has a peak demand taxi permit to provide the service with the vehicle.

Maximum penalty—160 penalty units.

- (2) Subsection (1) does not apply to a person providing a taxi service prescribed under a regulation as a taxi service to which this section does not apply.

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## **71 Taxi service areas**

- (1) This section applies to a taxi service to which a regulation under section 36 (Market entry restrictions) applies.
- (2) The chief executive may, by public notice, declare a taxi service area.
- (3) The chief executive may, by public notice, fix the number of taxi service licences for a taxi service area.
- (4) In fixing the number of taxi service licences for a taxi service area, the chief executive must—
  - (a) ensure there are enough taxi service licences for the area to meet public demand; and
  - (b) take into account—
    - (i) the views of users of taxi services in the area; and
    - (ii) recent changes in travel patterns in the area; and
    - (iii) the types of taxi services available in the area; and
    - (iv) the performance of the existing taxi fleet in the area; and
    - (v) the productivity of the fleet.

## **72 Issue of new taxi service licences**

- (1) Before the chief executive issues a new taxi service licence for a taxi service area, the chief executive must, by public notice, invite offers to purchase the taxi service licence—
  - (a) stating—
    - (i) the intention to issue the licence; and
    - (ii) if licences have been previously issued for the area—the most recent prices for which licences have been transferred; and
  - (b) calling for offers for the taxi service licence.
- (2) The chief executive is not obliged to accept any offer for a taxi service licence.

[s 73]

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### **73 Term of taxi service licences**

- (1) A taxi service licence is for a term of 5 years.
- (2) To remove any doubt, it is declared that the chief executive may issue a taxi service licence on a renewable or non-renewable basis.
- (3) A taxi service licence issued on a renewable basis must be renewed for successive terms of 5 years if its conditions are complied with.
- (4) However, the renewal of a taxi service licence issued on a renewable basis may be for a shorter term if the applicant asks for a shorter term.
- (5) A taxi service licence issued on a non-renewable basis must not be renewed.

### **74 Conditions of taxi service licences**

- (1) A taxi service licence is subject to the conditions stated in it by the chief executive.
- (2) The conditions of a taxi service licence must—
  - (a) require the operator to use a particular type of vehicle or a vehicle of a type approved for taxis by the chief executive; and
  - (b) state the taxi service area to which the taxi service licence applies; and
  - (c) require the operator not to charge more than the maximum fares published in the gazette under section 74A; and
  - (d) subject to section 74B—
    - (i) state the vehicle to be used under the licence; and
    - (ii) require the operator to display a registration plate on the vehicle distinguishing it as a taxi.
- (3) The conditions of a taxi service licence may—

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- (a) require that the operator have access to a continuously operating booking service; and
  - (b) require the operator—
    - (i) to cooperate with the holder of a taxi service contract; and
    - (ii) to comply with all reasonable requests made by the holder of the contract to provide taxi services; and
    - (iii) not to act in a way likely to prevent the holder of the taxi service contract complying with the conditions of the contract; and
  - (c) require the operator to install and maintain stated equipment in taxis; and
  - (d) require that the operator only operate the taxi on a stated day or at stated times; and
  - (e) make other requirements of an operator.
- (4) The operator of a taxi service under a taxi service licence must not contravene a condition of the licence.

Maximum penalty for subsection (4)—40 penalty units.

#### **74AA Notice to be kept in licensed taxi or substitute taxi**

The operator of a taxi service for which a taxi service licence is required who uses a licensed taxi or substitute taxi to provide the service must keep a written notice inside the taxi that states the following and is readily available to the driver—

- (a) the area, stated in the taxi service licence for the taxi, in which the taxi may be operated;
- (b) any other condition to which the licence is subject that restricts the use of the taxi.

Maximum penalty—40 penalty units.

[s 74AB]

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### **74AB Prohibitions on using licensed taxis or substitute taxis**

- (1) The operator of a taxi service must not use a licensed taxi or substitute taxi to provide a public passenger service—
  - (a) in a taxi service area outside the area stated in the licence for the taxi; or
  - (b) in a way that contravenes a condition to which the licence is subject that restricts the use of the taxi.

Maximum penalty—40 penalty units.

- (2) The driver of a licensed taxi or substitute taxi must not use the taxi to provide a public passenger service—
  - (a) in a taxi service area outside the area stated in the licence for the taxi; or
  - (b) in a way that contravenes a condition to which the licence is subject that restricts the use of the taxi.

Maximum penalty—40 penalty units.

- (3) However, the driver or operator does not contravene subsection (1)(a) or (2)(a) while the taxi is being used—
  - (a) to complete a single passenger journey that started within the taxi area stated in the licence; or
  - (b) to provide a public passenger service under a contract with a government entity.

*Example of a single passenger journey—*

A passenger is picked up in Brisbane and is taken to Southport. The taxi waits for the passenger at Southport and then takes the passenger to Ipswich and waits again before returning the passenger to Brisbane.

- (4) In this section—

**government entity** means—

- (a) any State or the Commonwealth; or
- (b) a department, service, agency, authority, commission, corporation, instrumentality, board, office, or other

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entity, established for a government purpose of any State or the Commonwealth; or

- (c) a part of an entity mentioned in paragraph (b).

#### **74A Maximum taxi fares**

- (1) The chief executive may, by gazette notice, decide maximum fares for taxis.
- (2) However, the chief executive may, by gazette notice, decide that the maximum fares do not apply to a type of taxi stated in the notice if the chief executive is satisfied that under the procedure used to book the type of taxi—
  - (a) the hirer has to specifically ask for the type of taxi; and
  - (b) the operator and the hirer have to agree on the amount of the fare at the time of booking.

#### **74B Substitute taxi**

A regulation may—

- (a) allow a vehicle, other than the vehicle stated in a taxi service licence, to be used under the licence in stated circumstances and on stated conditions; and
- (b) exempt an operator of a taxi service from complying with a condition of the taxi service licence under section 74(2)(d)(ii).

#### **75 Amendment of taxi service licence conditions**

- (1) A regulation may authorise the chief executive to amend the conditions of taxi service licences if the chief executive is satisfied the amendment is necessary for improving taxi services in the public interest.
- (2) A regulation may also authorise the amendment of taxi service licences in other circumstances and make other provision about amending taxi service licences.

[s 76]

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## **76 Transfer, lease and surrender of taxi service licences**

A regulation may make provision about transferring, leasing or surrendering taxi service licences.

## **77 Transfer of taxi service licences between areas**

- (1) The chief executive may amend the conditions of a taxi service licence applying to a particular taxi service area so that it applies to another taxi service area if—
  - (a) the holder of the licence successfully offers for a transfer to the relevant taxi service area following the calling of offers by public notice; or
  - (b) the taxi service areas are amalgamated; or
  - (c) the holder of the licence applies for a transfer to the relevant taxi service area.
- (2) If, in the chief executive's opinion, the value of taxi service licences in the area to which the licence is to be transferred is greater than in the area from which the licence is transferred, the chief executive may require as a condition of the transfer that the operator pay to the chief executive an amount representing the difference in value.
- (3) This section does not limit the power to make regulations about amending taxi service licences.

## **78 Limitation on number of licences held by single operator and associates**

A regulation may make provision about limiting the number of licences held, leased or managed by a single operator (and persons who are, under the regulations, associates of the operator) in a taxi service area.

## **79 Suspension and cancellation of taxi service licences**

- (1) A regulation may make provision about suspending and cancelling taxi service licences.



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- (2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's taxi service licence if—
    - (a) the person contravenes this Act or a condition of the licence; or
    - (b) the person holds, leases or manages more than the maximum allowed number of taxi service licences; or
    - (c) the person does not pay the fees or taxi industry security levy payable in relation to the licence.
  - (3) Without limiting subsection (1), a regulation may authorise the chief executive to immediately suspend a person's taxi service licence if the chief executive considers it necessary in the public interest.
  - (4) Without limiting subsection (1), if the operator accreditation of the holder of a taxi service licence is suspended or cancelled—
    - (a) for suspension—the licence is suspended while the accreditation is suspended; or
    - (b) for cancellation—the licence is suspended until it is transferred to an accredited operator.

## **80 Taxi subsidy scheme**

A regulation may provide a scheme under which the State pays the whole or a part of taxi fares for particular groups.

## **80A Annual taxi industry security levy payable**

- (1) A person who holds a taxi service licence for a taxi service area prescribed under a regulation (the *licence holder*) must pay a taxi industry security levy (the *annual levy*) in relation to the licence to the chief executive for each financial year.
- (2) The annual levy is the amount prescribed under a regulation.
- (3) However, for the financial year starting on 1 July 2007, the annual levy is \$300.

[s 80B]

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- (4) A regulation must not increase the annual levy for a financial year by more than the CPI percentage increase for the financial year.
- (5) If a regulation prescribing the annual levy for a later financial year has not been notified in the gazette on or before 31 May in the preceding financial year, the annual levy for the later financial year is the same amount as the annual levy for the preceding financial year.
- (6) The chief executive must give the licence holder written notice of the amount of the levy.
- (7) The licence holder must pay the levy on or before the date shown in the notice as the date for payment.
- (8) A levy amount not paid to the chief executive on or before the date for payment may be recovered by the chief executive as a debt.
- (9) In this section—

***CPI*** means the all groups consumer price index for Brisbane published by the Australian statistician.

***CPI percentage increase***, for a financial year, means the percentage increase between—

- (a) the CPI published for the quarter ending immediately before the start of the financial year; and
- (b) the CPI published for the quarter ending immediately before the end of the financial year.

***preceding financial year***, in relation to a later financial year, means the financial year immediately preceding the later financial year.

## **80B Taxi Industry Security Fund**

- (1) The Taxi Industry Security Fund (the ***fund***) is established.
- (2) The *Financial Accountability Act 2009* applies to the fund.
- (3) Accounts for the fund must be kept as part of the departmental accounts of the department.

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- (4) Amounts received for the fund must be deposited in a departmental financial institution account of the department but may be deposited in an account used for depositing other amounts of the department.
  - (6) Amounts received for the fund include taxi industry security levies.
  - (7) Amounts may be paid out of the fund for the costs of improving the security of taxi services, including, for example, the costs of engaging rank marshals and security guards at taxi ranks.
  - (8) If there is a surplus in the fund at the end of a financial year, the surplus must remain in the fund.
  - (9) In this section—

*departmental accounts*, of a department, means the accounts of the department under the *Financial Accountability Act 2009*, section 69.

*departmental financial institution account*, of a department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

*other amounts*, of a department, means amounts received by the department other than amounts received for the fund.

## Chapter 7A Peak demand taxi permits

### 80C Purpose of peak demand taxi permits

The purpose of peak demand taxi permits is to ensure that the communities served by taxis in relevant areas receive quality and innovative taxi services at a reasonable cost during peak patronage periods.

[s 80D]

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## **80D What are peak demand taxi permits**

A *peak demand taxi permit* is a permit issued by the chief executive to allow a vehicle, other than a licensed taxi, (a *peak demand taxi*) to be used to provide a taxi service in a relevant area during a peak patronage period.

## **80E Issue of peak demand taxi permits**

A regulation may provide for the issue of peak demand taxi permits.

## **80F Term of peak demand taxi permits**

A peak demand taxi permit is for a term of 1 year.

## **80G Conditions of peak demand taxi permits**

- (1) A peak demand taxi permit is subject to the conditions stated in it by the chief executive.
- (2) The conditions of a peak demand taxi permit must—
  - (a) require the operator to use a particular type of vehicle or a vehicle of a type approved for taxis by the chief executive; and
  - (b) state the relevant area to which the peak demand taxi permit applies; and
  - (c) require the operator not to charge more than the maximum fares published in the gazette under section 74A; and
  - (d) state the vehicle to be used under the permit.
- (3) The conditions of a peak demand taxi permit may—
  - (a) require that the operator have access to a continuously operating booking service; and
  - (b) require the operator—
    - (i) to cooperate with the holder of a taxi service contract; and

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- (ii) to comply with all reasonable requests made by the holder of the contract to provide taxi services; and
  - (iii) not to act in a way likely to prevent the holder of the taxi service contract complying with the conditions of the contract; and
  - (c) require the operator to install and maintain stated equipment in peak demand taxis; and
  - (d) require the operator to operate the vehicle as a peak demand taxi only in peak patronage periods; and
  - (e) make other requirements of an operator.
- (4) The operator of a taxi service under a peak demand taxi permit must not contravene a condition of the permit.

Maximum penalty for subsection (4)—40 penalty units.

### **80H Notice to be kept in peak demand taxi**

The operator of a taxi service who uses a peak demand taxi to provide the service must keep a written notice inside the taxi that states the following and is readily available to the driver—

- (a) the relevant area, stated in the permit for the taxi, in which the taxi may be operated;
- (b) any other condition to which the permit is subject that restricts the use of the taxi.

Maximum penalty—40 penalty units.

### **80I Prohibitions on using peak demand taxis**

- (1) The operator of a taxi service must not use a peak demand taxi to provide a public passenger service—
  - (a) in a taxi service area outside the relevant area stated in the permit for the taxi; or
  - (b) in a way that contravenes a condition to which the permit is subject that restricts the use of the taxi.

[s 80J]

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Maximum penalty—40 penalty units.

- (2) The driver of a peak demand taxi must not use the taxi to provide a public passenger service—
  - (a) in a taxi service area outside the relevant area stated in the permit for the taxi; or
  - (b) in a way that contravenes a condition to which the permit is subject that restricts the use of the taxi.

Maximum penalty—40 penalty units.

- (3) However, the driver or operator does not contravene subsection (1)(a) or (2)(a) while the peak demand taxi is being used to complete a single passenger journey that started within the relevant area stated in the permit.

#### **80J Amendment of peak demand taxi permit conditions**

- (1) A regulation may authorise the chief executive to amend the conditions of peak demand taxi permits if the chief executive is satisfied the amendment is necessary for improving taxi services in the public interest.
- (2) A regulation may also authorise the amendment of peak demand taxi permits in other circumstances and make other provision about amending peak demand taxi permits.

#### **80K Lease and surrender of peak demand taxi permits**

A regulation may provide for the lease and surrender of peak demand taxi permits.

#### **80L Suspension and cancellation of peak demand taxi permits**

- (1) A regulation may provide for the suspension and cancellation of peak demand taxi permits.
- (2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's peak

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demand taxi permit if the person contravenes this Act or a condition of the permit.

- (3) Without limiting subsection (1), a regulation may authorise the chief executive to suspend immediately a person's peak demand taxi permit if the chief executive considers it necessary in the public interest.
- (4) Without limiting subsection (1), if the operator accreditation of the holder of a peak demand taxi permit is suspended or cancelled—
  - (a) for suspension—the permit is suspended while the accreditation is suspended; or
  - (b) for cancellation—the permit is cancelled.

## Chapter 8      Limousine service licences

### 81      Purpose of limousine service licences

The purpose of limousine service licences is to ensure that the communities served under the licences receive luxury quality, unscheduled public passenger services.

### 82      What are limousine service licences

A *limousine service licence* is a licence issued by the chief executive under which the holder is required to provide a limousine service in an area in a way that meets or exceeds specified performance levels.

### 83      Requirement for limousine service licences

A person must not provide a limousine service using a vehicle unless the person has a limousine service licence to provide the service with the vehicle.

Maximum penalty—160 penalty units.

[s 83A]

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**83A Requirement for limousine service licence for stretched passenger car**

A person must not provide a public passenger service, other than a community transport service or a courtesy transport service, in a stretched passenger car unless the person holds a limousine service licence.

Maximum penalty—160 penalty units.

**84 Limousine service areas**

The chief executive may, by public notice, declare a limousine service area.

**85 No limit on number of licences held**

There is no limit on the number of limousine service licences a person may hold.

**86 Term of limousine service licence**

- (1) A limousine service licence is for a term of—
  - (a) for a special purpose limousine service licence—1 year;  
or
  - (b) for another limousine service licence—5 years.
- (2) A limousine service licence may be renewed for successive terms of the length mentioned in subsection (1) for the licence, if the conditions of the licence have been complied with.
- (3) However, a limousine service licence other than a special purpose limousine service licence may be renewed for a shorter term if the applicant for the renewal asks for a shorter term.

**87 Conditions of limousine service licences**

- (1) A limousine service licence is subject to the conditions stated in it by the chief executive.



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- (2) The conditions of a limousine service licence must—
- (a) prohibit the operator from operating a limousine service unless an earlier booking has been made; and
  - (b) require the operator to use—
    - (i) if the licence is a special purpose limousine service licence—a special purpose limousine; or
    - (ii) otherwise—a luxury motor vehicle; and
  - (c) state the limousine service area to which the limousine service licence applies; and
  - (d) subject to section 87A—
    - (i) state the vehicle to be used under the licence; and
    - (ii) require the operator to display a registration plate on the vehicle distinguishing it as—
      - (A) if the vehicle is to be used under a special purpose limousine service licence—a special purpose limousine for which a special purpose limousine service licence is in force; or
      - (B) otherwise—a limousine; and
  - (e) state that the operator must do either of the following if a hirer of a limousine service provided under the licence requests that the limousine service be provided by using a stated type of vehicle—
    - (i) comply with the request;
    - (ii) seek agreement from the hirer to use a different type of vehicle.
- (3) The conditions of a limousine service licence may—
- (a) restrict the operation of the limousine service to particular occasions, including, for example, weddings; or
  - (b) make other requirements of an operator; or

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(c) for a limousine service licence other than a special purpose limousine service licence—allow the operator in specified circumstances to ply for hire from and to specified locations.

(4) The operator of a limousine service licence must not contravene a condition of the licence.

Maximum penalty—40 penalty units.

(5) The operator of a limousine service must ensure that a written notice stating the following is kept inside the limousine used to provide the service and is readily available to the driver—

(a) the area stated in the limousine service licence for the limousine in which the limousine may be operated;

(b) any other condition to which the licence is subject that restricts the use of the limousine.

Maximum penalty—40 penalty units.

(6) The driver of the limousine must not operate it—

(a) in a limousine service area in which it is not licensed to operate; or

(b) in a way that contravenes a condition to which the licence is subject that restricts the use of the limousine.

Maximum penalty—40 penalty units.

## **87A Substitute limousine**

A regulation may—

(a) allow a vehicle, other than the vehicle stated in a limousine service licence, to be used under the licence in stated circumstances and on stated conditions; and

(b) exempt an operator of a limousine service from complying with a condition of the limousine service licence under section 87(2)(d)(ii).

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**87B Record of prior booking**

- (1) The operator of a limousine service must—
- (a) make a record containing the prescribed details of the booking for the limousine service either—
    - (i) in paper form; or
    - (ii) in electronic form by using an electronic booking system; and
  - (b) give a copy of the prescribed details of the booking for the limousine service to the driver of the limousine to be used to provide the limousine service, before the limousine service is provided.

Maximum penalty—80 penalty units.

- (2) The driver of a limousine must not use the limousine to provide a limousine service unless—
- (a) the operator of the limousine service has made a record containing the prescribed details of the booking for the limousine service; and
  - (b) the driver is carrying a copy of the prescribed details of the booking for the limousine service in the limousine.

Maximum penalty—80 penalty units.

- (3) If the record containing the prescribed details of the booking for the limousine service is made in electronic form by using an electronic booking system—
- (a) the operator of the limousine service satisfies subsection (1)(b) if the operator—
    - (i) keeps an electronic booking system that is in working condition in the limousine used to provide the limousine service; and
    - (ii) immediately before the limousine is used to provide the limousine service, checks that the electronic booking system displays the prescribed details of the booking for the limousine service; and

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- (b) the driver of the limousine used to provide the limousine service is taken to carry a copy of the prescribed details of the booking for the limousine service in the limousine if, while the limousine is being used to provide the limousine service, the electronic booking system—
  - (i) is in the limousine and is in working condition; and
  - (ii) displays the prescribed details of the booking for the limousine service.

### **87C Operator to keep record of prior booking**

The operator of a limousine service must—

- (a) keep, for at least 5 years—
  - (i) each record containing the prescribed details of a booking for a limousine service; or
  - (ii) a copy of the record; and
- (b) if asked by an authorised person, produce the record or a copy of the record for inspection by the authorised person.

Maximum penalty—80 penalty units.

### **87D Driver to produce record of prior booking**

- (1) This section applies if—
  - (a) a record containing the prescribed details of a booking for a limousine service is made; and
  - (b) an authorised person asks the driver of the limousine used to provide the limousine service to show the authorised person a copy of the record of the prescribed details for the booking for the limousine service.
- (2) The driver must—
  - (a) produce the copy for inspection by the authorised person; or

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- (b) if the record is in electronic form in or on an electronic booking system—
    - (i) produce the electronic booking system for inspection by the authorised person; or
    - (ii) if it is not reasonably practicable for the authorised person to read the display of the prescribed details of the booking for the limousine service in or on the electronic booking system (the *display*) from outside the limousine and the authorised person tells the driver the authorised person needs to enter the limousine to read the display—allow the authorised person to enter the limousine to read the display.

Maximum penalty—80 penalty units.

- (3) For subsection (1)(b), a limousine is used to provide a limousine service if—
  - (a) it is about to be used to provide the limousine service; or
  - (b) it is being used to provide the limousine service; or
  - (c) it has just been used to provide the limousine service.
- (4) If an authorised person enters a limousine under subsection (2)(b)(ii), the authorised person—
  - (a) may remain in the limousine for only the period of time that is reasonably necessary to read the display; and
  - (b) may inspect the limousine, and anything in the limousine, only to the extent that is reasonably necessary to read the display.

## **88 Amendment of limousine service licence conditions**

- (1) A regulation may authorise the chief executive to amend the conditions of a limousine service licence if the chief executive is satisfied the amendment is necessary for improving limousine services in the public interest.

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- (2) A regulation may also authorise the amendment of limousine service licences in other circumstances and make other provisions about amending limousine service licences.

## **89 Transfer, lease and surrender of limousine service licences**

A regulation may make provision about transferring, leasing or surrendering limousine service licences.

## **90 Transfer of limousine service licences between areas**

- (1) The chief executive may amend the conditions of a limousine service licence applying to a particular limousine service area so that it applies to another limousine service area.
- (2) This section does not limit the power to make regulations about amending limousine service licences.

## **91 Suspension and cancellation of limousine service licences**

- (1) A regulation may make provision about suspending and cancelling limousine service licences.
- (2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's limousine service licence if the person contravenes this Act or a condition of the licence.
- (3) Without limiting subsection (1), a regulation may authorise the chief executive to immediately suspend a person's limousine service licence if the chief executive considers it necessary in the public interest.
- (4) Without limiting subsection (1), if the operator accreditation of the holder of a limousine service licence is suspended or cancelled—
  - (a) for suspension—the licence is suspended while the accreditation is suspended; or

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- (b) for cancellation—the licence is suspended until it is transferred to an accredited operator.

## Chapter 9 Standards

### 92 Making of standards

- (1) The chief executive may make standards under this Act.
- (2) A standard or an amendment of a standard is subordinate legislation.
- (3) However, the *Statutory Instruments Act 1992*, part 5 does not apply to a standard or an amendment of a standard.

*Note—*

This chapter provides for a process instead of a regulatory impact statement.

- (4) A standard is not effective until it is approved by the Governor in Council.

### 93 Notice of proposal to prepare draft standard

- (1) Before making a standard about a matter, the chief executive must give public notice of a proposal to prepare a draft standard about the matter.
- (2) The notice must—
  - (a) invite submissions on the proposal from public authorities, industry, interested groups and persons, and the public; and
  - (b) state where copies of the proposal may be inspected or obtained; and
  - (c) specify a day, not earlier than 14 days from public notice or first public notice of the proposal, by which submissions may be made to the chief executive about the proposal.

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#### **94 Preparation of draft standard**

In preparing the draft standard, the chief executive must ensure the draft standard—

- (a) sets out its purposes; and
- (b) takes into account best practice and national benchmarks.

#### **95 Notice of draft standard**

- (1) When the draft standard has been prepared, the chief executive must give public notice of the draft standard.
- (2) The notice must—
  - (a) invite submissions on the draft standard from public authorities, interested groups and persons, and the public; and
  - (b) state where copies of the draft standard may be inspected or obtained; and
  - (c) specify the day, not earlier than 14 days from public notice or first public notice of the draft standard, by which submissions may be made to the chief executive about the draft standard.

#### **96 Preparation of standard**

In preparing the standard, the chief executive must have regard to the advice and submissions properly received about the draft standard.

#### **97 Interim standards**

- (1) If the chief executive is satisfied that, for reasons of urgency, it is necessary or desirable to make a standard on an interim basis, the chief executive may make the standard even though section 93, 94, 95 or 96 has not been complied with.



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- (2) The interim standard must include a sunset provision stating the interim standard expires 6 months after its commencement.

## **98 Regulations prevail over standards**

- (1) If there is an inconsistency between a regulation and a standard, the regulation prevails to the extent of the inconsistency.
- (2) Subsection (1) applies whether the standard was made before or after the regulation.

## **99 Amendment of standards**

- (1) This chapter applies to the amendment of a standard in the same way as it applies to the making of a standard with any necessary changes.
- (2) Sections 93 to 96 do not apply to the amendment of a standard if the chief executive considers the proposed amendment—
  - (a) is not likely to impose appreciable costs on the community or a part of the community; or
  - (b) only provides for, or to the extent it only provides for, a matter mentioned in the *Statutory Instruments Act 1992*, section 46(1)(a), (b), (c), (e), (f), (g), (h) or (i).

## **99A Application of Acts Interpretation Act 1954**

The *Acts Interpretation Act 1954*, section 24AA does not apply to the amendment or repeal of a standard under this chapter.

## **100 Direction to comply with standards**

- (1) If the chief executive considers a person has not complied, or is not complying, with a provision of a standard, the chief executive may give the person a written direction to comply with the standard.

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- (2) If the failure to comply relates to a matter mentioned in subsection (3), the direction may be—
  - (a) to comply with the provision in relation to all public passenger vehicles at all times within the next 3 years after the notice is given; or
  - (b) to immediately stop failing to comply with the provision, and to comply with the provision in relation to all public passenger vehicles at all times within the next 3 years after the notice is given.
- (3) The matters are—
  - (a) fatigue, or another matter about a driver's fitness to drive or operate a vehicle; or
  - (b) the condition of a vehicle; or
  - (c) the safe operation of a vehicle, including overloading and the seating or standing of passengers.
- (4) If the failure to comply relates to a matter mentioned in subsection (3) or to another matter, the direction may be to comply with the provision at all times within the 3 year period starting on a stated day in relation to—
  - (a) all public passenger vehicles; or
  - (b) all public passenger services.
- (5) The stated day must be at least 5 working days after the day the direction is given.
- (6) A direction must state—
  - (a) each failure to comply with the direction, without a reasonable excuse, is a separate offence; and
  - (b) the maximum penalty for each offence; and
  - (c) the direction does not relieve the person from the obligation to comply with another provision of this or another Act.
- (7) The person must not contravene the direction unless the person has a reasonable excuse for not complying with it.

Maximum penalty—160 penalty units.

- (8) This section does not limit, and is not limited by, another provision of this or another Act.

*Example—*

Noncompliance with a standard may, under a regulation, be made an offence or a ground for cancellation of driver authorisation or operator accreditation.

### **101 Application of standards to railway managers or railway operators**

Standards do not apply to a railway manager or railway operator in relation to a public passenger service provided using a fixed track vehicle.

### **101A Application of standards to light rail operators**

Standards do not apply to a light rail operator for a light rail in relation to a public passenger service provided using a fixed track vehicle.

## **Chapter 10 Review of decisions**

### **102 Internal review of decisions**

- (1) A person whose interests are affected by a decision described in schedule 2 (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—

[s 103]

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- (a) applies to the review; and
- (b) provides—
  - (i) for the procedure for applying for the review and the way it is to be disposed of; and
  - (ii) that the person may apply to QCAT to have the original decision stayed.

### 103 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).

***reviewed decision*** means the chief executive's decision on a review under section 102.

### 104 Commissioner for Children and Young People and Child Guardian

- (1) This section applies if—
  - (a) a proceeding before QCAT concerns a decision of the chief executive on a review of a driver authorisation decision; and
  - (b) a driver disqualifying offence involving a child was relevant to the driver authorisation decision.

- (2) The Commissioner for Children and Young People and Child Guardian is a party to the proceeding.
- (3) In this section—  
*driver authorisation decision* means a decision about driver authorisation under this Act.

## Chapter 11 Enforcement

### Part 1 Interpretation

#### 110 Definition for ch 11

In this chapter—

*relevant transport legislation* means—

- (a) this Act; or
- (b) the *Transport Infrastructure Act 1994*, chapter 14; or
- (c) a regulation in relation to a railway made under the *Transport Infrastructure Act 1994*; or
- (d) the *Transport (Rail Safety) Act 2010*, part 7 or 8; or
- (e) a regulation made under the *Transport (Rail Safety) Act 2010*.

[s 111]

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## **Part 2                      Authorised persons**

### **Division 1                Appointment**

#### **Subdivision 1        Appointment of authorised persons generally**

##### **111    Appointment of authorised persons generally**

- (1) Every police officer is an authorised person for relevant transport legislation.
- (2) Subject to section 111A(1), the chief executive may appoint any of the following persons to be an authorised person, other than an authorised person (transit officer), for relevant transport legislation—
  - (a) a public service employee;
  - (b) an employee of, or a contractor for, a railway manager or railway operator;
  - (c) an employee of a contractor mentioned in paragraph (b);
  - (d) another person prescribed under a regulation.
- (3) Subject to section 111A(2), the chief executive may appoint any of the following persons to be an authorised person (transit officer) (a *transit officer*) for relevant transport legislation—
  - (a) a public service employee;
  - (b) an employee of a railway manager or railway operator that is a GOC or a wholly owned subsidiary of a GOC.
- (4) The chief executive may restrict the powers of an authorised person (other than a police officer) by written notice given to the person.
- (5) An authorised person who is a person mentioned in subsection (2)(b) or (c) or (3)(b) may exercise a power under this Act

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only in relation to a railway managed or operated by the railway manager or railway operator of whom the person is an employee, a contractor or an employee of a contractor.

- (6) Subsection (5) does not apply to an authorised person who is—
- (a) an employee of, or a contractor for, a rail GOC or a subsidiary of a rail GOC; or
  - (b) an employee of a contractor for the rail GOC or subsidiary.
- (7) In this section—  
*rail GOC* see the *Transport Infrastructure Act 1994*, schedule 6.

### **111A Restrictions on appointing authorised persons**

- (1) The chief executive may appoint a person as an authorised person, other than a transit officer, only if—
- (a) in the chief executive's opinion, the person has the necessary expertise or experience to be an authorised person; or
  - (b) the person has satisfactorily finished training approved by the chief executive.
- (2) The chief executive may appoint a person as a transit officer only if—
- (a) in the chief executive's opinion—
    - (i) the person can be appointed as an authorised person under subsection (1); and
    - (ii) the person is suitable to be a transit officer, having regard to the matters mentioned in section 111B; and
  - (b) the person has satisfactorily finished transit officer training.

[s 111B]

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### **111B When person is suitable to be transit officer**

- (1) This section provides for when a person may be considered to be suitable to be a transit officer.
- (2) A person is suitable to be a transit officer only if—
  - (a) the person has not been convicted of—
    - (i) a category A driver disqualification offence; or
    - (ii) a category B driver disqualification offence other than an offence against the Criminal Code, section 328A; or
    - (iii) an indictable offence in Queensland not covered by subparagraph (i) or (ii); or
    - (iv) an offence outside Queensland that, if it had been committed in Queensland, would constitute an indictable offence not covered by subparagraph (i) or (ii); and
  - (b) the person is of good character; and
  - (c) the person's state of physical and mental fitness will enable the person to perform the functions and exercise the powers of a transit officer.
- (3) In deciding whether a person is of good character, the chief executive may consider the following matters as indicating that the person may not be of good character—
  - (a) in dealings in which the person has been involved, the person has—
    - (i) shown dishonesty or lack of integrity; or
    - (ii) used harassing tactics;
  - (b) the person associates with, or has associated with, a criminal in a way that indicates involvement in unlawful activity.
- (4) Subsection (3) does not limit the matters the chief executive may consider in deciding whether or not a person is of good character.



- (5) In this section—
- conviction**, for an offence mentioned in subsection (2)(a)(iii) or (iv), does not include a spent conviction.
- spent conviction** means a conviction—
- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) 1986* has expired under that Act; and
  - (b) that is not revived as prescribed by section 11 of that Act.

## **Subdivision 2      Assessing person’s suitability to be a transit officer**

### **111C    Application of sdiv 2**

- (1) This subdivision applies in relation to the following decisions of the chief executive—
  - (a) whether or not to appoint a person as a transit officer under section 111(3);
  - (b) whether or not to revoke the appointment of a transit officer under section 113G.
- (2) This subdivision applies to a person despite anything in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

### **111D    Definition for sdiv 2**

In this subdivision—

**relevant information**, about a person, means information about the person of a kind mentioned in the *Police Service Administration Act 1990*, schedule, for police officers, recruits and applicants to become police officers or recruits.

[s 111E]

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### **111E Person to be advised of duties of disclosure**

Before a person is appointed as a transit officer, the chief executive must—

- (a) tell the person—
  - (i) of the person's duty under section 111F to disclose relevant information about the person; and
  - (ii) that the chief executive may under section 111G obtain relevant information about the person; and
- (b) give the person a copy of the guidelines for dealing with relevant information obtained by the chief executive under this subdivision.

### **111F Transit officers must disclose relevant information and changes to relevant information**

- (1) A person who is a transit officer or seeking to be appointed as a transit officer must, if asked by the chief executive, disclose to the chief executive any relevant information known to the person that may affect the person's suitability to be a transit officer.
- (2) A person seeking to be appointed as a transit officer required to disclose relevant information under subsection (1) must disclose the information before being appointed as a transit officer.
- (3) If a person who is a transit officer is aware that there is a change in relevant information about the person, the person must immediately disclose to the chief executive the details of the change.
- (4) A person required to disclose relevant information under subsection (1) or (3) must give the chief executive the disclosure in the approved form.
- (5) Without limiting subsection (4), the approved form must make provision for the disclosure of all of the following information—

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- (a) the existence of a conviction or charge;
  - (b) when an offence was committed or alleged to have been committed;
  - (c) details of an offence or alleged offence;
  - (d) for a conviction—whether or not a conviction was recorded and other details of the sentence.

*Notes—*

- 1 Under section 111H, when making the assessment of a person's suitability to be, or continue to be, a transit officer, the chief executive may have regard to whether or not the person has complied with this section.
- 2 Also, if a person who is a transit officer fails to comply with subsection (3), the person's appointment may be revoked under section 113G.

### **111G Chief executive may request information from commissioner of the police service**

- (1) This section applies to a person who—
  - (a) is a transit officer; or
  - (b) seeks to be appointed as a transit officer and has given the chief executive a disclosure for the purposes of section 111F.
- (2) This section applies even if the disclosure does not state any relevant information about the person.
- (3) The chief executive may ask the commissioner of the police service to give the chief executive a report that includes relevant information about the person.
- (4) Subsection (5) applies if—
  - (a) the commissioner of the police service reasonably suspects a person is a transit officer; and
  - (b) information about the person included in a report mentioned in subsection (3) changes, including new

[s 111H]

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information that would have been included in the report had the information existed when the report was made.

- (5) The commissioner may notify the chief executive of the change.

*Note—*

Section 148B provides for the chief executive and the commissioner of the police service entering into arrangements for the giving and receiving of information under this Act.

### **111H Assessment of suitability**

- (1) This section applies to the chief executive in considering relevant information about a person under this subdivision.
- (2) When assessing the person's suitability to be, or continue to be, a transit officer, the chief executive may have regard to all relevant information available to the chief executive, including, for example—
- (a) information that is disclosed to the chief executive under section 111F; and
  - (b) information made available by the commissioner of the police service because of a request under section 111G; and
  - (c) information that is stored on—
    - (i) a database kept by the chief executive; or
    - (ii) a database kept by the commissioner of the police service; and
  - (d) information that is otherwise available to the chief executive.

*Example for subsection (2)(d)—*

information obtained from previous employment checks

- (3) Also, when making the assessment, the chief executive may have regard to whether or not the person has complied with section 111F.

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**111I Particular persons to be advised if person unsuitable**

- (1) If, because of information relied on by the chief executive under this subdivision, the chief executive considers a person may not be suitable to be, or continue to be, a transit officer, the chief executive must, before deciding the person is not suitable—
  - (a) disclose the information to the person; and
  - (b) allow the person a reasonable opportunity to make representations to the chief executive about the information.
- (2) The chief executive must give reasons why the chief executive considers the person may not be suitable to be, or continue to be, a transit officer unless the chief executive considers the giving of the reasons may—
  - (a) prejudice the investigation of a contravention or possible contravention of the law; or
  - (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
  - (c) endanger a person's life or physical safety; or
  - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; or
  - (e) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or
  - (f) prejudice national security; or
  - (g) be prohibited under a law of this or any other State or the Commonwealth.
- (3) In deciding, under subsection (2), whether or not to give reasons why the chief executive considers the person may not be suitable to be, or continue to be, a transit officer, the chief executive must have regard to any advice given to the chief

[s 111J]

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executive by the commissioner of the police service in relation to the disclosure of information given by the commissioner.

- (4) If, after considering any representations made under subsection (1)(b), the chief executive decides the person is not suitable to be, or continue to be, a transit officer, the chief executive must give the person a written notice stating that the person is not suitable to be, or continue to be, a transit officer.
- (5) Information relied on under this section to decide that a person is not suitable to be a transit officer can not be used for any other purpose, unless its disclosure is authorised under section 111J(3).

## **111J Secrecy**

- (1) This section applies to a person who—
  - (a) is, or has been—
    - (i) the chief executive; or
    - (ii) a transit officer; or
    - (iii) involved in the appointment of a transit officer; and
  - (b) in that capacity acquired relevant information about someone else.

- (2) The person must not disclose the relevant information to anyone else.

Maximum penalty—200 penalty units.

- (3) Subsection (2) does not apply to the disclosure of information about a person, if the disclosure—
  - (a) is to the chief executive or a person involved in the appointment of a transit officer for the purpose of assessing the person's suitability to be, or continue to be, a transit officer; or
  - (b) is with the person's consent; or
  - (c) is required by another law.

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- (4) For this section, a person is involved in the appointment of a transit officer if—
- (a) the person is involved in any part of the process the chief executive follows in deciding whether or not to appoint a person as a transit officer; or

*Example—*

a person who gathers information for assessing a person's suitability to be a transit officer and makes a recommendation to the chief executive about whether the chief executive should appoint or not appoint the person as a transit officer

- (b) a person is involved in any part of the process the chief executive follows in deciding whether or not to revoke the appointment of a transit officer.

*Example—*

a person who gathers information for assessing a person's suitability to continue to be a transit officer, including whether or not the person has complied with provisions of this part, and makes a recommendation to the chief executive about whether the chief executive should revoke the person's appointment as a transit officer

- (5) A person involved in any way in anything done under this subdivision can not be compelled to produce to a court any document kept, or to disclose to a court any information obtained, because of the doing of the thing.
- (6) Subsection (5) does not affect the operation of the *Judicial Review Act 1991*.
- (7) This section does not limit section 148C.
- (8) In this section—
- disclose***, in relation to information about a person, includes give access to information about a person.

[s 111K]

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### **111K Guidelines for dealing with relevant information**

- (1) The chief executive must make guidelines, consistent with this subdivision, for dealing with relevant information obtained by the chief executive under this subdivision.
- (2) The purpose of the guidelines is to ensure—
  - (a) natural justice is afforded to the persons about whom the information is obtained; and
  - (b) only relevant information is used in assessing the persons' suitability to be, or continue to be, a transit officer; and
  - (c) decisions about the suitability of persons, based on the information, are made in a consistent way.
- (3) The chief executive must give a copy of the guidelines, on request, to a person seeking to be appointed, or appointed, as a transit officer.

## **Subdivision 3 Requirements about training of transit officers**

### **111L Requirements for course of training**

- (1) This section states the requirements for the course of training for qualification for appointment as a transit officer.
- (2) The course of training must—
  - (a) be developed by the chief executive and approved by the commissioner of the police service; and
  - (b) provide for training in all the functions and powers of an transit officer under part 4A, and include guidelines about the following—
    - (i) the use of force generally;
    - (ii) deciding what force is reasonably necessary for particular circumstances and particular persons;



- (iii) how to de-escalate a situation;
  - (iv) deciding whether using handcuffs is the only practicable way to detain a person and, if so, appropriate ways of using handcuffs;
  - (v) dealing with children, persons with impaired capacity, and other vulnerable persons;
  - (vi) appropriate ways of transporting detained persons to police officers;
  - (vii) appropriate ways of frisk searching a person; and
- (c) be comparable to training undertaken by persons seeking to be engaged, or engaged, by the police service.
- (3) Subsection (2)(b) does not limit the matters that may be provided for in the course of training.

## **Division 2                      Identity requirements**

### **112      Identity cards**

- (1) The chief executive must issue an identity card to each authorised person.
- (2) This section does not apply to an authorised person who is a police officer.
- (3) The identity card must—
  - (a) contain a recent photograph of the authorised person; and
  - (b) be signed by the authorised person; and
  - (c) identify the person as—
    - (i) if the person is a transit officer—an authorised person (transit officer); or
    - (ii) otherwise—an authorised person; and

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- (d) include an expiry date.
- (4) A person who ceases to be an authorised person must, as soon as practicable, return the identity card to the chief executive, unless the person has a reasonable excuse for not returning it.  
Maximum penalty—30 penalty units.
- (5) Nothing in this section prevents the issue of a single identity card to a person for this Act and other Acts.

### **113 Production or display of authorised person’s identity card**

- (1) This section does not apply to a police officer.
- (2) An authorised person may exercise a power in relation to someone else only if—
  - (a) the person first produces the person’s identity card for the other person’s inspection; or
  - (b) the authorised person has the person’s identity card displayed so that it is clearly visible to the other person.
- (3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the authorised person must produce the identity card for the other person’s inspection as soon as it is practicable.

### **113A Uniforms for transit officers**

- (1) The chief executive must issue a uniform to each transit officer.
- (2) A person who ceases to be a transit officer must, as soon as practicable, return the uniform to the chief executive unless the person has a reasonable excuse for not returning it.  
Maximum penalty for subsection (2)—10 penalty units.

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**113B Transit officer must be in uniform**

A transit officer may exercise a power under part 4A in relation to a person only if the officer is in uniform.

**Division 3 Requirements relating to transit officers**

**113C Transit officers must continue to have relevant skills and abilities**

- (1) The chief executive must ensure a person who is appointed as a transit officer continues to have the skills and abilities required for performing functions or exercising powers of transit officers under this part.
- (2) For subsection (1), the chief executive may require a transit officer to undertake transit officer training at any time.

*Note—*

If a person appointed as a transit officer is asked to undertake transit officer training under this subsection and fails to do so, the person's appointment may be revoked under section 113G.

- (3) In deciding whether a transit officer should be required to undertake transit officer training, the chief executive must have regard to the following—
  - (a) when the transit officer last undertook the training;
  - (b) whether there have been any developments in the training since the transit officer last undertook the training;
  - (c) evidence of the transit officer's past performance in performing functions or exercising powers under this part.

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### **113D Transit officer must not be under the influence of alcohol or drugs**

- (1) A transit officer who is on duty for performing a function or exercising a power under this Act must not—
- (a) be over the low alcohol limit; or
  - (b) have present in the officer's saliva or urine—
    - (i) evidence of a dangerous drug; or
    - (ii) evidence of a prescribed substance that the officer may not lawfully take; or
    - (iii) evidence of having taken a prescribed substance in a way contrary to a direction of a doctor or a recommendation of the manufacturer of the substance.

*Note—*

If a person appointed as a transit officer contravenes subsection (1), the person's appointment may be revoked under section 113G.

- (2) For subsection (1), a person is over the **low alcohol limit** if the concentration of alcohol in the person's breath is, or is more than, 0.02g of alcohol in 210L of breath.
- (3) For this Act, the concentration of alcohol in a person's breath may be expressed as—
- (a) a specified number of grams of alcohol in 210L of breath; or
  - (b) a specified number of grams in 210L.

*Example—*

The concentration of alcohol in a person's breath may be expressed as 0.063g of alcohol in 210L of breath or as 0.063g/210L.

- (4) For subsection (1), a transit officer is **on duty** for performing a function or exercising a power under this Act if the officer—
- (a) is about to perform the function or exercise the power; or
  - (b) is performing the function or exercising the power; or

- (c) has just performed the function or exercised the power.
- (5) In this section—
- dangerous drug*** means a dangerous drug under the *Drugs Misuse Act 1986*.
- prescribed substance*** means—
- (a) a substance, other than a dangerous drug, that is a controlled drug, a restricted drug or a poison under the *Health Act 1937* that may impair a person’s physical or mental capacity; or
- (b) another substance, other than a dangerous drug, that may impair a person’s physical or mental capacity.

## **Division 4                      Cessation of appointment**

### **113E    When authorised person ceases to hold office**

- (1) An authorised person ceases to hold office if any of the following happens—
- (a) the term of office stated in a condition of office ends;
- (b) under another condition of office, the person ceases to hold office;
- (c) the person’s resignation under section 113F takes effect.
- (2) Subsection (1) does not limit the ways an authorised person may cease to hold office.
- (3) This section does not apply to a transit officer who is a police officer.
- (4) In this section—
- condition of office*** means a condition on which the authorised person holds office.

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### **113F Resignation**

An authorised person may resign by signed notice given to the chief executive.

### **113G Revocation of appointment of transit officer**

- (1) The chief executive may revoke the appointment of a person as a transit officer if—
  - (a) the chief executive is of the opinion the person is no longer suitable to be a transit officer, having regard to the matters mentioned in section 111B; or  
*Note—*

Division 1, subdivision 2 outlines the process for assessing a person's suitability to be, or continue to be, a transit officer.
  - (b) the person—
    - (i) has failed to comply with section 111F(3); or
    - (ii) has failed to undertake transit officer training as required by the chief executive under section 113C(2); or
    - (iii) has failed to comply with section 113D(1); or
    - (iv) has failed to provide a specimen of breath for an alcohol test, or a specimen of saliva or urine for a drug test, to be conducted under section 116; or
    - (v) has knowingly failed to comply with part 4A without a reasonable excuse.
- (2) Subsection (1)(b)(iv) does not apply if the transit officer has a reasonable excuse, because of a medical condition, for being unable to provide the specimen of breath, saliva or urine.
- (3) If the person is an employee of a railway manager or railway operator, the chief executive may advise the railway manager or railway operator of the revocation.

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## **Division 5                      Application of other Acts to particular transit officers**

### **113H Application of Crime and Misconduct Act 2001**

- (1) This section applies if an employee of a railway manager or railway operator that is a GOC, or a wholly owned subsidiary of a GOC, becomes a transit officer under section 111(3)(b).
- (2) Subject to subsection (3), the *Crime and Misconduct Act 2001* applies to the railway manager or railway operator in relation to the employee as if—
  - (a) the railway manager or railway operator were a unit of public administration; and
  - (b) the chief executive officer of the railway manager or railway operator were the chief executive officer of a unit of public administration; and
  - (c) a prescribed person for the railway manager or railway operator were a person holding an appointment in a unit of public administration.
- (3) The *Crime and Misconduct Act 2001* applies to a railway operator or railway manager, and prescribed persons for the railway manager or railway operator, only in relation to conduct, or a conspiracy or attempt to engage in conduct, or by a prescribed person relating to the performance of a function or exercise of a power by the employee as a transit officer under this Act.
- (4) This section applies despite—
  - (a) the *Crime and Misconduct Act 2001*, section 20(2)(d); and
  - (b) the *Government Owned Corporations Act 1993*, section 156.

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*Note—*

Under the *Crime and Misconduct Act 2001*, section 20(2)(d) and the *Government Owned Corporations Act 1993*, section 156, a GOC is not a unit of public administration under the *Crime and Misconduct Act 2001*.

### **113I Application of Public Sector Ethics Act 1994**

- (1) This section applies if an employee of a railway manager or railway operator that is a GOC, or a wholly owned subsidiary of a GOC, becomes a transit officer under section 111(3)(b).
- (2) Subject to subsections (3) and (4), the *Public Sector Ethics Act 1994* applies to the railway manager or railway operator in relation to the employee as if—
  - (a) the railway manager or railway operator were a public sector entity; and
  - (b) the chief executive officer of the railway manager or railway operator were—
    - (i) the chief executive officer of the public sector entity; and
    - (ii) the responsible authority for the public sector entity; and
  - (c) a prescribed person for the railway manager or railway operator were a public official.
- (3) The *Public Sector Ethics Act 1994* applies to a railway operator or railway manager, and prescribed persons for the railway manager or railway operator, only in relation to a prescribed person's duties relating to the performance of a function or exercise of a power by the employee as a transit officer under this Act.
- (4) Without limiting subsection (3)—
  - (a) the ethics values under the *Public Sector Ethics Act 1994*, part 3 apply to a prescribed person only in relation to the person's duties relating to a transit officer performing a function or exercising a power under this Act; and



- (b) the requirement to prepare a code of conduct under the *Public Sector Ethics Act 1994*, part 4 is a requirement to prepare a code of conduct only for a prescribed person's duties relating to a transit officer performing a function or exercising a power under this Act.

## **Division 6                      Miscellaneous**

### **114      Powers of authorised persons**

- (1) An authorised person has the powers given under relevant transport legislation.
- (2) A regulation may limit the powers of authorised persons.

### **115      Protection from liability**

- (1) This section applies to—
  - (a) an authorised person; and
  - (b) a person acting under the direction of an authorised person.
- (2) A person does not incur civil liability for an act done, or omission made, honestly and without negligence under relevant transport legislation.
- (3) If subsection (2) prevents a civil liability attaching to a person, the liability attaches instead to—
  - (a) if the authorised person is not a transit officer, is employed by a railway manager or railway operator, and is exercising a power in relation to a railway—the manager or operator of the railway; or
  - (b) in any other case—the State.
- (4) For subsection (3)(a), a person is employed by a railway manager or railway operator if the person is—

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- (a) an employee of, or a contractor for, the railway manager or operator; or
- (b) an employee of a contractor mentioned in paragraph (a).

## Part 2A                      Drug and alcohol testing of transit officers

### 116      Chief executive may require transit officer to undergo alcohol test or drug test

- (1) The chief executive may, by written notice, require a transit officer to submit to an alcohol test or drug test if—
  - (a) the officer has been involved in an incident in which a person being detained under part 4A by the officer suffers a physical injury; or
  - (b) the chief executive reasonably suspects the officer is contravening, or has contravened, section 113D(1).

*Note—*

If a person appointed as a transit officer is asked to provide a specimen of breath for an alcohol test, or specimen of saliva or urine for a drug test, under this section and the person fails to provide the specimen, the person's appointment may be revoked under section 113G.

- (2) An alcohol test, or drug test, of a transit officer conducted under this section must be conducted by a relevant entity.
- (3) A regulation may provide for requirements about notifying a transit officer of the results of an alcohol test or drug test conducted on the officer under this section.
- (4) In this section—

***alcohol test***, of a transit officer, means a test of the breath of the officer for deciding whether the officer is over the low alcohol limit within the meaning of section 113D(2).

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***drug test***, of a transit officer, means a test of the saliva or urine of the officer for deciding whether the saliva or urine has evidence of a dangerous drug, or prescribed substance, as defined under section 113D(5).

***relevant entity*** means an entity the chief executive engages to conduct alcohol tests, or drug tests, of transit officers under this section.

### **118 Alcohol or drug test results generally inadmissible**

- (1) Evidence of the following is inadmissible in a civil or criminal proceeding before a court—
  - (a) a requirement of the chief executive made under section 116(1) having been made;
  - (b) the result of any test conducted under section 116.
- (2) Also, the chief executive and anyone else involved in any way in anything under section 116 can not be compelled to produce to a court any document kept or to disclose to a court any information obtained because of the doing of the thing.
- (3) This section does not apply to—
  - (a) a proceeding for a charge of an offence arising from an incident in which a person being detained under part 4A by the officer suffers a physical injury; or
  - (b) an inquest in a Coroners Court into the death of a person; or
  - (c) a proceeding on an application under the *Industrial Relations Act 1999*, section 74 for reinstatement because of unfair dismissal; or
  - (d) an investigation or other proceeding under the *Crime and Misconduct Act 2001*; or
  - (e) disciplinary action as provided for under the *Public Sector Ethics Act 1994*.

## **Part 3**

# **Powers of authorised persons in relation to places and vehicles**

### **120 Entry of place**

An authorised person may enter a place if—

- (a) its occupier consents to the entry or the purpose of the entry is to get the occupier's consent; or
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) it is mentioned in an accreditation, authorisation, contract or licence under this Act as a place of business, or another place, required to be open to inspection and the entry is made when the place is—
  - (i) open for the conduct of business or otherwise open for entry; or
  - (ii) required under the accreditation, authorisation, contract or licence to be open for inspection; or
- (d) the authorised person reasonably believes a dangerous situation exists in the place and it is necessary for the authorised person to enter to take action under section 126O to deal with the dangerous situation; or
- (e) the entry is authorised by a warrant.

### **121 Warrants**

- (1) An authorised person may apply to a magistrate for a warrant for a place.
- (2) An application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the

magistrate requires about the application in the way the magistrate requires.

*Example—*

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

- (4) The magistrate may issue a warrant if the magistrate is satisfied there are reasonable grounds for suspecting—
- (a) there is a particular thing or activity (the *evidence*) that may provide evidence of the commission of an offence against this Act; and
  - (b) the evidence is, or may be within the next 7 days, at the place.
- (4A) The magistrate may also issue a warrant if the magistrate is satisfied that—
- (a) either of the following apply in relation to a particular place—
    - (i) a vehicle that has been or may have been involved in a dangerous situation is or has been located at the place;
    - (ii) the place is or may be otherwise connected, directly or indirectly, with a vehicle that has been or may have been involved in a dangerous situation; and
  - (b) there is evidence at the place (including for paragraph (a)(i), the vehicle itself) that is relevant to the exercise of powers under this Act relating to dangerous situations.
- (5) The warrant must state—
- (a) that the authorised person may, with necessary and reasonable help and force, enter the place and exercise the authorised person’s powers under this Act; and
  - (b) the evidence for which the warrant is issued; and
  - (c) the hours of the day when entry may be made; and

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- (d) the day (within 14 days after the warrant's issue) when the warrant ends.
- (6) The magistrate must record the reasons for issuing the warrant.

## 122 Warrants—applications made otherwise than in person

- (1) An authorised person may apply for a warrant by phone, fax, radio or another form of communication if the authorised person considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the authorised person's remote location.
- (2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.
- (3) The authorised person may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately fax a copy to the authorised person if it is reasonably practicable to fax the copy.
- (5) If it is not reasonably practicable to fax a copy of the warrant to the authorised person—
  - (a) the magistrate must—
    - (i) tell the authorised person what the terms of the warrant are; and
    - (ii) tell the authorised person the date and time the warrant was signed; and
    - (iii) record on the warrant the reasons for issuing the warrant; and
  - (b) the authorised person must write on a form of warrant (*warrant form*)—
    - (i) the magistrate's name; and

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- (ii) the date and time the magistrate signed the warrant; and
  - (iii) the warrant's terms.
- (6) The facsimile warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the other powers authorised by the warrant issued by the magistrate.
  - (7) The authorised person must, at the first reasonable opportunity, send to the magistrate—
    - (a) the sworn application; and
    - (b) if a warrant form was completed by the authorised person—the completed warrant form.
  - (8) On receiving the documents, the magistrate must attach them to the warrant.
  - (9) Unless the contrary is proved, a court must presume that a power exercised by an authorised person was not authorised by a warrant issued under this section if—
    - (a) a question arises, in a proceeding before the court, whether the exercise of power was authorised by a warrant; and
    - (b) the warrant is not produced in evidence.

## **123 Entry or boarding of vehicles**

- (1) An authorised person may enter or board a vehicle if the authorised person has reasonable grounds for suspecting—
  - (a) the vehicle is being, or has been, used in the commission of an offence against this Act; or
  - (b) the vehicle, or a thing in or on the vehicle, may provide evidence of the commission of an offence against this Act.
- (1A) Also, an authorised person may enter on board a vehicle if the authorised person reasonably believes a dangerous situation

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exists in or at the vehicle and it is necessary for the authorised person to enter to take action under section 126O to deal with the dangerous situation.

- (2) If the vehicle is moving or about to move, the authorised person may signal the person in control of the vehicle to stop the vehicle or not to move it.
- (3) To enable the vehicle to be entered or boarded, the authorised person may—
  - (a) act with necessary and reasonable help and force; and
  - (b) require the person in control of the vehicle to give reasonable help to the authorised person.
- (4) A person must obey a signal under subsection (2), unless the person has a reasonable excuse for disobeying it.

Maximum penalty—75 penalty units.

- (5) A person must comply with a requirement under subsection (3)(b), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—75 penalty units.

- (6) It is a reasonable excuse for a person to disobey a signal under subsection (2) if—
  - (a) the person reasonably believes that to obey the signal immediately would have endangered the person, someone else or the vehicle; and
  - (b) the person obeys the signal as soon as it is practicable to obey it.

## **124 General powers in relation to places and vehicles**

- (1) An authorised person who enters a place, or enters or boards a vehicle, under this chapter may—
  - (a) search any part of the place or vehicle; or
  - (b) inspect, photograph or film anything in or on the place or vehicle; or



- (c) take samples of or from anything in or on the place or vehicle; or
  - (d) take extracts from, or make copies of, a document in or on the place or vehicle; or
  - (e) take into or onto the place or vehicle any persons, equipment and materials the authorised person reasonably requires for exercising a power under this Act; or
  - (f) require the occupier of the place, or a person in or on the place or vehicle, to give the authorised person reasonable help to exercise the powers mentioned in paragraphs (a) to (e); or
  - (g) if the authorised person enters or boards a vehicle—by written notice given to the person in control of the vehicle, require the person—
    - (i) to take the vehicle to a stated reasonable place by a stated reasonable time; and
    - (ii) if necessary, to remain in control of the vehicle at the place for a reasonable time;to enable an authorised person to exercise the powers mentioned in paragraphs (a) to (e).
- (1A) It is unnecessary for an authorised person who may enter or board a vehicle under this chapter, to enter or board the vehicle to make a requirement under subsection (1)(g) of the person in control of the vehicle (the *driver*) if the authorised person is physically able to make the requirement of the driver without entering or boarding the vehicle.
- (2) A person who is required to give reasonable help under subsection (1)(f) must comply with the requirement, unless the person has a reasonable excuse.
- Maximum penalty—75 penalty units.
- (3) If the requirement is to be complied with by the person by—
- (a) giving information; or

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(b) producing a document (other than a document required to be kept by the person under this Act);

it is a reasonable excuse for the person to fail to comply with the requirement if complying with the requirement might tend to incriminate the person.

(4) A person who is required by an authorised person under subsection (1)(g) to take action in relation to a vehicle must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—75 penalty units.

(5) If, for any reason, it is not practicable to make a requirement under subsection (1)(g) by written notice, the requirement may be made orally and confirmed by written notice as soon as practicable.

(6) Nothing in this section prevents an authorised person making a further requirement under subsection (1)(g) of the same person or another person in relation to the same vehicle if it is necessary and reasonable to make the further requirement.

(7) An authorised person may not enter a part of a vehicle used only as a living area, or exercise a power under subsection (1)(a) to (e) in relation to that part, unless the authorised person is accompanied by the person in control of the vehicle.

(8) Subsection (7) does not apply if the person in control of the vehicle is unavailable or unwilling to accompany the authorised person or the authorised person is unable for another reason to comply with the subsection.

(9) This section does not apply to an authorised person who enters a place to get the occupier's consent unless the consent is given or the entry is otherwise authorised.

### **124A Power to require limousines to be moved**

(1) This section applies if an authorised person reasonably believes a limousine is plying or standing for hire in a place

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other than a place where it is authorised under this Act to ply or stand for hire.

- (2) The authorised person may require the person in control (the ***controller***) of the limousine to move the limousine to a place where it may lawfully ply or stand for hire.
- (3) When making the requirement, the authorised person must warn the controller it is an offence to fail to move the limousine as required unless the controller has a reasonable excuse.
- (4) The controller must comply with the requirement unless the controller has a reasonable excuse.

Maximum penalty—40 penalty units.

- (5) This section does not limit any other power the authorised person may exercise in relation to the limousine or its controller under this Act.

## **125 Power to seize evidence**

- (1) An authorised person who enters a place under this part with a warrant may seize the evidence for which the warrant was issued.
- (2) An authorised person who enters a place under this part with the occupier's consent may seize the particular thing for which the entry was made if the authorised person believes on reasonable grounds the thing is evidence of an offence against this Act.
- (3) An authorised person who enters a place under this part with a warrant or with the occupier's consent may also seize another thing if the authorised person believes on reasonable grounds—
  - (a) the thing is evidence of an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing being—
    - (i) concealed, lost or destroyed; or
    - (ii) used to commit, continue or repeat the offence.

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- (4) An authorised person who enters a place under this part other than with a warrant or with the occupier's consent, or who enters or boards a vehicle, may seize a thing if the authorised person believes on reasonable grounds—
- (a) the thing is evidence of an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing being—
    - (i) concealed, lost or destroyed; or
    - (ii) used to commit, continue or repeat the offence.

## 126 Procedure after thing seized

- (1) As soon as practicable after a thing is seized by an authorised person under this part, the authorised person must give a receipt for it to the person from whom it was seized.
- (2) The receipt must describe generally each thing seized and its condition.
- (3) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must—
- (a) leave the receipt at the place of seizure; and
  - (b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.

## 126A Securing seized things

Having seized a thing, an authorised person may—

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

*Examples of restricting access to a thing—*

- 1 sealing a thing and marking it to show access to it is restricted

- 2 sealing the entrance to a room where the seized thing is situated and marking the entrance to show access to the room is restricted

### **126B Tampering with seized things**

- (1) If an authorised person restricts access to a seized thing, a person must not tamper with the thing, or something restricting access to the thing, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- (2) In this section—

*tamper* includes attempt to tamper.

### **126C Powers supporting seizure**

- (1) To enable a thing to be seized, an authorised person may require the person in control of it—
  - (a) to take it to a stated reasonable place by a stated reasonable time; and
  - (b) if necessary, to remain in control of it at the stated place for a reasonable time.
- (2) The requirement must be made by notice in the approved form.
- (3) However, if for any reason it is not practicable to give the notice, the requirement may be made orally and confirmed by notice in the approved form as soon as practicable.
- (4) A further requirement may be made under this section about seizing the thing if it is necessary and reasonable to make the further requirement.

*Examples of a further requirement—*

A requirement that the thing—

- be transported during stated off-peak hours
- be transported along a particular route

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- be transported in a particular way
  - have appropriate placards or markings attached to it while it is being transported
- (5) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—60 penalty units.

### **126D Forfeiture of seized things**

- (1) A seized thing is forfeited to the State if the authorised person who seized the thing—
- (a) can not find its owner, after making reasonable inquiries; or
  - (b) can not return it to its owner, after making reasonable efforts; or
  - (c) reasonably believes it is necessary to keep the thing to prevent it being used to commit an offence against this Act or the *Transport Infrastructure Act 1994*, chapter 14.
- (2) In applying subsection (1)—
- (a) subsection (1)(a) does not require the authorised person to make inquiries if it would be unreasonable to make inquiries to find the owner; and
  - (b) subsection (1)(b) does not require the authorised person to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- (3) If the authorised person decides it is necessary to keep something under subsection (1)(c), the authorised person must immediately give the owner a statement of the reasons for the decision and an information notice.
- (4) Subsection (3) does not apply if the authorised person can not find the owner, after making reasonable inquiries.

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- (5) Regard must be had to the thing's nature, condition and value in deciding—
- (a) whether it would be unreasonable to make inquiries or efforts under this section; and
  - (b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.

### **126E Dealing with forfeited things etc.**

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.
- (3) The chief executive must not deal with the thing until any review of, or appeal against, the decision to forfeit the thing is decided.

### **126F Return of seized things**

- (1) If a seized thing has not been forfeited, the authorised person must return it to its owner—
  - (a) at the end of 6 months after the thing is seized; or
  - (b) if a proceeding for an offence involving the thing is started within 6 months after the thing is seized, at the end of the proceeding and any appeal from the proceeding.
- (2) Despite subsection (1), unless the thing has been forfeited, the authorised person must immediately return a thing seized as evidence to its owner if the authorised person stops being satisfied its continued retention as evidence is necessary.

[s 126G]

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### **126G Access to seized things**

- (1) Until a seized thing is forfeited or returned, an authorised person must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

## **Part 3A Powers of authorised persons for dangerous goods on rail vehicles**

### **126GA Purpose of pt 3A**

- (1) The purpose of this part is to provide for further powers of authorised persons in relation to matters relating to the transport of dangerous goods.
- (2) This part does not limit other powers of an authorised person under this Act or the *Transport Infrastructure Act 1994*, chapter 14.

### **126H Power to hold or stop and hold rail vehicle**

- (1) This section applies if an authorised person reasonably believes that—
  - (a) dangerous goods are on a rail vehicle and a provision of the *Transport Infrastructure Act 1994*, chapter 14 is being contravened in relation to their transportation; and
  - (b) the interests of safety require the authorised person to stop or hold the vehicle.
- (2) The authorised person may require the railway operator for the vehicle to hold, or stop and hold, the vehicle at a stated safe place.



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- (3) Before making the requirement, the authorised person must tell the railway operator the grounds for the belief.
  - (4) For subsection (2), a place is a *safe place* if—
    - (a) the train controller tells the authorised person that it is safe, so far as other rail traffic is concerned, to stop or hold the vehicle at the place; and
    - (b) the presence of the vehicle at the place is unlikely to endanger human life or property.
  - (5) The railway operator must comply with a requirement under subsection (2), unless the railway operator has a reasonable excuse.

Maximum penalty—150 penalty units.

- (6) The train controller must give any advice asked for by the authorised person about whether it is safe, so far as other rail traffic is concerned, to stop or hold the vehicle at a place.

Maximum penalty—40 penalty units.

- (7) This section does not limit any other power under this part or part 3B.
- (8) In this section—

*train controller*, in relation to a rail vehicle, means an individual who is in control of train control signalling and communication for the section of track on which the rail vehicle is travelling or standing.

### **126HA Further powers if vehicle entered is rail vehicle**

- (1) This section applies if an authorised person has—
  - (a) entered a place under section 120 for purposes relating to the transport of dangerous goods by rail; or
  - (b) entered or boarded a vehicle under section 123, the vehicle is a rail vehicle and the entry or boarding was for purposes relating to the transport of dangerous goods by rail.

[s 126I]

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- (2) Without limiting section 124, the authorised person may do any of the following—
- (a) weigh, test or measure a thing relating to a rail vehicle, any part of a rail vehicle or equipment or load of a rail vehicle;
  - (b) check the existence or details of a placard or other information required under a dangerous goods regulation to be displayed in a rail vehicle or any load on it;
  - (c) access or download information that is required to be kept under a dangerous goods regulation and that is—
    - (i) stored electronically in equipment located at the place or in a rail vehicle; or
    - (ii) accessible electronically from equipment located at the place or in a rail vehicle.
- (3) If an authorised person exercises a power mentioned in subsection (2), the authorised person is taken to be exercising a power under section 124(1)(a) to (e) and the other provisions of section 124 apply to the exercise of that power.

*Notes for subsection (3)—*

- 1 Under section 124(1)(f), an authorised person may require a person to help exercise powers as mentioned in subsection (2) and if the person does not comply with the request the person may be prosecuted under section 124(2).
- 2 Under section 124(7), an authorised person may not enter a part of a rail vehicle used only as a living area.

## **126I Power to require rail vehicle inspection**

- (1) If an authorised person reasonably believes a rail vehicle that has been, or is being used, to transport dangerous goods may not comply with the *Transport Infrastructure Act 1994*, chapter 14, the authorised person may require its owner to have it inspected at a stated reasonable time and place.

- (2) The requirement must be made by notice in the approved form.
- (3) The owner must comply with the requirement, unless the owner has a reasonable excuse.

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

### **126J Power to prohibit use of rail vehicle**

- (1) This section applies if an authorised person reasonably believes a rail vehicle that has been used, or is being used, to transport dangerous goods does not comply with the *Transport Infrastructure Act 1994*, chapter 14.
- (2) The authorised person may, by notice in the approved form, require the owner of the vehicle not to use the vehicle, or permit it to be used, until—
  - (a) it, its equipment and any load on it are inspected at a stated reasonable place and are found to comply with the chapter; or
  - (b) stated reasonable action is taken in relation to the rail vehicle to ensure it complies with the chapter.

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

- 1 adjusting or moving a vehicle's load
  - 2 rearranging the order of rail vehicles
  - 3 carrying out stated repairs to a vehicle and then having the vehicle inspected at a stated reasonable place and found to comply with the chapter
- (3) The owner must comply with the notice, unless the owner has a reasonable excuse.

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

[s 126JA]

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### **126JA Further power for securing things seized relating to transport of dangerous goods**

- (1) If an authorised person has seized a thing that has been used in relation to the transport of dangerous goods by rail, without limiting section 126, the authorised person may make the thing inoperable.

*Example of making equipment inoperable—*

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

- (2) A person must not tamper with the equipment that has been made inoperable without an authorised person's written approval.

Maximum penalty—150 penalty units.

- (3) In this section—

*tamper* includes attempt to tamper.

### **126K Power to give remedial action notices**

- (1) This section applies if an authorised person reasonably believes a person—

- (a) has contravened a provision of the *Transport Infrastructure Act 1994*, chapter 14 in circumstances that indicate that it is likely the contravention will be repeated; or

- (b) is contravening a provision of the chapter.

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

- (3) The notice must state the following—

- (a) the provision the authorised person believes the person has contravened or is contravening;

- (b) the reasons for the belief;

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- (c) that the person must remedy the cause of the contravention within a stated reasonable time;
  - (d) if the notice is attached to a rail vehicle—a warning that it is an offence for a person to remove the notice from the vehicle until the notice is complied with, but that the person to whom the notice is given may remove the notice to immediately read it and reattach it to the vehicle.
- (4) The notice may also state the steps the authorised person reasonably believes are necessary to remedy the cause of the contravention.
  - (5) If the notice relates to a rail vehicle, the notice may be given by securely attaching it to the vehicle in a conspicuous place.
  - (6) The person must comply with the notice, unless the person has a reasonable excuse.

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

- (7) The person does not commit an offence against subsection (6) if the person is not proved to have contravened the provision mentioned in the notice as the provision the authorised person believes the person has contravened or is contravening.
- (8) A person must not remove a remedial action notice from a rail vehicle before the notice is complied with.

Maximum penalty—135 penalty units.

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

### **126KA Use of equipment to examine or process things**

- (1) An authorised person exercising a power under this part or part 3B or 3C may bring onto a rail vehicle or onto premises equipment reasonably necessary for the examination or

[s 126KB]

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processing of things found in, on or at the rail vehicle or premises to decide whether they are things that may be seized.

(2) If—

- (a) it is not practicable to examine or process the things in, on or at the rail vehicle or premises; or
- (b) the railway operator for the rail vehicle or the occupier of the premises consents in writing;

the things may be moved to another place so that the examination or processing can be carried out to decide whether they are things that may be seized.

(3) The authorised person, or a person helping the authorised person, may operate equipment already in, on or at the rail vehicle or premises to carry out the examination or processing of a thing found in, on or at the vehicle or premises to decide whether it is a thing that may be seized, if the authorised person, or a person helping the authorised person, reasonably believes that—

- (a) the equipment is suitable for the examination or the processing; and
- (b) the examination or processing can be carried out without damage to the equipment or the thing.

### **126KB Use or seizure of electronic equipment**

(1) The authorised person, or the person helping the authorised person, as mentioned in section 126KA(3) may operate the equipment mentioned in the subsection (the *equipment*) to access the information if—

- (a) a thing found in, on or at the rail vehicle or premises is, or includes, a document or thing used for the storage of information; and
- (b) the equipment may be used with the document or other thing to access information; and

[s 126KC]

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- (c) the authorised person concerned believes on reasonable grounds that the document or storage device is relevant to deciding whether an offence has been committed.
- (2) If the authorised person, or the person helping the authorised person, finds that a disk, tape or other storage device in, on or at the vehicle or premises is relevant to deciding whether an offence has been committed, he or she may—
- (a) put the information in documentary form and seize the documents so produced; or
  - (b) copy the information to another document or thing and remove that document or thing from the vehicle or premises; or
  - (c) if it is not practicable to put the information in documentary form or to copy the information—seize the document or other thing and the equipment that enables the information to be accessed.
- (3) An authorised person, or a person helping the authorised person, must not operate or seize equipment for this section unless the authorised person or person helping the authorised person reasonably believes the operation or seizure of the equipment can be carried out without damage to the equipment.

### **126KC Restoring vehicle or premises to original condition after action taken**

- (1) This section applies if—
- (a) an authorised person, or a person authorised by the authorised person, has taken action in the exercise or purported exercise of a power under section 126H, 126HA, 126I, 126J, 126JA or 126KB in relation to a vehicle or its equipment or load or in relation to any premises; and
  - (b) damage was caused by the unreasonable exercise of the power or by the use of force that was not authorised under the relevant section.

[s 126L]

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- (2) The authorised person must take reasonable steps to return the vehicle, equipment, load or premises to the condition it was in immediately before the action was taken.

## **Part 3B Powers of authorised persons for dangerous situations involving rail vehicles**

### **126L Application of part**

- (1) This part applies only if an authorised person reasonably believes a dangerous situation exists.
- (2) A *dangerous situation* is a situation involving the transportation of dangerous goods by rail that is causing, or is likely to cause, imminent risk of—
  - (a) death of, or significant injury to, a person; or
  - (b) significant harm to the environment; or
  - (c) significant damage to property.

### **126M Additional power to require information or produce document**

- (1) This section applies if an authorised person reasonably believes a person may be able to give information or produce a document that will help deal with a dangerous situation.
- (2) The authorised person may require the person to give the information or produce the document.
- (3) The person must give the information or produce the document, unless the person has a reasonable excuse.



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Maximum penalty—

- (a) if the contravention results in the death of, or grievous bodily harm to, a person—270 penalty units; or
  - (b) otherwise—135 penalty units.
- (4) The fact that giving the information or providing the document might tend to incriminate the person is not a reasonable excuse for subsection (3).
- (5) However, evidence of, or directly or indirectly derived from, the information or the production of the document that might tend to incriminate the person is not admissible in evidence against the person in a proceeding, other than a proceeding for—
- (a) an offence against section 130 or 131; or
  - (b) another offence about the falsity of the information or document.

### **126N Power to give notice about dangerous situation**

- (1) This section applies if an authorised person reasonably believes a person is in a position to take steps to prevent a dangerous situation.
- (2) The authorised person may give the person a written notice (*dangerous situation notice*) requiring the person to take the steps reasonably necessary to prevent the dangerous situation.
- (3) Without limiting subsection (2), the authorised person may require the prime contractor or consignor of dangerous goods to provide equipment and other resources necessary—
  - (a) to control the dangerous situation; or
  - (b) to contain, control, recover or dispose of the goods that have leaked, spilled or escaped; or
  - (c) to recover a vehicle involved in the situation or its equipment.

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### 126NA Dangerous situation notice

- (1) A dangerous situation notice has effect—
  - (a) when it is given to the person; or
  - (b) if the notice states a later date—on that date.
- (2) A dangerous situation notice given to a person must state the following—
  - (a) the notice is given under section 126N;
  - (b) the authorised person believes a dangerous situation exists;
  - (c) the grounds for the belief;
  - (d) if the authorised person believes the dangerous situation involves a contravention of an Act—the relevant provision of the Act;
  - (e) that the person may—
    - (i) under section 102—ask for the decision to be reviewed by the chief executive; and
    - (ii) under the *Transport and Planning Coordination Act 1994*, part 5, division 2—apply to QCAT for the decision to be stayed; and
    - (iii) under section 103—ask for the chief executive’s decision on the review (the **reviewed decision**) to be reviewed by QCAT; and
    - (iv) under the QCAT Act—apply to QCAT for the reviewed decision to be stayed;
  - (f) that it is an offence to fail to comply with a dangerous situation notice;
  - (g) the maximum penalty for the offence of failing to comply with a dangerous situation notice.
- (3) The dangerous situation notice may include a requirement about the steps to be taken to prevent the dangerous situation.
- (4) A requirement may—

- (a) offer a choice of ways to prevent the dangerous situation; and
- (b) prohibit the carrying out of an activity by stating—
  - (i) a place where the activity may not be carried out; or
  - (ii) a thing that may not be used in connection with the activity; or
  - (iii) a procedure that may not be followed in connection with the activity.

### **126NB Contravention of dangerous situation notice**

A person given a dangerous situation notice must comply with the requirements set out in the notice unless the person has a reasonable excuse for not doing so.

Maximum penalty—

- (a) if the contravention results in death or grievous bodily harm to a person—200 penalty units; or
- (b) otherwise—100 penalty units.

### **126NC Oral direction may be given before dangerous situation notice is served**

- (1) This section applies if an authorised person reasonably believes—
  - (a) a person is in a position to take steps to prevent a dangerous situation; and
  - (b) it is not reasonable or immediately possible to give a dangerous situation notice.
- (2) The authorised person may give an oral direction to the person instead of a written notice.
- (3) The oral direction must include—

[s 126ND]

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- (a) the matters mentioned in section 126NA(2)(b), (c) and (d); and
  - (b) a statement that is an offence to fail to comply with an oral direction.
- (4) The person must comply with the oral direction.
- Maximum penalty—
- (a) if the contravention results in death or grievous bodily harm to a person—200 penalty units; or
  - (b) otherwise—100 penalty units.
- (5) The oral direction must be confirmed in writing by any authorised person giving a dangerous situation notice under section 126N as soon as practicable.
- (6) The oral direction stops having effect if the dangerous situation notice is not given to the person within 5 days after the oral direction is given.
- (7) In this section—
- oral direction* includes a direction by sign or signal.

### **126ND Withdrawal of dangerous situation notice**

A dangerous situation notice may be withdrawn by an authorised person serving notice of withdrawal on the person given the dangerous situation notice.

### **126NE Proceedings for an offence not affected by dangerous situation notice**

The giving of, amendment or withdrawal of a dangerous situation notice does not affect proceedings for an offence against this part or the *Transport Infrastructure Act 1994*, chapter 14.

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**126O Power to take direct action to deal with dangerous situation**

- (1) This section applies if an authorised person reasonably believes—
  - (a) a person given a remedial action notice or dangerous situation notice has not complied with the notice; or
  - (b) having regard to the nature of the dangerous situation, action under a remedial action notice or dangerous situation notice is inappropriate to deal with the dangerous situation.
- (2) The authorised person may take the action the authorised person reasonably believes is necessary to deal with the dangerous situation.
- (3) The action the authorised person may take includes asking someone the authorised person reasonably believes has appropriate knowledge and experience to help the authorised person deal with the dangerous situation.
- (4) If the person agrees to help, the person is taken to have the powers of an authorised person to the extent reasonably necessary for the person to help deal with the dangerous situation.
- (5) A rail vehicle can not be stopped or held under this section.

**Part 3C Goods too dangerous to be transported**

**126OA Application of Act to goods too dangerous to be transported**

- (1) Unless otherwise provided, provisions of this Act relating to dangerous goods also apply in relation to goods too dangerous to be transported.



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**127 Power to require name, address and age**

- (1) An authorised person may require a person to state the person's name and address if the authorised person—
  - (a) finds the person committing a relevant offence; or
  - (b) finds the person in circumstances that lead, or has information that leads, the authorised person to reasonably suspect that the person has just committed a relevant offence.
- (2) The authorised person may also require the person to state the person's age if the authorised person reasonably suspects that the person's age is required for the enforcement of relevant transport legislation.
- (3) When making the requirement, the authorised person must warn the person that it is an offence to fail to state the person's name and address and, if relevant, age unless the person has a reasonable excuse.
- (4) The authorised person may require the person to give evidence of the correctness of the person's stated name, address or age if the authorised person reasonably suspects that the stated name, address or age is false.
- (5) A person must comply with the authorised person's requirement under subsection (1), (2) or (4), unless the person has a reasonable excuse.  
Maximum penalty—40 penalty units.
- (6) A person does not commit an offence against this section if—
  - (a) the person was required to state the person's name, address or age by an authorised person who suspected the person had committed a relevant offence; and
  - (b) the person is not proved to have committed the offence.

**128 Power to require information from certain persons**

- (1) This section applies if an authorised person reasonably suspects—

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- (a) a relevant offence has been committed; and
  - (b) the offence relates to the construction, operation, maintenance or repair of a public passenger vehicle or a railway; and
  - (c) a person may be able to give information about the offence.
- (2) The authorised person may require the person to give information about the offence.
- (2A) Also, the authorised person may, by written notice, require the person to attend the office of the authorised person at a stated reasonable time to give the information.
- (3) When making a requirement under subsection (2) or (2A), the authorised person must warn the person it is an offence to fail to give the information or attend at the time and place stated in the notice unless the person has a reasonable excuse.
- (4) The person must comply with a requirement under subsection (2) or (2A), unless the person has a reasonable excuse for not complying with it.
- Maximum penalty—40 penalty units.
- (5) It is a reasonable excuse for the person to fail to give information if giving it might tend to incriminate the person.
- (6) The person does not commit an offence against this section if the information sought by the authorised person is not in fact relevant to the offence.

## **129 Power to require production of certain documents**

- (1) An authorised person may require a person who holds, or claims to hold, an accreditation, authorisation, licence or contract under this Act to produce either or both of the following—
- (a) the accreditation, authorisation, licence or contract;
  - (b) photographic identification issued in official form in or outside Australia.



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- (2) An authorised person may require a person to produce for inspection a document issued, or required to be kept, under the *Transport Infrastructure Act 1994*, chapter 14 or a law of another State or the Commonwealth about transporting dangerous goods by rail.
  - (3) The person must comply with the requirement under subsection (1) or (2), unless the person has a reasonable excuse.  
Maximum penalty—60 penalty units.
  - (4) The authorised person may keep the document to copy it.
  - (5) If the authorised person copies it, the authorised person may ask the person responsible for keeping the document to certify the copy as a true copy of the document.
  - (6) The authorised person must return the document to the person as soon as practicable after copying it.

## **Part 4A                      Functions and powers of transit officer for protecting safety of persons or property**

### **Division 1                      Powers to detain a person**

#### **129A    Power to detain person who has committed a detainable offence**

- (1) This section applies if a transit officer reasonably believes a person on or in public transport infrastructure has committed a detainable offence on or in the public transport infrastructure.
- (2) The transit officer may detain the person, using force that is reasonably necessary for the purpose, until the person can be delivered to a police officer.

## **129B Power to detain person to prevent continuation of detainable offence**

- (1) This section applies if a transit officer—
- (a) finds a person on or in public transport infrastructure committing a detainable offence; and
  - (b) reasonably believes that it is necessary to detain the person because of circumstances mentioned in subsection (2).
- (2) For subsection (1)(b), the circumstances are—
- (a) the person has been given a direction to leave the public transport infrastructure under this Act, and has failed to comply with the direction; or
  - (b) the person’s conduct will, or is likely to, result in—
    - (i) bodily or other harm to the person or another person on or in the public transport infrastructure; or
    - (ii) damage to property on or in the public transport infrastructure; or
  - (c) it is likely that, if the person were given a direction to leave the public transport infrastructure under this Act, the person will repeat the offence or commit a similar offence on or in other public transport infrastructure immediately or soon after complying with the direction; or
  - (d) having regard to the nature of the person’s conduct, the person is unlikely to comply with a direction to leave the public transport infrastructure under this Act.

*Examples of when paragraph (d) may apply—*

- 1 A person on or in public transport infrastructure is acting in a way that suggests the person is uncontrollable.
- 2 Two or more persons on or in public transport infrastructure are engaged in an intense struggle and are unlikely to hear or register a direction to leave.

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- (3) The transit officer may detain the person, using force that is reasonably necessary for the purpose, until the person can be delivered to a police officer.

### **129C Power to detain person to prevent contravention of exclusion order**

- (1) This section applies if—
  - (a) a person is given a direction under section 143AHB in relation to public transport infrastructure for the purpose of stopping or preventing the person from contravening an exclusion order; and
  - (b) a transit officer finds the person on or in, or about to enter, the public transport infrastructure.
- (2) The transit officer may detain the person, using force that is reasonably necessary for the purpose, until the person can be delivered to a police officer.

## **Division 2 Provisions about detaining persons generally**

### **129D Handcuffs may be used for detaining person**

- (1) A transit officer may use handcuffs to detain a person under division 1 only if the transit officer reasonably believes the use of handcuffs is the only practicable way to properly effect the detention.

*Note—*

Under section 129V, the transit officer must follow the guidelines forming part of transit officer training that provide for how to decide whether using handcuffs is the only practicable way to detain a person and, if so, appropriate ways of using handcuffs.

- (2) The *Weapons Act 1990*, section 67 does not apply to a transit officer who acquires or possesses handcuffs for exercising a power under this part.

*Editor's note—*

See also the *Weapons Regulation 1996*, section 80.

## **129E Period of detention**

- (1) A transit officer who detains a person under this part must immediately contact a police officer (*contacted police officer*) to arrange for the delivery of the person to a police officer.
- (2) If the contacted police officer asks the transit officer to take the person to a police officer, the transit officer must take the person to that police officer as soon as possible.
- (3) If the contacted police officer tells the transit officer to release the person from the detention, the transit officer must release the person immediately.
- (4) If subsection (2) or (3) does not apply, the transit officer may detain the person at the place where the detention started, or at another place set aside by the chief executive for the purpose, until a police officer arrives to deal with the person.

*Examples for subsection (4)—*

- 1 A person detained at a train station may continue to be detained at the train station until a police officer arrives to deal with the person.
  - 2 A person detained on a train may be moved from the train to a train station and detained at the train station until a police officer arrives to deal with the person.
- (5) In detaining a child under this part, the transit officer must ensure the child is detained for the shortest period that is justified in the circumstances.

## **129F Information to be given to detained person**

- (1) A transit officer who detains a person under this part must, as soon as reasonably practicable, tell the person that the person is being detained under this part and the nature of the person's conduct for which the person is detained.

- (2) Before, or immediately after, the detained person is delivered to a police officer or released under section 129E, the transit officer must give the person a written report for the detention.

### **129G Written report to be given to police officer**

- (1) This section applies if a transit officer who detains a person under this part delivers the person to a police officer under section 129E.
- (2) The transit officer must give a written report for the detention to the police officer when, or immediately after, the delivery.

### **129H Written report to be given to chief executive**

A transit officer who detains a person under this part must give a written report for the detention to the chief executive as soon as reasonably practicable after the person is delivered to a police officer or released under section 129E.

### **129I Requirements for written report given under this division**

- (1) This section states the requirements for a written report for a detention under this part of a person (the *detained person*) that is required to be given under this division.
- (2) The written report must include all of the following information—
  - (a) the transit officer's name;
  - (b) the address of the place the transit officer receives instructions from, or reports to, on the day the detention happened;
  - (c) if known by the transit officer, the name, address, age and date of birth of the detained person;
  - (d) details of the conduct of the detained person that led to the detention, including—

[s 129I]

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- (i) details of any direction that has been given to the detained person that is relevant to the detained person's conduct; and
  - (ii) any other matters the transit officer considered in deciding to detain the person;
- (e) details of any evidence of the detained person's conduct mentioned in paragraph (d);
- (f) if the detained person is a child or a person with impaired capacity, the details of any action taken under division 3 by the transit officer in relation to the detained person;
- (g) when and where the detained person was first detained;
- (h) each place to which the person was taken during the detention, and the time spent at each place;
- (i) any event or consideration that affected the length of the detention;
- (j) if the detained person is delivered to a police officer under section 129E—
  - (i) the name and rank of the police officer; and
  - (ii) when the detained person was delivered to the police officer; and
  - (iii) if the detained person was transported to the police officer—how the person was transported to the police officer;
- (k) if the detained person is released from the detention under section 129E—
  - (i) the name and rank of the police officer who told the transit officer to release the person; and
  - (ii) when the detained person was released from the detention; and

- (l) details of any physical injury suffered by the detained person, or damage caused to the person's property, during the detention;
- (m) whether the transit officer exercised a power under section 129O in relation to the detained person and, if so—
  - (i) the reason for exercising the power; and
  - (ii) when and where the power was exercised; and
  - (iii) whether the exercise of the power required the removal of an outer garment worn by the detained person or a frisk search of the detained person;
- (n) whether, under section 129T, the transit officer took and retained an article and, if so, a description of the article.

### **129J Restrictions on questioning detained person**

A transit officer must not while a person is being detained under this part—

- (a) question the person about the person's involvement in the detainable offence in relation to which the person is detained; or
- (b) in any way encourage, or provide an incentive for, the person to make a statement of any kind about the person's involvement in the detainable offence in relation to which the person is detained.

[s 129K]

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## **Division 3**                      **Additional provisions about detaining children or persons with impaired capacity**

### **129K Limitation on detaining child**

In deciding whether to detain a child under this part, the transit officer must have regard to the need to ensure that detention is used only as a last resort.

### **129L Responsible person to be notified of detention**

- (1) This section applies if—
  - (a) under this part, a transit officer detains a child or a person with an impaired capacity; and
  - (b) the child's or person's name is known to the transit officer.
- (2) The transit officer must, as soon as practicable, advise the responsible person for the child or person of the following—
  - (a) if the officer is detaining the child or person at a place until a police officer arrives—the detention and the place where the child or person is being detained;
  - (b) if the transit officer is taking the child or person to a police officer—the name and location of the police officer to whom the child or person is being taken.
- (3) Subsection (2) does not apply in relation to a child if the transit officer believes on reasonable grounds the child is an adult.
- (4) In deciding whether the transit officer had reasonable grounds, a court may have regard to the child's apparent age and the circumstances of the detention.
- (5) In this section—

***responsible person*** means—



- (a) for a child—
  - (i) the child’s parent or guardian; or
  - (ii) a person who has lawful custody of the child; or
  - (iii) a person who has the day-to-day care and control of the child; or
  - (iv) an adult relative or friend acceptable to the child; or
- (b) for a person with an impaired capacity—a guardian appointed for the person under the *Guardianship and Administration Act 2000*.

**129M Giving warning etc. to child or person with impaired capacity**

- (1) This section applies if, under this part, a transit officer gives a child or a person with an impaired capacity—
  - (a) a warning; or
  - (b) an opportunity to leave public transport infrastructure.
- (2) The transit officer must take reasonable steps to ensure the child or person understands the purpose, nature and effect of the warning or opportunity to leave.
- (3) The steps that can be taken include, for example—
  - (a) personally explaining the matters to the child or person; and
  - (b) having an interpreter or other person able to communicate effectively with the child or person give the explanation; and
  - (c) supplying an explanatory note in English or another language.

[s 129N]

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### **129N Nature of detention for child or person with impaired capacity**

- (1) This section applies if, under this part, a transit officer detains a child or a person with an impaired capacity.
- (2) In deciding how and where to detain the child or person, or how to transport the child or person to a police officer, the transit officer must have regard to the following—
  - (a) the need to keep the child or person safe and promote the child's or person's physical and mental wellbeing;
  - (b) the need to treat the child or person with respect and dignity;
  - (c) the child's or person's age, maturity, capacity and, if appropriate, cultural and religious beliefs and practices;
  - (d) the need to ensure the child or person is detained for the least time that is justified in the circumstances.

## **Division 4 Additional powers after person detained**

### **129O Power to require detained person to remove outer garment etc.**

- (1) This section applies if a transit officer who has detained a person under this part reasonably suspects the person is carrying an article that could, or could be used to, cause harm to the person or someone else.
- (2) The transit officer may direct the person to do 1 or more of the following—
  - (a) allow the officer to inspect the person's belongings;
  - (b) remove 1 or more outer garments worn by the person as specified by the officer and allow the officer to inspect the garments;

- (c) remove all articles from the person's clothing and allow the officer to inspect them;
  - (d) allow the officer to frisk search the person.
- (3) In this section—

*inspect*, an article, includes handle the article, open it and examine its contents.

### **129P Limits on directing removal of outer garment worn by detained person generally**

- (1) A transit officer may direct a person to remove an outer garment under this division only if the officer—
- (a) considers on reasonable grounds the person is wearing an outer garment and a proper examination of the person and garment can not be carried out unless the outer garment is removed; and
  - (b) considers on reasonable grounds that the removal of the outer garment will not result in the person being in a state of undress; and
  - (c) specifies the outer garment to be removed; and
  - (d) if practicable, ensures the person's compliance with the direction is carried out in an area or place that is out of view of members of the general public and that the officer considers, on reasonable grounds, provides suitable personal privacy to the person; and
  - (e) tells the person that even if the person removes the outer garment specified by the officer and allows the officer to examine the outer garment, the person may or may not be examined further.
- (2) In this section—

*state of undress*, for a person, means—

- (a) the person is naked or the person's genital or anal region is bare or, if the person is female, the person's breasts are bare; or

[s 129Q]

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- (b) the person is wearing only underwear; or
- (c) the person is wearing only some outer garments so that some of the person's underwear is not covered by an outer garment.

**129Q Limit on directing removal of outer garment worn by detained person who is a child or person with impaired capacity**

- (1) This section applies if a transit officer gives a direction to remove an outer garment under this division to a child, or a person with impaired capacity, who may not be able to understand the purpose of the direction.
- (2) The transit officer must not permit the child or person to remove the outer garment other than in the presence of—
  - (a) if a responsible person for the child or person is at or in the immediate vicinity of the place where the outer garment is to be removed—the responsible person; or
  - (b) otherwise—another authorised person.
- (3) In this section—

***responsible person*** means—

  - (a) for a child—
    - (i) the child's parent or guardian; or
    - (ii) a person who has lawful custody of the child; or
    - (iii) a person who has the day-to-day care and control of the child; or
    - (iv) an adult relative or friend acceptable to the child; or
  - (b) for a person with an impaired capacity—a guardian appointed for the person under the *Guardianship and Administration Act 2000* or an adult relative or friend acceptable to the person.

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**129R Limits on frisk searching detained person generally**

- (1) A transit officer may frisk search a person only if—
  - (a) the officer is the same sex as the person; and
  - (b) the officer—
    - (i) tells the person that the person has the right to request the frisk search be carried out in an area or place that is, if practicable, out of view of members of the general public and that the officer considers, on reasonable grounds, provides suitable personal privacy to the person; and
    - (ii) takes the person to the area or place, if the person requests the officer to do so.
- (2) A transit officer who frisk searches a person must—
  - (a) ensure, as far as reasonably practicable, the way the person is searched causes minimal embarrassment to the person; and
  - (b) take reasonable care to protect the dignity of the person.

**129S Limits on frisk searching detained person who is a child or person with impaired capacity**

- (1) This section applies if a transit officer frisk searches a child, or a person with impaired capacity, who may not be able to understand the purpose of the search.
- (2) The transit officer must conduct the frisk search in the presence of—
  - (a) if a responsible person for the child or person is at or in the immediate vicinity of the place where the frisk search is to be conducted—the responsible person; or
  - (b) otherwise—another authorised person.
- (3) In this section—

*responsible person* means—

[s 129T]

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- (a) for a child—
  - (i) the child’s parent or guardian; or
  - (ii) a person who has lawful custody of the child; or
  - (iii) a person who has the day-to-day care and control of the child; or
  - (iv) an adult relative or friend acceptable to the child; or
- (b) for a person with an impaired capacity—a guardian appointed for the person under the *Guardianship and Administration Act 2000* or an adult relative or friend acceptable to the person.

### **129T Power to take and retain particular articles**

- (1) This section applies if a transit officer acting under section 129O in relation to a person finds an article that may cause harm to the person or someone else.
- (2) The transit officer may take and retain the article while the person is being detained under this part.
- (3) The transit officer must give the article to the police officer to whom the person is delivered under this part.

*Note—*

For return of the article, see the *Police Powers and Responsibilities Act 2000*, chapter 21, part 3 (Dealing with things in the possession of police service).

## **Division 5                      Recording details of exercise of powers under this part**

### **129U Chief executive must maintain a register of detentions**

- (1) The chief executive must keep a register of detentions under this part.

- (2) The chief executive must—
  - (a) include each written report given to the chief executive under section 129H in the register; and
  - (b) keep the report in the register for 5 years after the detention to which the report relates.
- (3) At any time within 3 years after a person is detained under this part, the person may ask the chief executive to give the person a copy of the written report of the detention.
- (4) The chief executive must comply with the request as soon as reasonably practicable.

## **Division 6                      Other provisions about functions and powers under this part**

### **129V Guidelines must be followed**

A transit officer performing a function or exercising a power under this part must follow the guidelines forming part of transit officer training.

### **129W Application of juvenile justice principles**

- (1) A transit officer performing a function or exercising a power under this part in relation to a child must, in performing the function or exercising the power, have regard to the juvenile justice principles under the *Juvenile Justice Act 1992*.
- (2) Subsection (1) does not limit any provision of this part that specifically provides for the application of a principle mentioned in the *Juvenile Justice Act 1992*, schedule 1.

### **129X Transit officer must not fail to comply with this part**

- (1) A transit officer must not knowingly fail to comply with this part without a reasonable excuse.

[s 129Y]

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*Note—*

The transit officer's appointment may also be revoked under section 113G.

Maximum penalty—60 penalty units.

- (2) To remove any doubt, it is declared that a purported exercise of a power under this part in contravention of this part is unlawful.

## **Part 4B Powers of court to make exclusion orders for protecting the public or property**

### **129Y Definition for pt 4B**

In this part—

*transport indictable offence* means an indictable offence, including an indictable offence dealt with summarily, committed on or in public transport infrastructure.

### **129Z What is an *exclusion order***

An *exclusion order* is an order that—

- (a) prohibits a person from using the public transport network for a period of not more than 2 years; or
- (b) restricts, for a period of not more 2 years, a person's use of the public transport network in 1 or more of the following ways—
  - (i) restricting the general route services or public transport infrastructure the person may use;
  - (ii) restricting the days, or the times or periods of a day, when the person may use the public transport network;



*Examples—*

- restricting the use of the public transport network to during the day only
  - restricting the use of the public transport network to weekdays only
- (iii) restricting the purpose for which the person may use the public transport network.

*Examples—*

- restricting the use of the public transport network to travel to and from work or an educational institution
- restricting the use of the public transport network to travel to and from a hospital or another place providing medical treatment

## **129ZA Court may make exclusion order**

(1) This section—

- (a) applies to a court convicting a person of a relevant offence or transport indictable offence (each an *exclusion order offence*); and
- (b) provides for the making of an exclusion order in sentencing the person under the *Penalties and Sentences Act 1992* or, if the person is a child, the *Juvenile Justice Act 1992*.

*Note—*

The *Penalties and Sentences Act 1992*, section 9(1) provides for the only purposes for which a sentence may be imposed on a person.

(2) In addition to any sentence a court may make in relation to a person the court is convicting for a relevant offence, the court may make an exclusion order in relation to the person if—

- (a) the person has been convicted of an exclusion order offence—
  - (i) at least 1 other time during the last 12 months; or

[s 129ZB]

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- (ii) at least 2 other times during the last 18 months;  
and
- (b) the court is satisfied that, unless the order is made, the person would pose an unacceptable risk to—
  - (i) the good order or management of the public transport network; or
  - (ii) the safety and welfare of persons using the public transport network.
- (3) In addition to any sentence a court may make in relation to a person the court is convicting for a transport indictable offence, the court may make an exclusion order in relation to the person if the court is satisfied that, unless the order is made, the person would pose an unacceptable risk to—
  - (a) the good order or management of the public transport network; or
  - (b) the safety and welfare of persons using the public transport network.

### **129ZB Matters court must consider in deciding whether to make exclusion order**

- (1) A court considering whether or not to make, or the terms of, an exclusion order in relation to a person must have regard to the following—
  - (a) the matters to which the court must have regard when sentencing the person under the *Penalties and Sentences Act 1992* or, if the person is a child, the *Juvenile Justice Act 1992*;
  - (aa) whether the person is subject to a civil banning order;
  - (b) whether the making of the order is likely to cause undue hardship to the person or the person's family—
    - (i) by depriving the person of the person's means of earning a living; or

- (ii) in another way, including, for example, by depriving the person of the ability—
    - (A) to study; or
    - (B) to maintain the person's health or the health of a member of the person's family;
  - (c) the effect the order would have on the person's safety and wellbeing, having regard to the person's age and any physical, intellectual or psychiatric disability.
- (2) This section does not limit the matters to which the court may have regard in considering whether or not to make, or the terms of, an exclusion order under this part in relation to a person.

*Note—*

See, for example, the *Penalties and Sentences Act 1992*, section 189 which allows the court to consider, in particular circumstances, offences a person may have committed but for which the person has not been convicted.

### **129ZC Exclusion order to be explained if person before the court**

- (1) If the person in relation to whom a court is making an exclusion order is before the court, the court must explain the following things to the person in a way the court is reasonably satisfied the person will understand them—
- (a) the purpose, terms and effect of the proposed exclusion order;
  - (b) what may happen if the person does not comply with the proposed exclusion order, including, for example, that the person may be detained under part 4A;
  - (c) that the person may apply for a variation of the order under section 129ZF.
- (1A) If the person (the *relevant person*) in relation to whom a court made an exclusion order did not appear before the court when the court made the order, before serving the order on the

[s 129ZD]

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person, the person serving the order must explain, or cause to be explained, to the relevant person—

- (a) the purpose, terms and effect of the exclusion order; and
- (b) the consequences of contravening the exclusion order; and
- (c) that the exclusion order may be varied or revoked on the application of the relevant person or an authorised person.

- (2) The process that a court adopts to explain things mentioned in subsection (1) may include using services of, or help from, other people to the extent the court considers appropriate.

*Examples of services or help the court may consider appropriate—*

- 1 The court may arrange for the court's proper officer or a public service employee at the court, to explain the exclusion order to a person.
- 2 A local interpreter or the telephone interpreter service may be used to explain the order to the person.
- 3 Explanatory notes, including explanatory notes prepared for non-English speakers, may be given to the person.
- 4 The court may arrange with a community government under the *Local Government (Community Government Areas) Act 2004*, an indigenous regional council under the *Local Government Act 1993*, a community justice group or group of elders for someone to explain the order to the person.

- (3) Failure to comply with this section does not affect the validity of the exclusion order.

### **129ZD Amendment or revocation of exclusion order generally**

- (1) The following persons may apply, in the approved form, to amend or revoke an exclusion order—
  - (a) a prosecutor;
  - (b) the person to whom the order applies.

- (2) However, the person to whom the exclusion order applies can not apply for an amendment or revocation under this section within 3 months after the order was made.

*Note—*

However, section 129ZF provides for applications by the person to whom an exclusion order applies for variations of particular restrictions under the order if the person's personal circumstances change.

- (3) The application—
- (a) may be made only to a court of equivalent jurisdiction to the court in which the exclusion order was made; and
  - (b) may be made to a court convicting the person to whom the exclusion order applies of a relevant offence or transport indictable offence committed before or after the order was made.
- (4) The applicant must give a copy of the application to—
- (a) if the applicant is a prosecutor—
    - (i) the person to whom the exclusion order applies; and
    - (ii) the chief executive; or
  - (b) if the applicant is the person to whom the exclusion order applies—
    - (i) the prosecuting authority; and
    - (ii) the chief executive.
- (5) The applicant must give the copy at least 21 days before the day on which the application is to be heard.
- (6) The prosecutor and person to whom the exclusion order applies are each entitled to be heard at the hearing of an application.
- (7) A court may amend or revoke the exclusion order only if satisfied there has been a material change in the circumstances of the person to whom the order applies that justifies the amendment or revocation.

[s 129ZE]

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(8) In this section—

*prosecuting authority* means—

- (a) if the prosecutor who appeared before the court when the exclusion order was made was a Crown prosecutor—the director of public prosecutions, or someone authorised to accept the application on the director’s behalf; or
- (b) if the prosecutor who appeared before the court when the exclusion order was made was someone other than a Crown prosecutor—the commissioner of the police service, or someone authorised to accept the application on the commissioner’s behalf.

### **129ZE Order to be given to interested persons**

- (1) A proper officer of the court that makes, amends or revokes an exclusion order in relation to a person must as soon as possible—
  - (a) reduce the order to writing in the approved form; and
  - (b) cause a copy of the order to be given or sent to—
    - (i) the person; and
    - (ii) if the prosecutor who appeared before the court when the order was made was a Crown prosecutor—the director of public prosecutions, or someone authorised to accept the order of the director’s behalf; and
    - (iii) the commissioner of the police service, or someone authorised to accept the order on the commissioner’s behalf; and
    - (iv) the chief executive.
- (2) Without limiting subsection (1)(a), an exclusion order made under this part in relation to a person must state the following—
  - (a) the name of the person;

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- (b) the period for which the order applies;
  - (c) the prohibitions or restrictions that the order imposes.
- (3) Failure to comply with this section does not affect the validity of the exclusion order.

### **129ZF Amendment of exclusion order that restricts access for changes in personal circumstances**

- (1) This section applies if—
- (a) a court makes, in relation to a person, an exclusion order that restricts the person's use of the public transport network on the basis of particular personal circumstances of the person; and
  - (b) the personal circumstances have changed.

*Example—*

A court makes an exclusion order in relation to a person that restricts the person's use of the public transport network to only permit travel to and from a place of work, and the person's place of work changes.

- (2) The person may apply to a court of equivalent jurisdiction to the court in which the exclusion order was made for an order (an *exclusion variation order*) to vary the restrictions that, under the exclusion order, apply to the person's use of the public transport network.
- (3) An application for an exclusion variation order must—
- (a) be in the approved form; and
  - (b) be accompanied by—
    - (i) an affidavit made by the person outlining why the variation mentioned in the application is necessary; and
    - (ii) the information, or details of the information, the applicant intends to rely on for the application.
- (4) Subsection (3) does not prevent the applicant from producing further evidence at the hearing of the application.

[s 129ZG]

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- (5) A court to which an application for an exclusion variation order is made may vary the restrictions applying under the exclusion order only if the court—
  - (a) has had regard to—
    - (i) the restrictions and the matters mentioned in section 129ZB; and
    - (ii) whether the applicant has contravened the exclusion order other than in circumstances mentioned in section 129ZG(2); and
  - (b) considers the justice of the case requires it to vary the restrictions.
- (6) An exclusion variation order must state the restrictions, as varied, that are to apply to the applicant's use of the public transport network for the remainder of the period for which the exclusion order applies in relation to the applicant.
- (7) A proper officer of the court that makes an exclusion variation order in relation to a person must as soon as possible—
  - (a) reduce the order to writing in the approved form; and
  - (b) cause a copy of the order to be given or sent to each person mentioned in section 129ZE(1)(b).
- (8) Failure to comply with subsection (6) or (7) does not affect the validity of the exclusion variation order.

### **129ZG Offence to contravene exclusion order**

- (1) A person to whom an exclusion order applies must not contravene the order, unless the person has a reasonable excuse.  

Maximum penalty—40 penalty units or 6 months imprisonment.
- (2) Without limiting what may constitute a reasonable excuse for subsection (1), it is a reasonable excuse for a person to contravene an exclusion order applying to the person—



- (a) if, when the contravention happened, the person was not aware, and was reasonably not aware, that the order had been made; or
- (b) if the person is contravening the exclusion order because of an emergency; or
- (c) if—
  - (i) the person has applied for an exclusion variation order under section 129ZF; and
  - (ii) the court has not decided the application; and
  - (iii) the contravention of the exclusion order relates reasonably to the changed circumstances in relation to which the exclusion variation order is sought.

*Example for paragraph (c)—*

A person to whom an exclusion order applies has a reasonable excuse if—

- (a) the person has applied for a variation of the exclusion order because—
    - (i) it restricts the person's use of the public transport network to only permit travel to and from the person's place of work; and
    - (ii) the person's place of work has changed; and
  - (b) the person uses the public transport network, in contravention of the exclusion order, to travel to and from the new place of work while the court is considering the application.
- (3) If a court that convicts a person of an offence against subsection (1) is of equivalent jurisdiction to the court that made the exclusion order, the court may, in addition to or instead of sentencing the person under subsection (1), amend the order.

## **Part 4C**                      **Powers of court to make civil banning orders for protecting the public or property**

### **Division 1**                      **Preliminary**

#### **129ZH Definitions for pt 4C**

In this part—

*act of violence* includes an attempted or threatened act of violence.

*authorised person* means—

- (a) the chief executive; or
- (b) a police officer.

*civil banning order* see section 129ZJ(1).

*interim civil banning order* see section 129ZP(2).

*respondent* see section 129ZJ(1).

#### **129ZI Purpose of pt 4C**

The purpose of this part is to provide for the making of civil banning orders to help—

- (a) ensure the safety and security of persons using the public transport network; and
- (b) preserve the amenity and condition of the public transport network; and
- (c) protect revenue from the public transport network.

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## Division 2                      Orders

### 129ZJ What is a *civil banning order*

(1) A *civil banning order* is an order made in relation to a person who is an adult (the *respondent*) that prohibits the respondent, until a stated date, from doing, or attempting to do, any of the following—

- (a) using the public transport network for a period of not more than 12 months; or
- (b) restricting, for a period of not more than 12 months, a person's use of the public transport network in 1 or more of the following ways—
  - (i) restricting the general route services or public transport infrastructure the person may use;
  - (ii) restricting the days, or the times or periods of a day, when the person may use the public transport network;

*Examples—*

- restricting the use of the public transport network to during the day only
  - restricting the use of the public transport network to weekdays only
- (iii) restricting the purpose for which the person may use the public transport network.

*Examples—*

- restricting the use of the public transport network to travel to and from work or an educational institution
  - restricting the use of the public transport network to travel to and from a hospital or another place providing medical treatment
- (2) The stated date in the civil banning order must be a date no later than 12 months after—

[s 129ZK]

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- (a) if an interim civil banning order is made—the day on which the interim civil banning order is made; or
  - (b) otherwise—the day on which the civil banning order is made.
- (3) A civil banning order takes effect—
- (a) if the respondent or a legal or other representative of the respondent is present at the hearing of the application—when it is made; or
  - (b) otherwise—when the order is served on the respondent.

### **129ZK Who may apply for a civil banning order**

An authorised person may apply to a Magistrates Court for a civil banning order to be made in relation to a respondent.

### **129ZL Application for a civil banning order**

- (1) An application for a civil banning order in relation to a respondent must state the following—
- (a) the name of the respondent;
  - (b) the details of the order sought;
  - (c) the information necessary to satisfy the court of the matters mentioned in section 129ZO(1) or (2);
  - (d) the details of any previous application for a civil banning order for the respondent and the outcome of the application;
  - (e) that affidavits in response to the application may be filed under section 129ZM;
  - (f) that the application may, under section 129ZN(2), be decided in the respondent's absence.
- (2) The application must be accompanied by any affidavit the authorised person intends to rely on at the hearing of the application.

- (3) The application, with any accompanying affidavit, must be—
  - (a) filed in the court; and
  - (b) served on the respondent within 10 business days after being filed.

### **129ZM Response by respondent**

- (1) The respondent may file affidavits to be relied on by the respondent for the hearing of the application.
- (2) The respondent must file the affidavits within 28 business days after the day the application is filed.

### **129ZN Hearing of application**

- (1) If a respondent appears before the court that is to hear and decide an application for a civil banning order, the court may—
  - (a) hear and decide the application; or
  - (b) adjourn the application, whether or not it makes an interim civil banning order; or
  - (c) dismiss the application.
- (2) If a respondent fails to appear before the court that is to hear and decide the application for a civil banning order and the court is satisfied that a copy of the application has been served on the respondent, the court may—
  - (a) proceed to hear and decide the application in the absence of the respondent; or
  - (b) adjourn the application, whether or not it makes an interim civil banning order; or
  - (c) dismiss the application.

### **129ZO Making a civil banning order**

- (1) The court may make a civil banning order for a respondent if satisfied—
  - (a) within 12 months before the date of the application for the civil banning order—
    - (i) the respondent committed a relevant act of violence; or
    - (ii) the respondent has been served 10 or more infringement notices for a relevant offence or relevant offences; and
  - (b) if paragraph (a)(ii) applies, the infringement notices have been dealt with under the *State Penalties Enforcement Act 1999*, part 3; and
  - (c) unless the order is made, the respondent would pose an unacceptable risk to—
    - (i) the good order or management of the public transport network; or
    - (ii) the safety and welfare of persons using the public transport network.
- (2) In considering whether to make, or the terms of, the order, the court must have regard to all of the circumstances of the case, including the following—
  - (a) whether the respondent is, or has been, subject to another civil banning order;
  - (b) whether the respondent is subject to a condition, relating to the use of the public transport network, under the *Bail Act 1980*, section 11;
  - (c) whether the respondent, or any other person, was charged with an offence arising out of the act of violence mentioned in subsection (1)(a)(i) and the result of any proceeding in relation to the charge;
  - (d) whether the respondent, or any other person, was charged with an offence arising out of a relevant offence

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- mentioned in subsection (1)(a)(ii) and the result of any proceeding in relation to the charge;
- (e) whether the respondent is subject to an exclusion order;
  - (f) the respondent's criminal history;
  - (g) whether the making of the order is likely to cause undue hardship to the respondent or the respondent's family—
    - (i) by depriving the respondent of the respondent's way of earning a living; or
    - (ii) in another way, including, for example, by depriving the respondent of the ability—
      - (A) to study; or
      - (B) to maintain the respondent's health or the health of a member of the respondent's family;
  - (h) the effect the order would have on the respondent's safety and wellbeing, having regard to the respondent's age and any physical, intellectual or psychiatric disability;
  - (i) any other of the respondent's personal circumstances and the likely effect of the order on those circumstances.
- (3) This section does not limit the matters to which the court may have regard in considering whether or not to make, or the terms of, a civil banning order under this part in relation to a person.
- (4) The court may impose any conditions it considers necessary on a civil banning order.
- (5) The court may make a civil banning order whether or not the respondent has been charged with, convicted of, acquitted of, or sentenced for an offence arising out of the act of violence mentioned in subsection (1)(a)(i).
- (6) For subsection (7), definition *dealt with*, a reference in the *State Penalties Enforcement Act 1999*, part 3 to an alleged offender is taken to be a reference to the respondent.

[s 129ZP]

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(7) In this section—

***dealt with***, for an infringement notice for a relevant offence served on a respondent, means one of the following has happened under the *State Penalties Enforcement Act 1999*, part 3—

- (a) the respondent has paid the fine for the infringement notice in full;
- (b) the respondent has elected to have the matter of the relevant offence dealt with by a Magistrates Court and the matter has been finally decided against the respondent;
- (c) the respondent has applied for approval to pay the fine for the infringement notice by instalments;
- (d) the respondent's liability under the infringement notice has otherwise been discharged against the respondent under that Act, other than having been withdrawn under section 28, or cancelled under section 30, of that Act.

***relevant act of violence*** means an act of violence—

- (a) committed by a person on the public transport network, against another person or property, without a reasonable excuse; and
- (b) of a nature that would cause a person on public transport infrastructure to reasonably fear bodily harm to any person or damage to property.

### **129ZP Interim civil banning order**

- (1) This section applies if an authorised person has made an application, under section 129ZL, for a civil banning order for a respondent.
- (2) The authorised person may apply to a Magistrates Court for an order (an ***interim civil banning order***) for the respondent to be in force until—



- (a) the court finally decides the application for the civil banning order; or
  - (b) the application for the civil banning order otherwise ends.
- (3) The application for the interim civil banning order must state—
  - (a) the information necessary to satisfy the court of the matters mentioned in subsection (7); and
  - (b) that affidavits in response to the application may be filed under subsection (5); and
  - (c) that the application may, under subsection (8), be decided in the respondent's absence.
- (4) The application, with any accompanying affidavit, must be—
  - (a) filed in the court; and
  - (b) served on the respondent within 5 business days after being filed.
- (5) The respondent may file affidavits to be relied on by the respondent for the hearing of the application.
- (6) The respondent must file the affidavits within 15 business days after the day the application is filed.
- (7) The court may make the interim civil banning order if the court is satisfied—
  - (a) the application has been served on the respondent; and
  - (b) there are reasonable grounds for believing there is sufficient basis to make a civil banning order.
- (8) The interim civil banning order may be made whether or not the respondent appears before the court or makes submissions.
- (9) An interim civil banning order may prohibit the respondent from doing, or attempting to do, anything that a person may be prohibited from doing by a civil banning order.
- (10) An interim civil banning order takes effect—

[s 129ZQ]

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- (a) if the respondent or a legal or other representative of the respondent is present at the hearing of the application—when it is made; or
- (b) otherwise—when the order is served on the respondent.

### **129ZQ Varying or revoking civil banning order for changes in circumstances**

- (1) The following persons may apply (the *applicant*) to the Magistrates Court for an order to vary or revoke a civil banning order—
  - (a) an authorised person;
  - (b) the respondent.
- (2) However, the respondent may not, without the leave of the court, make the application until at least 3 months after the civil banning order is made.
- (3) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by—
    - (i) an affidavit made by the applicant outlining why the variation or revocation mentioned in the application is necessary; and
    - (ii) the information, or details of the information, the applicant intends to rely on for the application.
- (4) Within 14 business days after the application is filed, the applicant must give a copy of the application to—
  - (a) if the applicant is the respondent—the authorised person; or
  - (b) if the applicant is an authorised person—the respondent.
- (5) The authorised person and respondent are each entitled to be heard at the hearing of the application.

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- (6) If the respondent makes the application, subsection (3) does not prevent the respondent from producing further evidence at the hearing of the application.
  - (7) The court may vary or revoke a civil banning order only if the court—
    - (a) has had regard to—
      - (i) the matters mentioned in section 129ZO so far as they are relevant to the application; and
      - (ii) whether the respondent has, without a reasonable excuse under section 129ZZ, contravened the civil banning order; and
    - (b) is satisfied there has been a material change in the circumstances of the respondent that justifies the variation or revocation; and
    - (c) considers the justice of the case requires the variation or revocation.

### **129ZR Court may make civil banning order by consent**

- (1) The Magistrates Court may make a civil banning order in a form agreed to by an authorised person and the respondent.
- (2) The order may include only matters that may be dealt with under this part.

### **129ZS Orders must be explained**

- (1) Subsection (2) applies if a respondent appears before a court hearing an application for a civil banning order or an interim civil banning order for the respondent.
- (2) Before making the order, the court must explain, or cause to be explained, to the respondent—
  - (a) the purpose, terms and effect of the order; and
  - (b) the consequences of contravening the order; and

[s 129ZT]

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- (c) for a civil banning order—that the order may be varied or revoked on the application of the respondent or an authorised person.
- (3) Subsection (4) applies if a respondent did not appear before a court when the court made a civil banning order or an interim civil banning order for the respondent.
- (4) Before serving the order on the respondent, the person serving the order must explain, or cause to be explained, to the respondent—
  - (a) the purpose, terms and effect of the order; and
  - (b) the consequences of contravening the order; and
  - (c) for a civil banning order—that the order may be varied or revoked on the application of the respondent or an authorised person.
- (5) The explanation under subsection (2) or (4) must be made in language or in a way likely to be readily understood by the respondent.
- (6) Failure to comply with this section does not affect the validity of the civil banning order.

### **129ZT Civil banning order to be given to interested persons**

- (1) The proper officer of the Magistrates Court that makes a civil banning order, or an order varying or revoking a civil banning order, in relation to a respondent must as soon as possible—
  - (a) reduce the order to writing in the approved form; and
  - (b) cause a copy of the order to be given or sent to—
    - (i) the respondent; and
    - (ii) the commissioner of the police service, or someone authorised to accept the order on the commissioner’s behalf; and
    - (iii) the chief executive; and

- (iv) the chief executive officer under the *Transport Operations (TransLink Transit Authority) Act 2008*.
- (2) The written order prepared under subsection (1) must include—
- (a) the name of the respondent; and
  - (b) the period for which the order applies; and
  - (c) the prohibitions or restrictions that the order imposes.
- (3) Failure to comply with this section does not affect the validity of the order.

### **129ZU No costs to be awarded**

The Magistrates Court must not award costs on proceedings under this division unless the court dismisses the application as frivolous or vexatious or another abuse of process.

### **129ZV No filing fee is payable**

A fee is not payable for making an application, or filing another document, under this part.

### **129ZW Standard of proof**

A question of fact in proceedings under this part, other than proceedings for an offence, is to be decided on the balance of probabilities.

### **129ZX General application of rules of court**

The *Uniform Civil Procedure Rules 1999* apply in relation to applications made to the court under this part to the extent the rules are consistent with this part.

[s 129ZY]

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### **129ZY Interaction with criminal proceedings**

- (1) An application under this part may be made and a court may, as authorised by this Act, dispose of the application, even if a person concerned in the application has been charged with an offence arising out of the act of violence on which the application is based.
- (2) Subsection (4) applies if the person against whom—
  - (a) a civil banning order has been made; or
  - (b) a court has refused to make a civil banning order; or
  - (c) proceedings are current (*current proceedings*) in which a civil banning order or an order varying or revoking a civil banning order is sought;

is charged with an offence mentioned in subsection (1).

- (3) Also, subsection (4) applies if the person is charged with an offence mentioned in subsection (1) and the court has done either of the following relating to a civil banning order naming the person as the respondent—
  - (a) revoked, or refused to revoke, the civil banning order;
  - (b) varied, or refused to vary, the civil banning order, including the conditions imposed on the order.
- (4) A reference to—
  - (a) making, or refusing to make, the order, or a revocation or variation; or
  - (b) the existence of current proceedings; or
  - (c) the fact that evidence of a particular nature or content was given in—
    - (i) the proceedings in which the order, revocation or variation was made or refused; or
    - (ii) the current proceedings;

is inadmissible in the trial of the person for an offence arising out of the act of violence on which the application for the

order, revocation, or variation, or relevant to the current proceedings, is based.

- (5) To remove any doubt, it is declared that, subject to this section, an application, proceeding or order under this part in relation to the conduct of the person does not affect any proceeding against the person for an offence arising out of the same conduct.
- (6) The person may be punished for the offence mentioned in subsection (5) despite any order made against the person under this part.
- (7) In this section—  
*civil banning order* includes an interim civil banning order.

### **129ZZ Contravention of civil banning order or interim civil banning order**

- (1) A person must not, without reasonable excuse, contravene a civil banning order.  
Maximum penalty—40 penalty units or 6 months imprisonment.
- (2) It is a reasonable excuse for a person to contravene a civil banning order applying to the person—
  - (a) if, when the contravention happened, the person was not aware, and was reasonably not aware, that the order had been made; or
  - (b) if the person is contravening the order because of an emergency; or
  - (c) if—
    - (i) the person has applied for an order to vary the civil banning order; and
    - (ii) the court has not decided the application; and

[s 129ZZA]

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- (iii) the contravention of the civil banning order reasonably relates to the changed circumstances in relation to which the application is made.

*Example for paragraph (c)—*

A person to whom a civil banning order applies has a reasonable excuse if—

- (a) the person has applied for an order to vary the civil banning order because—
- (i) it restricts the person's use of the public transport network to only permit travel to and from the person's place of work; and
  - (ii) the person's place of work has changed; and
- (b) the person uses the public transport network, in contravention of the civil banning order, to travel to and from the new place of work while the Magistrates Court is considering the application.
- (3) If the Magistrates Court convicts a person of an offence against subsection (1), the court may, in addition to or instead of sentencing the person under subsection (1), vary the civil banning order.
- (4) In this section, other than subsection (2)(c)—  
*civil banning order* includes an interim civil banning order.

## **Division 3                      Appeals**

### **129ZZA Appeals**

An authorised person or a respondent in relation to whom a decision of the Magistrates Court under this part has been made may appeal against the decision to the District Court.

### **129ZZB Time for appeal**

- (1) An appeal must be started within 1 month after the decision is made (the *appeal period*).



- (2) On application, the District Court may extend the appeal period.

### **129ZZC Starting appeal**

- (1) A person starts an appeal by filing a notice of appeal with the registrar.
- (2) The notice must—
  - (a) be signed by the person or the person’s lawyer; and
  - (b) state, briefly and precisely, the grounds of the appeal.
- (3) If the notice is not filed in the appeal period, the person must also file with the registrar a notice of application for extension of time for filing the notice.

### **129ZZD Registrar to give respondent copies of particular documents**

The registrar must give the respondent to an appeal copies of any of the following documents filed with the registrar for the appeal—

- (a) the notice of appeal;
- (b) a notice of application for extension of time for filing a notice mentioned in paragraph (a).

### **129ZZE Stay of operation of decision**

An appeal does not stay the operation of the decision.

### **129ZZF District Court’s powers on appeal**

- (1) An appeal is by way of rehearing.
- (2) The District Court—
  - (a) has all the powers and duties of the court that made the decision appealed from; and

[s 129ZZG]

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- (b) may draw inferences of fact, not inconsistent with the findings of the court; and
  - (c) may, on special grounds, receive further evidence as to questions of fact, either orally in court, by affidavit or in another way; and
  - (d) may order that the matter be remitted for rehearing to the court in which the decision appealed from was made.
- (3) Subsection (2)(a) does not limit the powers that the District Court has in its civil jurisdiction.
  - (4) The decision of the District Court upon an appeal is final and conclusive.

### **129ZZG No costs on appeal**

The District Court must not award costs on an appeal under this division unless the court dismisses the appeal as frivolous or vexatious or another abuse of process.

## **Division 4                      Miscellaneous**

### **129ZZH Service of documents**

- (1) This section applies if a provision of this part requires a respondent to be served with a document.
- (2) The document must be served personally on the respondent.
- (3) However, if, despite reasonable attempts being made, a document is unable to be personally served on a respondent, an authorised person may apply to the Magistrates Court to authorise substituted service under subsection (4).
- (4) If it appears to the court that it is not reasonably practicable to serve the document personally on the respondent, the court may authorise another way of serving it (*substituted service*).

*Example of substituted service—*

by personal service of the document on a relative, guardian or other person with whom the respondent is known to associate

- (5) When serving a document that requires the appearance of a respondent in a court, the person serving the document must explain the contents of the document to the respondent in language likely to be understood by the respondent, having regard, for example, to the respondent's age and cultural, educational and social background.

**129ZZI Police commissioner must provide information relevant to applications**

- (1) The chief executive may ask the commissioner of the police service to give the chief executive the information the chief executive requires to make, or to consider making, an application for a civil banning order in relation to a person.
- (2) Without limiting subsection (1), the information may include the following—
  - (a) the criminal history of the person;
  - (b) police statements in relation to any act of violence committed by the person;
  - (c) statements of witnesses or victims of any act of violence committed by the person;
  - (d) other evidentiary material relating to any act of violence committed by the person.
- (3) Subject to subsection (4), the commissioner must provide the information requested.
- (4) The obligation of the commissioner to comply with the chief executive's request applies only to information in the possession of the commissioner or to which the commissioner has access.



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(3) A complaint against a person for an offence against subsection (1) is sufficient if it states that the statement made was false, misleading or incomplete to the person's knowledge.

(4) In this section—

*document* includes a report under this or another Act.

### **132 Compensation**

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

(2) Payment of compensation may be claimed and ordered in a proceeding for—

- (a) compensation brought in a court of competent jurisdiction for the recovery of compensation; or
- (b) an offence against this Act brought against the person by whom the claim is made.

(3) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

### **133 Authorised person to give notice of damage**

(1) An authorised person who, in the exercise, or purported exercise, of a power under this chapter, damages anything must immediately give written notice of the particulars of the damage.

(2) The notice must be given to the person who appears to the authorised person to be the owner of the thing.

(3) If, for any reason, it is not practicable to comply with subsection (2), the authorised person must—

[s 134]

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- (a) leave the notice at the place where the damage happened; and
  - (b) ensure the notice is left in a reasonably secure way and in a conspicuous position.
- (4) In this section—
- owner* of a thing includes the person in possession or control of the thing.

### **134 Consent to entry by an authorised person**

- (1) This section applies if the authorised person intends to seek the consent of an occupier of a place to an authorised person entering the place under this chapter.
- (2) Before seeking the consent, the authorised person must inform the occupier—
  - (a) of the purpose of the entry; and
  - (b) that anything found and seized may be used in evidence in court; and
  - (c) that the occupier is not required to consent.
- (3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must—
  - (a) state the occupier was informed—
    - (i) of the purpose of the entry; and
    - (ii) that anything found and seized may be used in evidence in court; and
    - (iii) that the occupier was not required to consent; and
  - (b) state the occupier gave the authorised person consent under this chapter to enter the place and exercise powers under this chapter.

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- (5) If the occupier signs an acknowledgement of consent, the authorised person must immediately give a copy to the occupier.

### **135 Obstructing authorised person**

- (1) A person must not obstruct an authorised person in the exercise of a power under this or another Act, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- (2) If a person has obstructed an authorised person under subsection (1) and the authorised person decides to exercise the power, the authorised person must, if practicable, warn the person—

- (a) that the authorised person considers the person's conduct is obstructing the authorised person; and
- (b) that it is an offence to obstruct the authorised person, unless the person has a reasonable excuse.

### **136 Impersonating authorised person**

A person must not pretend to be an authorised person.

Maximum penalty—75 penalty units.

## **Chapter 11A Fare evasion and other offences**

### **143AA Definitions for ch 11A**

In this chapter—

*driver* includes—

[s 143AB]

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- (a) a conductor or train guard on or near a public passenger vehicle who is operating in relation to the vehicle; and
- (b) for a ferry, the master of the ferry or a deckhand operating in relation to the ferry.

**fare**, for a taxi, includes a charge a taxi driver may charge under a regulation for cleaning a taxi soiled by the passenger.

**master** see the *Transport Operations (Marine Safety) Act 1994*, section 7.

**tag off** means present a smartcard to a smartcard reader on completing a journey, or part of a journey, resulting in a response from the smartcard reader that the transaction is successful.

**tag on** means present a smartcard to a smartcard reader on starting a journey, or part of a journey, resulting in a response from the smartcard reader that the transaction is successful.

### **143AB When does a person evade payment of a fare**

- (1) A person *evades payment of a fare* in relation to a public passenger vehicle if the person—
  - (a) when attempting to travel, for an intended journey—
    - (i) does not, without a reasonable excuse, pay the fare lawfully required; or
    - (ii) if using a smartcard, does not tag on; or
    - (iii) attempts to travel on an invalid ticket; or
  - (b) in relation to all or part of a journey travelled—
    - (i) does not, without a reasonable excuse, pay the fare lawfully required or, if using a smartcard, does not tag on; or
    - (ii) travels on a concession fare without being entitled to the concession; or
    - (iii) travels on an invalid ticket; or



- (iv) travels by railway in a railway carriage of a higher class than that paid for and shown on the person's ticket for the journey.

(2) In this section—

***invalid ticket*** means a ticket for a journey for which a ticket is required that—

- (a) is used, or attempted to be used—
  - (i) to over-travel the fare that was paid for the journey, without reasonable excuse; or
  - (ii) for a journey that is not the journey for which the ticket was issued; or
  - (iii) if the ticket is non-transferrable, by a person who is not the first user of the ticket; or
- (b) has been altered or defaced; or
- (c) is counterfeit.

***over-travel***, in relation to a fare, means remain on a public passenger vehicle after the place, distance or time covered by the fare paid for the journey has been reached and includes, for a smartcard, tag off before the completion of the journey or part of the journey.

### **143AC Fare evasion**

A person must not evade payment of the fare lawfully required for the person's use or hire of a public passenger vehicle.

Maximum penalty—40 penalty units or 6 months imprisonment.

### **143AD Obtaining hire or use of vehicle by fraud or misrepresentation**

A person must not obtain, or attempt to obtain, the use or hire of a public passenger vehicle by fraud or misrepresentation.

[s 143ADA]

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Maximum penalty—40 penalty units or 6 months imprisonment.

### **143ADA Power to require production of tickets**

- (1) The driver or an authorised person may require anyone who is travelling or attempting to travel on a public passenger vehicle to produce to the driver or authorised person the person's ticket for the journey.
- (2) If the driver or an authorised person reasonably suspects that a person has just travelled on a public passenger vehicle, the driver or authorised person may require the person to produce to the driver or authorised person the person's ticket for the journey.
- (3) If the driver or the authorised person reasonably suspects that the ticket produced to the driver or authorised person is an invalid ticket, the driver or authorised person may require the person to give it to the driver or authorised person.
- (4) The person must comply with a requirement under subsection (1) to (3), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (5) A person does not commit an offence against subsection (4) in relation to travel by rail because of subsection (1) if, immediately before the person started the journey, the railway station where the person started the journey—
  - (a) was not open for business; and
  - (b) was not equipped with an automatic ticket machine that was able to dispense tickets at the time.
- (6) In this section—

*invalid ticket* means an invalid ticket as defined under section 143AB(2).

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### 143ADB Evidence of concession entitlement

- (1) A person who buys a concession ticket must carry evidence of the person's entitlement to the concession when—
  - (a) buying the ticket; or
  - (b) travelling on the journey for which the ticket is issued.
- (2) The driver or an authorised person may require anyone who is travelling or about to travel on a concession ticket to produce evidence of the person's entitlement to the concession.
- (3) A person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

### 143AE Interfering with public transport infrastructure, service, vehicle or equipment

- (1) A person must not wilfully and unlawfully interfere with public transport infrastructure or a public passenger service, public passenger vehicle or service equipment.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (2) In this section—

*interfere with* means damage, deface or otherwise improperly interfere with.

*vehicle* includes the vehicle's equipment.

### 143AF Creating disturbance or nuisance on or in public transport infrastructure or vehicle

A person must not create a disturbance or nuisance while on or in public transport infrastructure or a public passenger vehicle, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units or 6 months imprisonment.

[s 143AG]

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### **143AG Direction to leave, or not to enter, vehicle**

- (1) Subsection (2) applies if the driver or an authorised person reasonably believes that a person who is on, or about to enter, a public passenger vehicle—
  - (a) is creating, or is likely to create, a disturbance or nuisance on the vehicle; or
  - (b) is causing, or is likely to cause a danger to anyone; or
  - (c) is contravening, or has just contravened, section 143AC or 143AE.
- (2) The driver or an authorised person may direct the person to leave, or not to enter, the vehicle.
- (3) If a person on a public passenger vehicle has paid a fare for travel on the vehicle but over-travels the fare paid, the driver or an authorised person may direct the person to leave the vehicle.
- (4) If a person is on a public passenger vehicle that is hired by someone else, without the hirer's permission, the driver or an authorised person may direct the person to leave the vehicle.
- (5) In this section—  
*over-travel* see section 143AB(2).

### **143AH Direction to leave or not to enter vehicle that is full**

If—

- (a) a person is about to enter, or has just entered, a public passenger vehicle, or a compartment of a public passenger vehicle, that appears already to have its full complement of passengers; and
- (b) the driver or an authorised person tells the person, in a general way, that the vehicle or compartment is full and that the person can not board the vehicle or compartment or remain on the vehicle or in the compartment; and

- (c) the person fails to leave, or not to enter, the vehicle or compartment;

the driver or an authorised person may direct the person to leave, or not to enter, the vehicle or compartment.

**143AHA Power to require person to leave public transport infrastructure if person committing particular offences**

- (1) An authorised person may direct a person to leave public transport infrastructure if—
- (a) the authorised person finds the person committing an offence against a relevant provision; and
  - (b) the authorised person reasonably believes the person may continue to commit or immediately repeat the offence.
- (2) If the person does not obey the direction, the authorised person may use force that is reasonable to get the person to leave.
- (3) In this section—
- relevant provision* means—
- (a) section 143AC; or
  - (b) section 143AE; or
  - (c) section 143AF; or
  - (d) any of the following provisions of the *Transport Infrastructure Act 1994*—
    - (i) section 255;
    - (ii) section 257;
    - (iii) section 329;
    - (iv) section 377; or
  - (e) the *Transport (Rail Safety) Act 2010*, section 249.

[s 143AHB]

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### **143AHB Power to require person to leave or not enter public transport infrastructure if person contravening exclusion order**

- (1) An authorised person may—
  - (a) direct a person to leave public transport infrastructure if the person is in or on the public transport infrastructure in contravention of an exclusion order; or
  - (b) direct a person not to enter public transport infrastructure if the authorised person reasonably believes the person would be in contravention of an exclusion order if the person enters the public transport infrastructure.
- (2) If the person does not obey the direction, the authorised person may use force that is reasonable to get the person to leave or not enter the public transport infrastructure.
- (3) An authorised person can not give a direction under this section if the authorised person is satisfied the person has a reasonable excuse mentioned in section 129ZG(2)(a), (b) or (c) for contravening the exclusion order.

### **143AI Direction not to be given in particular circumstances**

A driver or authorised person must not give a direction under this chapter—

- (a) if complying with the direction is likely to endanger the safety of a person; or
- (b) if the direction is given to a school student and is inconsistent with a code of conduct prescribed under a regulation.

Maximum penalty—5 penalty units.

### **143AJ Person given direction to be told particular things**

The person giving a direction under this chapter must tell, in a general way, the person to whom the direction is given—

- (a) the reason that the person has been directed to leave the vehicle; and
- (b) that it is an offence to fail to comply with the direction, unless the person has a reasonable excuse.

*Example of paragraph (a)—*

The reason is that you are being a nuisance to other passengers.

### **143AK Offence to contravene direction**

A person must not contravene a direction given to the person under this chapter, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

## **Chapter 12      Miscellaneous**

### **Part 1              General**

#### **143B Approval of basis for funding for transport function**

- (1) The chief executive may enter into an agreement providing for help from the State for a transport function only if the Minister has approved the basis on which the help is to be provided.
- (2) In considering whether to give an approval under subsection (1), the Minister must have regard to the principle that help from the State for a transport function should be provided principally for—
  - (a) public passenger services that the government requires to be provided and that would not be provided, or provided at the same level, without help from the State; or

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- (b) facilities for public passenger services that the government requires to be provided and that would not be provided, or provided at the same level, without help from the State; or
  - (c) vehicles that the government requires to be used on public passenger services and that would not be provided, or provided at the same level, without help from the State.
- (3) Each annual report of the department must include—
- (a) details of help provided by the State to a person who receives help during the year to which the report relates; and
  - (b) reasons for the help.
- (4) In this section—
- help* includes funding and financial or other assistance.
- transport function* means a function under this Act or that is necessary or incidental to achieving the objectives of this Act but does not include—
- (a) funding or other financial assistance under section 52; or
  - (b) arrangements under section 144.

#### **144 Transport arrangements for students**

- (1) The chief executive may make arrangements for the transport of students to and from schools or other educational establishments.
- (2) Without limiting the scope of arrangements, arrangements may include—
  - (a) arrangements for transporting students with or without charge between their homes and their educational establishments; and
  - (b) arrangements for paying all or part of students' reasonable travel expenses.



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- (3) The chief executive may ask an education authority to give the chief executive information about a student, or a student's parent, that is relevant to the administration of the arrangements, including, for example, information relevant to the student's eligibility for assistance under the arrangements.

*Examples of information that may be relevant to the administration of arrangements—*

- the home address of a student or a student's parent
  - information about whether or not a student is enrolled in a stated educational establishment
  - information about a student's attendance at the student's educational establishment
  - a student's date of birth or year level at the student's educational establishment
- (4) If the chief executive makes a request under subsection (3), the education authority must give the chief executive the requested information.
- (5) Subsection (4) applies to requested information in the education authority's possession or to which the authority has access.
- (6) Subsection (4) applies despite any other Act or law of the State, including, for example, the *Education (General Provisions) Act 2006*, section 426.
- (7) A relevant person who has gained or has access to information obtained under subsection (4) must not make a record of the information, use the information or disclose the information to anyone else, unless the recording, use or disclosure is—
- (a) for a purpose of this Act; or
  - (b) with the written consent of the person to whom the information relates or, if the person is a student who is a child, of the student's parent; or
  - (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or

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(d) permitted or required by another Act.

Maximum penalty—50 penalty units.

(8) In this section—

**disclose**, information, includes give access to the information.

**education authority** means—

(a) the chief executive of the department in which the *Education (General Provisions) Act 2006* is administered; or

(b) the principal of a State instructional institution as defined under the *Education (General Provisions) Act 2006*.

**parent**, of a student, means—

(a) if the student is a child—a person who is the student's parent as defined under the *Education (General Provisions) Act 2006*, section 10; or

(b) if the student is an adult—a person who was the student's parent as defined under the *Education (General Provisions) Act 2006*, section 10, immediately before the student stopped being a child.

**relevant person** means a person who—

(a) is performing or has performed a function under this Act; or

(b) is or was otherwise engaged in the administration of this Act.

## **145 Chief executive may declare particular motor vehicles**

(1) The chief executive may, by gazette notice, declare a vehicle to be—

(a) a forward-control passenger vehicle; or

(b) a luxury motor vehicle.

(2) A declaration under subsection (1)—

- (a) starts on the day the gazette notice is published; and
- (b) ends on the day that is 6 months later.

#### **147 Demand management**

The Minister may authorise a local government to carry out, under a local law, demand management measures to encourage the use of public passenger transport.

#### **148 Inquiries about person's suitability to hold accreditation or authorisation**

- (1) The chief executive may make inquiries about a person to help in deciding whether—
  - (a) the person is a suitable person to hold, or continue to hold, operator accreditation or driver authorisation; or
  - (b) the person or another person of whom the person is a partner is a suitable person to hold, or continue to hold, operator accreditation; or
  - (c) a corporation of which the person is an executive officer is a suitable person to hold, or continue to hold, operator accreditation.
- (2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for a written report about a person's criminal history or whether the person is or has been subject to a relevant order for an offence mentioned in schedule 1A, part 1.
- (3) For subsection (2), 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 gender and date and place of birth;
  - (c) details of the person's driver licence under the *Transport Operations (Road Use Management) Act 1995*;

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- (d) details of the person's operator accreditation, driver authorisation or application for operator accreditation or driver authorisation.
- (4) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the person's criminal history.
- (5) Subsection (4) applies to the criminal history in the commissioner's possession or to which the commissioner has access.
- (6) If the police commissioner gives the chief executive information under subsection (2) about a person who is or has been subject to a relevant order for an offence mentioned in schedule 1A, part 1, the information must include the following information about the person—
  - (a) that the person is or has been subject to a relevant order for an offence mentioned in schedule 1A, part 1;
  - (b) if the person is or has been subject to a relevant order that is a disqualification order under the CCYPCG Act—the duration and details of the disqualification order;
  - (c) if the person is or has been subject to an offender prohibition order—
    - (i) a brief description of the conduct that gave rise to the order; and
    - (ii) the duration and details of the order, including whether it is or was a temporary offender prohibition order or a final offender prohibition order.

#### **148A 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 holds operator accreditation or driver authorisation; and

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- (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.

**148B 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.

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### **148BA Obtaining information from chief executive (corrective services)**

- (1) Without limiting section 148, the chief executive may, by written notice, ask the chief executive (corrective services) whether—
  - (a) a person applying for driver authorisation is or has been subject to a relevant order; or
  - (b) a person holding driver authorisation is or has been subject to a relevant order.
- (2) The chief executive (corrective services) must give the chief executive notice of the information requested under subsection (1).
- (3) The notice mentioned in subsection (2) must—
  - (a) be in writing; and
  - (b) state the following—
    - (i) the person's name;
    - (ii) that the person is or has been subject to the relevant order.
- (4) The chief executive (corrective services) and the chief executive may enter into a written arrangement by which written notices are given under subsection (1).
- (5) Without limiting subsection (4), the arrangement may provide for the written notices to be given electronically.
- (6) However, if written notices under subsection (1) are to be given electronically and, under an Act, there is a limitation on who may access the information mentioned in the notices or the purposes for which that information may be used, the arrangement must provide for the limitation.
- (7) The disclosure of information by the chief executive (corrective services) under this section is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

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*Note—*

See section 148C for the confidentiality of information under this Act.

(8) In this section—

*chief executive (corrective services)* means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

### **148C 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.

## **149 Offences of dishonesty**

- (1) A person must not apply for or obtain an accreditation, authorisation, contract or licence under this Act by intentionally or recklessly making a false representation.

Maximum penalty—60 penalty units.

- (2) A person must not forge an accreditation, authorisation, contract or licence under this Act.

Maximum penalty—60 penalty units.

- (3) A person must not intentionally or recklessly obtain, or help someone else obtain, a financial benefit under this Act to which the person is not entitled.

Maximum penalty—60 penalty units.

- (4) A person must not—

- (a) use an accreditation, authorisation, contract or licence under this Act fraudulently; or
- (b) permit the fraudulent use by someone else of an accreditation, authorisation, contract or licence under this Act.

Maximum penalty—60 penalty units.

## **150 Records and evidence from records**

- (1) The chief executive must keep records of the grant, refusal to grant, amendment, suspension and cancellation of accreditations, authorisations, contracts and licences under this Act.

- (2) A certificate apparently signed by a delegate of the chief executive and stating any of the following matters is evidence of the matter—

- (a) that a person mentioned in the certificate held or did not hold an accreditation, authorisation, contract or licence of a stated kind on a day or throughout a period mentioned in the certificate;



- (b) the conditions of an accreditation, authorisation, contract or licence held by a named person under this Act on a day or throughout a period mentioned in the certificate;
- (c) that a person did not give a stated notice to the chief executive.

### **150A Approval of forms**

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

### **151 Proceedings for offences**

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence must start—
  - (a) within 1 year after the offence is committed; or
  - (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.
- (3) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

### **152 No need to prove appointments**

In a proceeding for an offence against this Act, there is no need to prove the appointment of an authorised person.

### **153 Prosecutions for railway offences**

- (1) This section applies to an offence against this Act committed by a person while the person was travelling by rail.

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- (2) A complaint for the offence may be heard at a place appointed for holding Magistrates Courts within any of the districts through which the person travelled on the rail journey.
- (3) This section has effect despite, but does not limit, the *Justices Act 1886*, section 139.

### **153A Facilitation of proof**

- (1) In a prosecution for a dangerous goods offence, if an authorised person gives evidence that he or she believes, or at a particular time relevant to the exercise of a power by the officer, believed, any of the matters referred to in subsection (2), the court must accept the matter as proved if—
  - (a) it considers the belief to be, or to have been, reasonable; and
  - (b) there is no evidence to the contrary.
- (2) The matters are as follows—
  - (a) that dangerous goods described in transport documentation carried in a rail vehicle are or were being carried in the rail vehicle;
  - (b) that particular goods are or were dangerous goods or dangerous goods of a particular type;
  - (c) if a marking or placard on or attached to a substance or packaging indicates or indicated that the substance is or was or the packaging contains or contained particular dangerous goods—that the substance is or was or the container contains or contained those dangerous goods;
  - (d) if a marking on, or attached to, a package indicates or indicated that the package contains or contained particular dangerous goods—that the package contains or contained those dangerous goods;
  - (e) if a marking or placard on or attached to a vehicle or equipment indicates or indicated that the vehicle or equipment is or was being used to transport dangerous

- goods—that the vehicle or equipment is or was being used to transport those dangerous goods;
- (f) if a marking or placard on or attached to a substance or packaging indicates or indicated, in relation to the substance, the packaging or the contents of the packaging, a particular capacity, tare weight, origin, character, specification, ownership or date of manufacture—that the substance, the packaging or the contents of the packaging has or had that capacity, tare weight, origin, character, specification, ownership or date of manufacture;
  - (g) if a marking on, or attached to, a package indicates or indicated, in relation to the contents of the package, a particular capacity, tare weight, origin, character, specification, ownership or date of manufacture—that the contents of the package has or had that capacity, tare weight, origin, character, specification, ownership or date of manufacture;
  - (h) if a marking or placard on or attached to a vehicle or packaging indicates, in relation to the load of the vehicle or the contents of the packaging, a particular quantity of dangerous goods—that the vehicle or container contains or contained that quantity of dangerous goods;
  - (i) that a person is or is not, or was or was not at a particular time, accredited in relation to the transport by rail of dangerous goods.

#### **154 Attempt to commit offence**

- (1) A person must not attempt to commit an offence against this Act.  

Maximum penalty—half the maximum penalty for committing the offence.
- (2) Section 4 (Attempts to commit offences) of the Criminal Code applies to subsection (1).

[s 154A]

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- (3) However, this section does not apply to an offence under section 143AC or 143AD.

#### **154A Direction to pay operator the penalty recovered for fare evasion etc.**

- (1) This section applies to an offence or alleged offence under this Act in relation to a fare, ticket or ticket concession for a public passenger service.
- (2) The court may direct that part or all of a fine or penalty recovered for an offence to which this section applies be paid to a stated person aggrieved by the commission of the offence.
- (3) The chief executive may direct that part or all of the penalties paid under infringement notices for alleged offences to which this section applies be paid to the operator providing the public passenger service.
- (4) While the direction under subsection (3) remains in force, penalties recovered under the infringement notices are to be paid in accordance with the direction.

## **Part 1A                      General provisions relating to transport of dangerous goods by rail**

#### **154AB Application of pt 1A**

This part applies to a proceeding for a dangerous goods offence.

#### **154AC Special defence of compliance with direction**

It is a defence to a charge for the offence if the person charged establishes that the act or omission that was the offence was

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done in compliance with a direction given by an authorised person.

### **154AD Responsibility for acts or omissions of representative**

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

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

(b) the representative had the state of mind.

(2) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(3) In this section—

*representative* means—

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

(b) for an individual—an employee or agent of the individual.

*state of mind*, of a person, includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

### **154AE Transport documentation**

(1) Transport documentation relating to the transport of dangerous goods by rail is admissible and is evidence of—

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- (a) the identity and status of the parties to the transaction to which it relates; and
  - (b) the destination or intended destination of the load to which it relates.
- (2) The reference in subsection (1) to the status of parties includes a reference to their status in relation to their involvement in the transport of dangerous goods.

## Part 2 Authorisations for competition legislation

### Division 1 Interpretation

#### 154B Definitions for pt 2

In this part—

*CCA* means the *Competition and Consumer Act 2010* (Cwlth).

*Competition Code* means the Competition Code under the *Competition Policy Reform (Queensland) Act 1996*.

*competition legislation* means CCA, section 51(1)(b) or the Competition Code, section 51.

*fare provision* see section 154C.

*identified provision* see section 154D.

*management entity* means—

- (a) the State; or
- (b) a State influenced entity.

*management entity provision* see section 154E.

*service entity* means an entity that provides or proposes to provide 1 or more public passenger services in Queensland as an operator.

*service entity provision* see section 154F.

*State influenced entity* see section 154G.

### **154C Meaning of *fare provision***

- (1) For this part, a *fare provision* is a provision about a fare (the *relevant fare*) applying for a public passenger service of 1 or more service entities.
- (2) However, a provision is a *fare provision* only if—
  - (a) the provision has the purpose, or has or is likely to have the effect, of—
    - (i) fixing, controlling or maintaining the fare; or
    - (ii) providing for the fixing, controlling or maintaining of the fare; and
  - (b) the provision is negotiated and agreed to in the context of a contract, arrangement or understanding for coordinating or integrating public passenger services; and
  - (c) at any particular time the provision is given effect to, the relevant fare is consistent with any model fare structure arrangement that—
    - (i) has been approved by the chief executive; and
    - (ii) has been published in the gazette; and
    - (iii) is still in force.

### **154D Meaning of *identified provision***

For this part, a provision is an *identified provision* if it is a provision about—

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- (a) the coordination or integration of public passenger services of 2 or more service entities; or
- (b) the route to be used or not to be used by a service entity in providing a public passenger service; or
- (c) an area in which a service entity will or will not provide a public passenger service; or
- (d) where a service entity will or will not pick up or set down passengers in providing a public passenger service; or
- (e) the times a service entity will or will not provide a public passenger service; or
- (f) the persons or classes of persons to whom a service entity will or will not provide a public passenger service; or
- (g) a characteristic of a vehicle, vessel or item of rolling stock a service entity will or will not use to provide a public passenger service; or
- (h) a service entity not providing a public passenger service that competes, or if it were provided, would compete, with a public passenger service of another service entity; or
- (i) a service entity providing a public passenger service for or on behalf of another person, including another service entity, whether as principal or agent; or
- (j) a service entity issuing a ticket for a public passenger service, if all or part of the service is to be provided by 1 or more other service entities; or
- (k) the name, sign, decal or logo under which a service entity is to provide a public passenger service; or
- (l) the terms on which a service entity provides a public passenger service; or
- (m) the promotion of a public passenger service provided by 1 or more of the service entities.



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**154E Meaning of *management entity provision***

- (1) For this part, a *management entity provision* is a provision about the supply by a management entity of a service for a public passenger service of 1 or more service entities.
- (2) However, a provision is a *management entity provision* only if the provision is—
  - (a) about the persons or classes of persons to whom the service will be supplied; or
  - (b) to the effect that the management entity is to supply the service on condition that the service entity or entities are to acquire service equipment, including from a person who is not a party to the contract, arrangement or understanding containing the provision.

**154F Meaning of *service entity provision***

- (1) For this part, a *service entity provision* is a provision about the acquisition, use or supply of service equipment for a public passenger service of 1 or more service entities.
- (2) However, a provision is a *service entity provision* only if the provision is—
  - (a) about the persons or classes of persons from whom the service equipment will be acquired or to whom the service equipment will be supplied; or
  - (b) to the effect that a service entity or management entity is to supply the service equipment on condition that another person, including another service entity or management entity, is to acquire other service equipment, including from a person who is not a party to the contract, arrangement or understanding containing the provision.

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### **154G Meaning of *State influenced entity***

- (1) For this part, a *State influenced entity* is an entity whose functions include coordinating or facilitating the integration of public passenger services.
- (2) However, an entity is a *State influenced entity* only if at least 1 of the following applies—
  - (a) the State has power to appoint a person to, or remove a person from, the board or managing body of the entity;
  - (b) the State has power to vote, or control a vote, at a meeting of the board or managing body of the entity;
  - (c) the State has power to vote, or control a vote, at a meeting of the members of the entity.

### **154H References to public passenger services in pt 2**

- (1) A reference in this part to a public passenger service does not include a reference to a public passenger service that is a taxi service or limousine service.
- (2) A reference in this part to the public passenger service of a service entity is a reference to a public passenger service the service entity provides or proposes to provide in Queensland as an operator.

### **154I Extended meanings of certain expressions in pt 2**

For this part—

- (a) reference to making a contract or arrangement containing a particular provision includes reference to the following—
  - (i) offering to make a contract or arrangement containing the particular provision;
  - (ii) refusing to make a contract or arrangement unless the contract or arrangement contains the particular provision; and

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- (b) reference to arriving at an understanding containing a particular provision includes reference to the following—
    - (i) offering to arrive at an understanding containing the particular provision;
    - (ii) refusing to arrive at an understanding unless the understanding contains the particular provision; and
  - (c) reference to the supply of something includes reference to the following—
    - (i) the supply of the thing at a particular price;
    - (ii) an offer to supply the thing;
    - (iii) an offer to supply the thing at a particular price;
    - (iv) giving, or offering to give, a discount, allowance, rebate or credit in relation to the supply or proposed supply of the thing;
    - (v) resupply of the thing; and
  - (d) reference to the supply of something on a condition includes reference to a refusal to supply the thing without the condition.

## **Division 2                      Authorisations**

### **154J    Authorisations for coordination and integration of public passenger services**

The following things are specifically authorised for the competition legislation—

- (a) 2 or more service entities making a contract or arrangement, or arriving at an understanding, that includes an identified provision, but only if the contract, arrangement or understanding was first approved by the Minister;

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- (b) a service entity giving effect to an identified provision mentioned in paragraph (a);
- (c) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a fare provision;
- (d) a service entity giving effect to a fare provision mentioned in paragraph (c);
- (e) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a provision under which the service entities—
  - (i) are to share revenue or profits received by any of them in relation to a public passenger service of 1 or more of them; or
  - (ii) are to pay all or part of the costs related to providing a public passenger service of 1 or more of them;
- (f) a service entity giving effect to a provision mentioned in paragraph (e);
- (g) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a service entity provision;
- (h) a service entity giving effect to a service entity provision mentioned in paragraph (g);
- (i) 1 or more service entities and a management entity making a contract or arrangement, or arriving at an understanding, containing an identified provision, a fare provision, a management entity provision or a service entity provision;
- (j) a service entity or management entity giving effect to a provision mentioned in paragraph (i);
- (k) a management entity and another entity (the *system entity*) making a contract or arrangement, or arriving at an understanding, containing a provision about the system entity doing 1 or more of the following in

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relation to service equipment for 1 or more service entities' public passenger services—

- (i) designing the equipment;
  - (ii) making the equipment;
  - (iii) building the equipment;
  - (iv) installing the equipment;
  - (v) maintaining the equipment;
- (l) an entity giving effect to a provision mentioned in paragraph (k).

#### **154K Provisions limiting application of authorisations**

- (1) Section 154J applies to a service entity in relation to a public passenger service it provides or proposes to provide only if the service entity is—
- (a) if the public passenger service is a service for the carriage of passengers on a railway—
    - (i) a railway manager for the railway; or
    - (ii) a railway operator who is accredited under the *Transport (Rail Safety) Act 2010* for railway operations relating to the railway; or
  - (b) if the public passenger service is a ferry service—the operator of the ferry service; or
  - (c) otherwise—the holder of an operator accreditation for the public passenger service.
- (2) Section 154J(b), (d), (f) and (h) applies to a provision for only 5 years after the contract, arrangement or understanding containing the provision is made or arrived at.

#### **154L Provisions supporting application of authorisations**

- (1) A thing authorised under section 154J, as qualified by section 154K, is authorised even if—



- (c) relate to fares charged for the use of public passenger services; or
- (d) make provision about the rights and obligations of passengers and drivers of public passenger vehicles; or
- (e) specify the requirements for operator accreditation or driver authorisation; or
- (f) provide for the funding or operation of public passenger services and issues affecting the services; or
- (g) specify requirements for public passenger vehicles or for equipment for public passenger vehicles; or
- (h) require the collection, maintenance, retention or production of records; or
- (i) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of busway land—
  - (i) buses operating on a busway established on the busway land;
  - (ii) persons having the permission of the chief executive to be on the busway land; or
- (j) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of light rail land—
  - (i) light rail vehicles operating on a light rail established on the light rail land;
  - (ii) persons having the permission of the chief executive or a light rail manager for the light rail to be on the light rail land.

## **Chapter 13      Transitional and validation provisions**

### **Part 1              Transitional provision for Transport Legislation Amendment Act 2002**

#### **156      Continuation of temporary service contracts**

A temporary service contract entered into under this Act as in force immediately before the commencement of this section continues for its term as a service contract under this Act unless it is sooner cancelled or terminated under this Act.

### **Part 1A            Transitional provisions for Transport and Other Legislation Amendment Act 2004**

#### **Division 1        Authorised persons**

#### **157      Authorised persons**

- (1) A person who, immediately before the commencement of this section, was an authorised person for a railway under section 116(1) or (2) or an authorised person for a light rail under section 116(2A) is taken to be an authorised person under section 111.



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*Editor's note—*

Section 116 (Appointment of authorised persons for railways or light rail) was omitted by 2004 Act No. 9 section 20.

- (2) Subsection (1) does not affect any limitation on the powers of the authorised person existing immediately before the commencement of this section.

## **Division 3                      Driver disqualifying offences**

### **162      Driver disqualifying offences**

- (1) For the purposes of a reference in this Act to a category A driver disqualifying offence, category B driver disqualifying offence or category C driver disqualifying offence, it is declared that—
- (a) the reference includes a reference to the offence whether the offence was or is committed before or after the commencement of this section; and
  - (b) a reference to a conviction of the offence includes a conviction of the offence whether the conviction happened before or after the commencement of this section.
- (2) If the person has been convicted of a category A disqualifying offence before the commencement of this section—
- (a) if the person holds driver authorisation on the commencement—the driver authorisation is immediately cancelled on the commencement; and
  - (b) if the person has applied for the grant or renewal of driver authorisation before the commencement that has not been finalised—the application is terminated on the commencement; and
  - (c) if the person immediately before the commencement has an entitlement to have driver authorisation granted or renewed under a decision of a court on appeal from

the decision of the chief executive—the entitlement is extinguished on the commencement.

### **163 Transitional regulation-making power**

- (1) A regulation made after the commencement of this section may provide that a regulation in existence immediately before the commencement is amended from the commencement in order to take account of the creation of driver disqualifying offences for driver authorisations on the commencement.
- (2) Subsection (1) applies even if the regulation is not a beneficial provision within the meaning of the *Statutory Instruments Act 1992*, section 34.

## **Part 1B Transitional provisions for Transport and Other Legislation Amendment Act (No. 2) 2004**

### **164 Provisions dealing with impact of decisions of local governments on public passenger transport**

- (1) This section applies if under section 145 as in force immediately before the commencement of part 3 of the amending Act a local government applied to the chief executive for approval for a matter and the chief executive's decision on the application has not been made.
- (2) Sections 145 and 146 and schedule 2, as in force immediately before the commencement, continue to apply in relation to the matter as if the amending Act had not been enacted.
- (3) In this section—

*amending Act* means the *Transport and Other Legislation Amendment Act (No. 2) 2004*.

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## **Part 2                      Transition of references in Acts**

### **174      Application of part**

This part applies to references in Acts enacted before its commencement.

### **175      Urban Passenger Service Proprietors Assistance Act 1975 references**

A reference to the *Urban Passenger Service Proprietors Assistance Act 1975* is taken to be a reference to this Act.

### **176      Urban Public Passenger Transport Act 1984 references**

A reference to the *Urban Public Passenger Transport Act 1984* is taken to be a reference to this Act.

### **177      State Transport Act 1960 references etc.**

- (1) A reference (whether express or implied) to a provision of the *State Transport Act 1960* repealed by this Act is taken to be a reference to this Act.
- (2) A reference to a licence to hire-taxi-meter cab or a licence to hire-exempted cab under the *State Transport Act 1960* is taken to be a reference to a taxi service licence under this Act.
- (3) A reference to a licence to hire-private hire car under the *State Transport Act 1960* is taken to be a reference to a limousine service licence.









## Part 9                      Transitional provisions for Transport and Other Legislation Amendment Act 2010

### Division 1                Provisions for relocated provisions

#### 184    Relocation of TransLink Act provisions

- (1) To remove any doubt, it is declared that the relocated provisions were not re-enacted by the *Transport and Other Legislation Amendment Act 2010*, but merely moved (without re-enactment) to this Act.
- (2) Without limiting subsection (1) and to further remove any doubt, it is also declared that the relocation did not—
  - (a) impliedly repeal or amend, or otherwise affect the operation of, the existing provisions of this Act, the relocated provisions or the provisions of any other law; or
  - (b) affect the meaning or effect that the existing or relocated provisions, or the provisions of the other law, had because of the respective times when they were enacted.
- (3) However, definitions in this Act apply to all provisions of this Act.
- (4) In an Act or document, a reference to a provision of the TransLink Act that is relocated to this Act by the *Transport and Other Legislation Amendment Act 2010* may, if the context permits, be taken to be a reference to the relocated provision in this Act.
- (5) In this section—

*relocated provision* means a provision of the TransLink Act that is relocated to this Act by the *Transport and Other Legislation Amendment Act 2010*, section 132.



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*TransLink Act* means the *Transport Operations (TransLink Transit Authority) Act 2008*.

## Division 2                      Other provisions

### 185      Provision for s 67B

- (1) A declaration made under the previous declaration provision and in effect immediately before the commencement has effect on and from the commencement as if it were a declaration made under section 67B.
- (2) In this section—

*commencement* means the commencement of this section.

*previous declaration provision* means the *Transport Operations (TransLink Transit Authority) Act 2008*, section 47 as in force before the commencement.

### 186      Provision for s 67D

- (1) A written approval given under the previous approval provision and in effect immediately before the commencement has effect on and from the commencement as if it were an approval given under section 67D.
- (2) In this section—

*commencement* means the commencement of this section.

*previous approval provision* means the *Transport Operations (TransLink Transit Authority) Act 2008*, section 49 as in force before the commencement.

### 187      Deferral of application of s 67H for particular contracts and arrangements for special event services

- (1) This section applies to a contract or arrangement made or entered into in relation to a non-TransLink area before section 67H commences.

[s 188]

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- (2) Section 67H does not apply to the performance of the contract or arrangement until the first anniversary of the commencement of this section.

## **Part 10                      Validation of regulation**

### **188      Validation of Transport Legislation Amendment (Postponement) Regulation (No. 1) 2008**

- (1) The postponement regulation is, and is taken to always have been, validly made under the *Acts Interpretation Act 1954*, section 15DA(3) despite the 2 year limitation imposed by that provision.
- (2) In this section—

*postponement regulation* means the *Transport Legislation Amendment (Postponement) Regulation (No. 1) 2008*, SL No. 350.

## **Part 11                      Transitional provisions for Transport and Other Legislation Amendment Act 2011**

### **189      Application of amended provisions about driver disqualifying offences in relation to driver authorisations**

- (1) A postcommencement provision applies in relation to an application for driver authorisation made but not decided before the commencement.

(2) Also, a postcommencement provision applies to a person who holds driver authorisation granted or renewed before the commencement.

(3) In this section—

*commencement* means the commencement of this section.

*postcommencement provisions* means the following provisions as in force on and from the commencement—

- (a) section 28B;
- (b) schedule 3, definition, *category A driver disqualifying offence*;
- (c) schedule 3, definition, *category B driver disqualifying offence*;
- (d) schedule 3, definition, *category C driver disqualifying offence*;
- (e) schedule 1A.

## 190 Application of ch 11, pt 4B immediately before the commencement

(1) Chapter 11, part 4B immediately before the commencement of this section applies in relation to a relevant application in relation to a person made but not decided before the commencement of this section.

(2) In this section—

*relevant application*, in relation to a person, means an application under chapter 11, part 4B for the following—

- (a) an exclusion order in relation to the person;
- (b) an order varying or revoking an exclusion order in relation to a person.

[s 191]

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**191 Application of ch 11, pt 4C**

- (1) Chapter 11, part 4C does not apply to an act of violence committed by a person before the commencement of this section.
- (2) Chapter 11, part 4C does not apply in relation to an infringement notice served on a person before the commencement of this section.

**Part 12 Transitional provision for  
Weapons Amendment Act 2011**

**192 Meaning of disqualifying offence**

- (1) For deciding whether an offence against the *Weapons Act 1990*, section 51(1), is a disqualifying offence, an offence committed before the commencement can not be taken into account.
- (2) In this section—  
*commencement* means the commencement of the *Weapons Amendment Act 2011*.

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# Schedule 1      **Disqualifying offences—provisions of the Criminal Code**

schedule 3, def *disqualifying offence*

## **Part 1                      Existing provisions**

- 1 chapter 9 (Breaches of the peace)
- 2 chapter 16 (Offences relating to the administration of justice)
- 3 chapter 20 (Miscellaneous offences against public authority)
- 4 chapter 22 (Offences against morality)
- 5 chapter 26 (Assaults and violence to the person generally—justification and excuse)
- 6 chapter 27 (Duties relating to the preservation of human life)
- 7 chapter 28 (Homicide—suicide—concealment of birth)
- 8 chapter 29 (Offences endangering life or health)
- 9 chapter 30 (Assaults)
- 10 chapter 32 (Rape and sexual assaults)
- 11 chapter 33 (Offences against liberty)
- 11A section 359E (Punishment of unlawful stalking)
- 12 section 363 (Child-stealing)
- 13 chapter 36 (Stealing)
- 14 chapter 37 (Offences analogous to stealing)
- 15 chapter 38 (Stealing with violence—extortion by threats)
- 16 chapter 39 (Burglary—housebreaking—and like offences)
- 17 chapter 40 (Other fraudulent practices)
- 18 chapter 41 (Receiving property stolen or fraudulently obtained and like offences)



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## **Schedule 1A     Driver disqualification offences**

schedule 3, definitions *category A driver disqualifying offence*,  
*category B driver disqualifying offence* and *category C driver disqualifying offence*

### **Part 1                     Category A driver disqualifying offences**

#### **Division 1A                Classification of Computer Games and Images Act 1995**

- 1    section 23 (Demonstration of an objectionable computer game before a minor)
- 2    section 26(3) (Possession of objectionable computer game)
- 3    section 27(3) and (4) (Making objectionable computer game)
- 4    section 28 (Obtaining minor for objectionable computer game)

#### **Division 1B                Classification of Films Act 1991**

- 1    section 41(3) (Possession of objectionable film)
- 2    section 42(3) and (4) (Making objectionable film)
- 3    section 43 (Procurement of minor for objectionable film)

#### **Division 1C                Classification of Publications Act 1991**

- 1    section 12 (Sale etc. of prohibited publication or child abuse photograph)

Schedule 1A

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- 2 section 13 (Possession of prohibited publication)
- 3 section 14 (Possession of child abuse publication or child abuse photograph)
- 4 section 15 (Exhibition or display of prohibited publication or child abuse photograph)
- 5 section 16 (Leaving prohibited publication or child abuse photograph in or on public place)
- 6 section 17(1) (Producing prohibited publication)
- 7 section 17(2) (Producing prohibited publication)
- 8 section 17(3) and (4) (Producing prohibited publication)
- 9 section 18 (Procurement of minor for RC publication or child abuse photograph)
- 10 section 20 (Leaving prohibited publication or child abuse photograph in or on private premises)

## **Division 1                      Existing provisions of the Criminal Code**

- 1 section 208 (Unlawful sodomy) unless, when the offence was committed, the offender was aged between 17 and 20 (both inclusive) and the person in relation to whom the offence was committed was not a person with an impairment of the mind and was aged between 14 and 17 (both inclusive)
- 2 section 210 (Indecent treatment of children under 16) unless, when the offence was committed, the offender was aged between 17 and 20 (both inclusive) and the person against whom the offence was committed was aged between 14 and 20 (both inclusive)
- 3 section 213 (Owner etc. permitting abuse of children on premises)
- 4 section 215 (Carnal knowledge with or of children under 16) unless, when the offence was committed, the offender was aged between 17 and 20 (both inclusive) and the person



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- against whom the offence was committed was aged between 14 and 20 (both inclusive)
- 5 section 216 (Abuse of persons with an impairment of the mind)
  - 6 section 217 (Procuring young person etc. for carnal knowledge)
  - 6A section 218 (Procuring sexual acts by coercion etc.), if the offence was committed against a child
  - 7 section 218A (Using internet etc. to procure children under 16)
  - 8 section 219 (Taking child for immoral purposes)
  - 8A section 221 (Conspiracy to defile), if the offence was committed against a child
  - 9 section 222 (Incest), if the person in relation to whom the offence was committed was a child when the offence was committed
  - 10 section 228 (Obscene publications and exhibitions), if section 228(2) or (3) applies
  - 10A section 228A (Involving child in making child exploitation material)
  - 10B section 228B (Making child exploitation material)
  - 10C section 228C (Distributing child exploitation material)
  - 10D section 228D (Possessing child exploitation material)
  - 11 section 229B (Maintaining a sexual relationship with a child)
  - 12 section 229G (Procuring prostitution), if section 229G(2) applies
  - 12A section 229G (Procuring engagement in prostitution), only if an offender was or could have been liable as mentioned in section 229G(2)
  - 12B section 229H (Knowingly participating in provision of prostitution), only if an offender was or could have been liable as mentioned in section 229H(2)

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- 12C section 229I (Persons found in places reasonably suspected of being used for prostitution etc.), only if an offender was or could have been liable as mentioned in section 229I(2)
- 12D section 229L (Permitting young person etc. to be at place used for prostitution)
- 12E section 300 (Unlawful homicide), only if the unlawful killing is murder under section 302 and was committed against a child
- 13 section 349 (Rape)
- 14 section 350 (Attempt to commit rape), if the offence was committed against a child
- 15 section 351 (Assault with intent to commit rape), if the offence was committed against a child
- 16 section 352 (Sexual assaults), if the offence was committed against a child

**Division 2                      Provisions of the Criminal Code  
repealed by the Criminal Law  
Amendment Act 1997**

- 1 section 208 (Unlawful anal intercourse), if section 208(2)(b) applies
- 2 section 222 (Incest by man), if the person in relation to whom the offence was committed was a child under 16 years when the offence was committed
- 3 section 223 (Incest by adult female), if the person in relation to whom the offence was committed was a child when the offence was committed
- 4 section 344 (Aggravated assaults), as the provision was in force from 20 December 1946 until its repeal by the *Criminal Law Amendment Act 1997*, if—
  - (a) the circumstance of aggravation was that the unlawful assault was an offence of a sexual nature as defined by the *Criminal Law Amendment Act 1945*, section 2A; and

- (b) the person in relation to whom the offence was committed was a child when the offence was committed

**Division 3**                      **Provisions of the Criminal Code  
repealed by the Criminal Code,  
Evidence Act and Other Acts  
Amendment Act 1989**

- 1 section 212 (Defilement of girls under twelve)
- 2 section 214 (Attempt to abuse girls under ten)
- 3 section 220 (Unlawful detention with intent to defile or in a brothel), if the person in relation to whom the offence was committed was a child when the offence was committed

**Division 4**                      **Criminal Code (Cwlth)**

- 1 section 270.6 (Sexual servitude offences), only if an offender was or could have been liable as mentioned in section 270.8
- 2 section 270.7 (Deceptive recruiting for sexual services), only if an offender was or could have been liable as mentioned in section 270.8
- 3 section 474.19 (Using a carriage service for child pornography material)
- 4 section 474.20 (Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service)
- 5 section 474.22 (Using a carriage service for child abuse material)
- 6 section 474.23 (Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service)
- 7 section 474.26 (Using a carriage service to procure persons under 16 years of age)

- 8 section 474.27 (Using a carriage service to “groom” persons under 16 years of age)

## **Division 5                      Customs Act 1901 (Cwlth)**

- 1 section 233BAB (Special offence relating to tier 2 goods), if the offence involved child pornography or child abuse material

## **Division 6                      Provisions of the Crimes Act 1914 (Cwlth) repealed by the Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010 (Cwlth)**

- 1 section 50BA (Sexual intercourse with child under 16)
- 2 section 50BB (Inducing child under 16 to engage in sexual intercourse)
- 3 section 50BC (Sexual conduct involving child under 16)
- 4 section 50BD (Inducing child under 16 to be involved in sexual conduct)
- 5 section 50DA (Benefiting from offence against this Part)
- 6 section 50DB (Encouraging offence against this Part)

## **Part 2                              Category B driver disqualifying offences**

*Note—*

See the definition *category B driver disqualifying offence* in schedule 3 for the full list of category B driver disqualifying offences.

**Criminal Code**

- 1 section 229G (Procuring prostitution)
- 2 section 229L (Permitting young person etc. to be at place used for prostitution)
- 3 section 328A (Dangerous operation of a vehicle)

***Weapons Act 1990***

section 65 (Unlawful trafficking in weapons)

**Part 3                      Category C driver disqualifying offences**

**Division 1                Existing provisions of the Criminal Code**

- 1 chapter 9 (Breaches of the peace)
- 2 chapter 16 (Offences relating to the administration of justice)
- 3 chapter 20 (Miscellaneous offences against public authority)
- 4 chapter 22 (Offences against morality)
- 5 chapter 26 (Assaults and violence to the person generally—justification and excuse)
- 6 chapter 27 (Duties relating to the preservation of human life)
- 7 chapter 28 (Homicide—suicide—concealment of birth)
- 8 chapter 29 (Offences endangering life or health)
- 9 chapter 30 (Assaults)
- 10 chapter 33 (Offences against liberty)
- 11 chapter 36 (Stealing)
- 12 chapter 37 (Offences analogous to stealing)

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- 13 chapter 38 (Stealing with violence—extortion by threats)
- 14 chapter 39 (Burglary—housebreaking—and like offences)
- 15 chapter 40 (Other fraudulent practices)
- 16 chapter 41 (Receiving property stolen or fraudulently obtained and like offences)
- 18 chapter 42A (Secret commissions)
- 19 chapter 46 (Offences)
- 20 chapter 49 (Punishment of forgery and like offences)
- 21 chapter 52 (Personation)
- 22 chapter 56 (Conspiracy)

**Division 2**                      **Provisions of the Criminal Code  
repealed by the Criminal Law  
Amendment Act 1997**

- 1 section 343A (Assaults occasioning bodily harm)
- 2 section 344 (Aggravated assaults)

**Division 3**                      **Provisions of the Criminal Code  
repealed by the Criminal Code and  
Other Acts Amendment Act 2008**

- 1 chapter 42 (Frauds by trustees and officers of companies and corporations—false accounting)

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## Schedule 2      Reviewable decisions

section 102

<b>Section</b>	<b>Description of decision</b>
17	refusal to grant or renew operator accreditation
20	amendment, suspension or cancellation of operator accreditation
28B	category B driver disqualifying offence—refusal to grant or renew driver authorisation or cancellation of driver authorisation
28C	category C driver disqualifying offence—refusal to grant or renew driver authorisation or suspension or cancellation of driver authorisation
29	refusal to grant or renew driver authorisation or the imposition of a condition on driver authorisation
32	amendment, suspension or cancellation of driver authorisation or the imposition of a condition on driver authorisation
36B(1)	decision to give essential infrastructure direction
36B(1)	decision to fix conditions for essential infrastructure direction
46(8)	requirement to take steps to remedy service inadequacies
46(9)	termination of service contract for failure to remedy service inadequacies
47(1) or (3)	amendment, suspension or cancellation of a service contract
47A(3)	contract holder's performance has been unsatisfactory
62AC(4)	contract holder's performance has been unsatisfactory

<b>Section</b>	<b>Description of decision</b>
75(1)	amendment of the conditions of a taxi service licence
77(2)	requirement to pay amount as condition of transfer of taxi service licence between areas
79	suspension or cancellation of a taxi service licence
80J(1)	amendment of the conditions of a peak demand taxi permit
80L	suspension or cancellation of a peak demand taxi permit
88(1)	amendment of conditions of a limousine service licence
91	suspension or cancellation of a limousine service licence
126D	forfeiture of seized things
126N	decision to give dangerous situation notice



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## Schedule 3      Dictionary

## section 3

**accredited operator** means a person who holds an operator accreditation or provisional operator accreditation.

**act of violence**, for chapter 11, part 4C, see section 129ZH.

**air service** means a scheduled passenger service provided by aircraft between airports in the State.

**approved form** means a form approved by the chief executive under section 150A.

**assault** has the meaning given by the Criminal Code, section 245.

**authorised driver** means a person who holds a driver authorisation or a provisional driver authorisation.

**authorised person**—

- (a) for chapter 11, part 4C—see section 129ZH; or
- (b) otherwise—means a person who is—
  - (i) an authorised person under section 111(1); or
  - (ii) appointed as an authorised person under section 111(2); or
  - (iii) a transit officer.

**authorising document** means a document evidencing driver authorisation.

**bodily harm** has the meaning given by the Criminal Code, section 1.

**bus** means a motor vehicle with seating capacity for 9 or more passengers (excluding the driver).

**category A driver disqualifying offence** means any of the following offences committed by a person who is subject to an obligation or order mentioned in the CCYPCG Act, section

170(b), or by a person when the person was at least 17 years and for which an imprisonment order is or was imposed—

- (a) an offence against a provision of an Act mentioned in schedule 1A, part 1, subject to any qualification relating to the provision mentioned in the part;
- (b) an offence of counselling or procuring the commission of, or attempting or conspiring to commit, an offence mentioned in paragraph (a), and to which paragraph (a) does not otherwise apply;
- (c) an offence against a law of another jurisdiction, including a jurisdiction outside Australia, that substantially corresponds to an offence mentioned in paragraph (a) or (b).

***category B driver disqualifying offence*** means—

- (a) any of the following that is not a category A driver disqualifying offence—
  - (i) an offence listed in the CCYPCG Act, schedule 2 or 3, subject to any qualification relating to the offence mentioned in the schedule;
  - (ii) an offence against a provision of an Act mentioned in schedule 1A, part 2, subject to any qualification relating to the provision mentioned in the part;
  - (iii) an offence of counselling or procuring the commission of, or attempting or conspiring to commit, an offence mentioned in subparagraph (i) or (ii), and to which paragraph (i) or (ii) does not otherwise apply;
  - (iv) an offence against a law of another jurisdiction, including a jurisdiction outside Australia, that substantially corresponds to an offence mentioned in subparagraph (i), (ii) or (iii); or
- (b) an offence mentioned in the definition *category A driver disqualifying offence*, paragraph (a), (b) or (c), committed by a person when the person was—
  - (i) under 17 years, whether or not an imprisonment order is or was imposed, if the person is not subject

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to an obligation or an order mentioned in the CCYPCG Act, section 170(b); or

- (ii) at least 17 years and—
  - (A) no imprisonment order is or was imposed; and
  - (B) the person is not subject to an obligation or order mentioned in the CCYPCG Act, section 170(b).

***category C driver disqualifying offence*** means any of the following that is not a category A driver disqualifying offence or a category B driver disqualifying offence—

- (a) an offence against a provision of the Criminal Code mentioned in schedule 1A, part 3;
- (b) an offence against the *Drugs Misuse Act 1986* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative;
- (c) an offence against the *Weapons Act 1990* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative;
- (d) an offence against this Act;
- (e) an offence against the *Transport Operations (Passenger Transport) Regulation 2005*, for which the maximum penalty is at least 20 penalty units;
- (ea) an offence against the *Summary Offences Act 2005*, section 9;
- (f) an offence of counselling or procuring the commission of, or attempting or conspiring to commit, an offence mentioned in paragraph (a), (b), (c), (d), (e) or (ea), and to which paragraph (a), (b), (c), (d), (e) or (ea) does not otherwise apply;
- (g) an offence against a law of another jurisdiction, including a jurisdiction outside Australia, that substantially corresponds to an offence mentioned in paragraph (a), (b), (c), (d), (e), (ea) or (f).

**CCA**, for chapter 12, part 2, see section 154B.

**CCYPCG Act** means the *Commission for Children and Young People and Child Guardian Act 2000*.

**charter bus service** means a public passenger service involving the charter of a bus and driver for prearranged journeys and for pre-agreed amounts if—

- (a) neither the operator nor the driver receive individual fares; and
- (b) each journey has a common origin or destination or both; and
- (c) the charterer has the right to decide the route and time of travel.

**civil banning order**, for chapter 11, part 4C, see section 129ZJ(1).

**community transport service** means a public passenger service funded or subsidised out of public money or by a charity and provided for the benefit of a particular group.

**Competition Code**, for chapter 12, part 2, see section 154B.

**competition legislation**, for chapter 12, part 2, see section 154B.

**consignor**—

- 1 A person is the **consignor** in relation to goods transported, or to be transported, by rail or goods that are dangerous goods if the person is any of the following—
  - (a) the person who has consented to being, and is, named or otherwise identified as the consignor of the goods in the transport documentation for the consignment;
  - (b) if there is no person as described in paragraph (a)—
    - (i) for goods transported or to be transported by rail—the person who engages an operator of the railway, either directly or through

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another person, to transport the goods by rail; or

- (ii) for goods that are dangerous goods—the person who engages a prime contractor, either directly or through another person, to transport the goods; or
- (iii) if there is no person as described in subparagraph (i) or (ii)—the person who has possession of, or control over, the goods immediately before the goods are transported by rail; or
- (iv) if there is no person as described in subparagraph (i), (ii) or (iii)—the person who loads a vehicle with the goods, for transport by rail, at a place—
  - (A) where goods in bulk are stored, temporarily held or otherwise held waiting collection; and
  - (B) that is unattended, other than by the driver or trainee driver of the rail vehicle or someone else necessary for the normal operation of the rail vehicle, during loading;
- (c) if there is no person as described in paragraph (a) or (b) and the goods are imported into Australia through a place in Queensland—the importer of the goods.

2 Also, a person is the consignor of goods for transport by rail if the person arranges for the conveyance of the goods on a rail vehicle owned or controlled by the person.

**conviction** includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

**copy**, of a taxi service bailment agreement, includes any change of the taxi service bailment agreement.

***courtesy transport service*** means a public passenger service provided, free of charge, by an entity using a vehicle owned or leased by the entity for customers, clients or students of the entity.

***criminal history*** of a person means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

- (a) despite section 6 of that Act, includes a conviction of the person to which the section applies; and
- (b) despite section 5 of that Act, includes a charge made against the person for an offence.

***dangerous goods*** means—

- (a) goods prescribed under a regulation to be dangerous goods; or
- (b) for implied references in relation to goods too dangerous to be transported—see chapter 11, part 3C.

***dangerous goods authority*** means an entity in a participating dangerous goods jurisdiction that has functions under a corresponding law to the *Transport Infrastructure Act 1994*, chapter 14 that correspond to the chief executive's functions under that chapter.

***dangerous goods offence*** means—

- (a) an offence against chapter 11, the *Transport Infrastructure Act 1994*, chapter 14 or a dangerous goods regulation involving or relating to the transport of dangerous goods by rail; or
- (b) for implied references in relation to goods too dangerous to be transported—see chapter 11, part 3C.

***dangerous goods regulation*** means—

- (a) a regulation made under the *Transport Infrastructure Act 1994*, chapter 14, applying to the transport of dangerous goods by rail; or
- (b) for implied references in relation to goods too dangerous to be transported—see chapter 11, part 3C.

***dangerous situation*** see section 126L.

***dangerous situation notice*** see section 126N.

***demand management measures*** includes pricing of parking, other demand management pricing, bus priority and high vehicle occupancy measures.

*Example of high vehicle occupancy measures—*

dedicated transit lanes

***demand responsive service*** includes a service that is—

- (a) held out as being able to respond to requests for service immediately or within a period of time appropriate to a taxi or within a similar period; or
- (b) held out as being a service providing taxis or a service similar to a service providing taxis; or
- (c) conducted in a way that may reasonably be expected to give prospective customers or the public the impression that the service is, or operates in a way similar to, a service providing taxis.

***detainable offence*** means—

- (a) an offence involving assault occasioning bodily harm of a person; or
- (b) an offence involving assault of a person for the purpose of stealing something from the person; or
- (c) an offence against the Criminal Code, chapter 32; or

*Note—*

The Criminal Code, chapter 32 contains offences relating to rape and sexual assault.

- (d) an offence involving wilful damage of property.

***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***, in relation to operator accreditation, a taxi service licence, a peak demand taxi permit or a limousine service licence, means—

- (a) an offence against this Act, whether the act relating to the offence was or is committed before or after the commencement of this paragraph; or
- (b) an offence against a provision of the Criminal Code mentioned in schedule 1; or
- (c) an offence against the *Drugs Misuse Act 1986* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or
- (d) an offence against the *Weapons Act 1990* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or
- (e) an offence prescribed by regulation; or
- (f) an offence against a law of another jurisdiction, including a jurisdiction outside Australia, that substantially corresponds to an offence mentioned in paragraph (a), (b), (c), (d) or (e).

***driver***—

- (a) generally—means the driver of a public passenger vehicle; and
- (b) for chapter 11A—see section 143AA.

***driver authorisation*** see section 24.

***driver disqualifying offence***, in relation to driver authorisation, means—

- (a) a category A driver disqualifying offence; or
- (b) a category B driver disqualifying offence; or
- (c) a category C driver disqualifying offence.

***driver service*** includes a service of actually providing a vehicle, on hire or otherwise, if a driver for the vehicle is offered or available by, through or on behalf of the operator.

***electronic booking system*** means a system for the electronic recording and display of information about bookings.



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

**emergency service contract** means a contract entered into under section 48A.

**essential infrastructure direction** see section 36B(4).

**essential public transport infrastructure** means infrastructure the subject of a declaration under section 36A(1).

**evade payment of a fare** see section 143AB.

**excluded public passenger service** means any of the following—

- (a) a community transport service;
- (b) a courtesy transport service;
- (c) a limousine service;
- (d) an unscheduled long distance passenger service.

**exclusion order** see section 129Z.

**exclusion variation order** see section 129ZF(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.

**fare**, in relation to a public passenger service, means—

- (a) the price payable for use of the service; or
- (b) the provisions of, or arrangements for, a discount, allowance, rebate or credit applying in relation to the price payable for use of the service.

**fare provision**, for chapter 12, part 2, see section 154C.

**ferry** includes ship, boat, barge and hovercraft.

**ferry service** means a public passenger service provided by a ferry on or over water, and includes a service provided by water taxi.

**fixed track vehicle** includes a train and a light rail vehicle.

***forward-control passenger vehicle***—

- (a) means a passenger vehicle, other than an off-road passenger vehicle, having up to 9 seating positions, including the driver's position, and in which the centre of the steering wheel is in the forward quarter of the vehicle's total length; and
- (b) includes—
  - (i) a vehicle prescribed under a regulation to be a forward-control passenger vehicle; or
  - (ii) a vehicle declared by the chief executive under section 145 to be a forward-control passenger vehicle.

*Note*—

The reference to the number of seating positions allows for a consistent definition for the Act and subordinate legislation.

***free of charge***, for a courtesy transport service, includes without any of the following—

- (a) any payment or other consideration for the service;
- (b) requiring or asking for a levy, donation or other monetary contribution for the service, for example, the purchase of a ticket in a raffle;
- (c) displaying a receptacle, whether on the vehicle used to provide the service or elsewhere, in such a way as to suggest that a donation is expected or required to travel on the vehicle.

***frisk search***, a person, means search the person by quickly running hands over the person's outer garments.

***general route service*** means—

- (a) a scheduled passenger service available to the public for general purposes; or

*Examples of general purposes*—

a purpose related to education, employment, entertainment or shopping and a financial, health or a medical service

- (b) a scheduled passenger service available to any person if the person pays a subscription or a membership fee that is paid principally for the service.

***goods too dangerous to be transported*** means goods prescribed under a dangerous goods regulation as goods too dangerous to be transported.

***holder***, for a service contract, means the operator—

- (a) with whom the chief executive has entered the contract under section 38B; or
- (b) to whom the contract has been transferred under section 48(1)(a) or (b).

***identified provision***, for chapter 12, part 2, see section 154D.

***impaired capacity*** has the meaning under the *Guardianship and Administration Act 2000*.

***imprisonment order*** means an imprisonment order under the CCYPCG Act.

***in*** a rail vehicle includes on the vehicle.

***individual fares***, for a charter bus service, include—

- (a) payment for a thing if the payment entitles the person making it to travel on the bus; and
- (b) a charge for the charter that is calculated on a per person basis.

***information notice***, for a decision, means a notice stating that a person affected by the decision may—

- (a) under section 102—ask for the decision to be reviewed by the chief executive; and
- (b) under the *Transport and Planning Coordination Act 1994*, part 5, division 2—apply to QCAT for the decision to be stayed; and
- (c) under section 103—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 to QCAT for the reviewed decision to be stayed.

***infringement notice*** means an infringement notice under the *State Penalties Enforcement Act 1999*, part 3.

***interim civil banning order***, for chapter 11, part 4C, see section 129ZP(2).

***lease*** of a taxi service licence or a limousine service licence means a transfer of the licence made on condition that the licence will, at the end of a specified term, or on fulfilment of a specified condition, revert to the transferor.

***licensed taxi*** means a vehicle stated in a taxi service licence.

***light rail*** see the *Transport Infrastructure Act 1994*, schedule 6.

***light rail manager***, for a light rail, see the *Transport Infrastructure Act 1994*, schedule 6.

***light rail operator***, for a light rail, see the *Transport Infrastructure Act 1994*, schedule 6.

***light rail vehicle*** see the *Transport Infrastructure Act 1994*, schedule 6.

***limousine*** means a motor vehicle for which a limousine service licence is in force.

***limousine service*** means an unscheduled public passenger service provided by a luxury motor vehicle or special purpose limousine where the fare for a journey is decided before the journey begins.

***limousine service licence*** see section 82.

***load***, in relation to goods and to a rail vehicle, includes any of the following—

- (a) load 1 or more packages of the goods in or on the rail vehicle;
- (b) place or secure 1 or more packages of the goods on the rail vehicle;

- 
- (c) to remove doubt—carry out an activity mentioned in paragraphs (a) and (b) in relation to a bulk container, freight container, or tank that is part of a rail vehicle;
  - (d) supervise an activity mentioned in paragraph (a), (b) or (c);
  - (e) manage or control an activity mentioned in paragraphs (a) to (d);

but does not include load goods into packaging already on the rail vehicle or place or secure packages in or on further packaging already on the vehicle.

***luxury motor vehicle*** means—

- (a) a vehicle declared under a regulation to be a luxury motor vehicle; or
- (b) a vehicle declared by the chief executive under section 145 to be a luxury motor vehicle.

***management entity***, for chapter 12, part 2, see section 154B.

***management entity provision***, for chapter 12, part 2, see section 154E.

***master***, for chapter 11A, see section 143AA.

***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 35A; 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 35A; 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** has the meaning given by the *Transport Operations (Road Use Management) Act 1995*.

**non-State school** see the *Education (General Provisions) Act 2006*.

**non-TransLink area** means an area other than a TransLink area.

**obstruct** includes abuse, hinder, insult, resist, threaten or attempt to obstruct.

**occupier** of a place includes a person who reasonably appears to be the occupier, or in charge of, the place.

**off-road passenger vehicle** means a passenger vehicle that has up to 9 seating positions, including the driver's position, designed with special features for off-road operation as defined by the Australian Design Rules.

*Note—*

The reference to the number of seating positions allows for a consistent definition for the Act and subordinate legislation.

**operator** means a person carrying on the business of providing a public passenger service, and includes a person carrying on the business of administering a taxi service and the lessor of a limousine service licence or taxi service licence.

**operator accreditation** see section 12.

**pack**, in relation to dangerous goods, includes the following—

- (a) put goods in packaging, even if that packaging is already on a rail vehicle;

*Example for paragraph (a)—*

A person who uses a hose to fill the tank of a tank rail vehicle with petrol packs the petrol for transport.

- (b) enclose or otherwise contain more than 1 package, even if that packaging is already on a rail vehicle;
- (c) supervise an activity mentioned in paragraph (a) or (b);
- (d) manage or control an activity mentioned in paragraph (a), (b) or (c).

**packaging**, in relation to dangerous goods—

- (a) means anything that contains, holds, protects or encloses the goods, whether directly or indirectly, to enable them to be received or held for transport, or to be transported; and
- (b) includes anything prescribed under a dangerous goods regulation to be packaging.

*Notes—*

- 1 It may be that a container constitutes the whole of the packaging of goods, as in the case of a drum in which goods, including for example dangerous goods, are directly placed.
- 2 The term is not used in the same way as it is used in United Nations publications relating to the transport of dangerous goods.

**passenger car** means a passenger vehicle, other than an off-road passenger vehicle or a forward-control passenger vehicle, having up to 9 seating positions, including the driver's position.

**passenger vehicle** means a motor vehicle constructed primarily for the carriage of persons and having at least 4 wheels.

**peak demand management plan** see section 67A.

**peak demand taxi** see section 80D.

**peak demand taxi permit** see section 80D.

**peak patronage period** means a period—

- (a) in which the demand for taxi services is higher than usual; and
- (b) that is identified in a peak demand management plan given to the chief executive under section 67A and, if applicable, amended by the chief executive.

***person in control*** includes—

- (a) for a ferry—the person who has, or reasonably appears to have, command or charge of the ferry; and
- (b) for another vehicle—the vehicle’s driver or the person who reasonably appears to be the vehicle’s driver.

***placard*** means a label or emergency information panel as prescribed under a regulation.

***place*** includes land, waters and premises, but does not include a vehicle.

***premises*** includes—

- (a) a building, wharf or other structure; and
- (b) a part of a building, wharf or other structure; and
- (c) land or waters where a building, wharf or other structure is situated.

***prescribed day*** for chapter 6, part 2, division 2AA, see section 62AAB.

***prescribed details***, of a booking for a limousine service, means the details about the booking prescribed under a regulation for this definition.

***prescribed person***, for a railway manager or railway operator, means—

- (a) an employee of the railway manager or railway operator who is a transit officer; or
- (b) an employee of the railway manager or railway operator, or a member of the railway manager’s or railway operator’s board, who is responsible for managing or supervising the performance of a function or the exercise of a power by a person mentioned in paragraph (a).

***prescribed school service contract*** means a service contract—

- (a) to provide a service for which no declaration has been made under section 42; and
- (b) that is, or is part of, an arrangement under section 144.



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

- (a) the *Adult Proof of Age Card Act 2008*;
- (b) the *Tow Truck Act 1973*;
- (c) the *Transport Operations (Marine Safety) Act 1994*;
- (d) the *Transport Operations (Road Use Management) Act 1995*.

***prime contractor***, in relation to the transport of dangerous goods, means the person who, in conducting a business for or involving the transport of dangerous goods, has undertaken to be responsible for, or is responsible for, the transport of the goods.

***proper officer***, of a court making a civil banning order or exclusion order, has the meaning given by the *Penalties and Sentences Act 1992*, section 4.

***public notice*** means a notice published in a newspaper circulating generally throughout the State or, if the matter being published is of interest only in a particular area, in a newspaper circulating generally throughout the area.

***public passenger service*** means a service for the carriage of passengers if—

- (a) the service is provided for fare or other consideration; or
- (b) the service is provided in the course of a trade or business (but not if it is provided by an employer solely for employees); or
- (c) the service is a courtesy or community transport service; and includes a driver service and a service for the administration of taxi services but does not include a service excluded from this Act by a regulation.

***public passenger vehicle*** means any of the following vehicles used to transport members of the public—

- (a) a bus;
- (b) a ferry;
- (c) a taxi;

- (d) a fixed track vehicle;
- (e) an aircraft;
- (f) a limousine;
- (g) a vehicle classified by regulation as a public passenger vehicle.

***public place*** means a place that the public is entitled to use, is open to the public or is used by the public, whether or not on payment of money.

***public transport infrastructure*** means any of the following—

- (a) a railway;
- (b) a car park under the control of a railway manager or railway operator;
- (c) a train or other passenger vehicle being operated by a railway manager or railway operator;
- (ca) a light rail;
- (cb) a light rail vehicle or other public passenger vehicle being operated by a light rail manager, or light rail operator, for a light rail;
- (cc) a car park under the control of a light rail manager, or light rail operator, for a light rail;
- (cd) facilities for passengers to interchange between light rail and other modes of transport under the control of a light rail manager, or light rail operator, for a light rail;
- (d) a busway as defined under the *Transport Infrastructure Act 1994*;
- (e) an interchange for a public passenger service used by buses;

*Example—*

Cannon Hill Interchange

- (f) a car park on land declared to be busway land under the *Transport Infrastructure Act 1994*, chapter 9;

- (g) a jetty or other structure (**ferry stop**) at which a ferry makes a scheduled stop for a ferry service, and any other structure associated with the ferry stop;
- (h) a bus or ferry being used for a general route service.

**public transport network** means the following—

- (a) all general route services;
- (b) all public transport infrastructure associated with a general route service.

**rail**, for chapter 11 in relation to the transportation of dangerous goods by rail, includes cableway.

**rail vehicle**, for chapter 11 in relation to the transportation of dangerous goods by rail, includes a unit of rolling stock and a cableway car.

**railway** includes—

- (a) for chapters 11 and 11A—a carpark or bus station under a railway manager's control; and
- (b) in relation to the transportation of dangerous goods by rail—a cableway.

**railway manager** has the meaning given by the *Transport Infrastructure Act 1994*.

**railway operator** has the meaning given by the *Transport Infrastructure Act 1994*.

**reasonably** means on grounds that are reasonable in all the circumstances.

**reasonably believes** means believes on reasonable grounds.

**reasonably suspects** means suspects on reasonable grounds.

**relevant area** means an area in which the administration of taxi services must be performed under a service contract as mentioned in section 66.

**relevant emergency service officer** means an officer of any of the following—

- (a) the Queensland Ambulance Service;

- (b) the Queensland Fire and Rescue Service;
- (c) the Queensland Police Service;
- (d) the State Emergency Service;
- (e) a service of another State, corresponding to a service mentioned in paragraphs (a) to (d), if there is a dangerous goods authority for the State;
- (f) a unit of the Australian Defence Force corresponding to a service mentioned in paragraphs (a) to (d).

**relevant information**, for chapter 11, part 2, division 1, subdivision 2, see section 111D.

**relevant offence**—

- (a) for chapter 11, part 4—see section 126P; or
- (b) for chapter 11, part 4B or 4C—means an offence against a relevant provision as defined under section 143AHA(3).

**relevant order** means—

- (a) an imprisonment order; or
- (b) the obligations or an order mentioned in the CCYPCG Act, section 170(b).

**relevant transport legislation**, for chapter 11, see section 110.

**remedial action notice** see section 126K.

**respondent**, for chapter 11, part 4C, see section 129ZJ(1).

**restricted driver authorisation** means driver authorisation that is restricted under section 29A.

**retention period**, for a digital photo and digitised signature, means the retention period worked out under section 35F.

**road** means—

- (a) an area of land dedicated to public use as a road; or
- (b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or

- (c) a bridge, culvert, ferry, ford, tunnel or viaduct; or
- (d) a pedestrian or bicycle path; or
- (e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d).

**road works** has the same meaning as in the *Transport Infrastructure Act 1994*, chapter 6 (Road transport infrastructure).

**scheduled passenger service** means a public passenger service—

- (a) conducted on a route in accordance with a timetable for the service; or
- (b) conducted on a route that forms a circle or loop (commonly called a ‘loop service’); or
- (c) conducted on a continuous basis between 2 points (commonly called a ‘shuttle service’); or
- (d) under which the vehicle used may, at the request of individual passengers, deviate from the usual route from time to time (commonly called a ‘route deviation service’); or
- (e) under which the actual route to be traversed may vary within a corridor or zone at the request of individual passengers each time the service operates (commonly called a ‘dial and ride service’).

**school service** means a scheduled passenger service only or primarily for the transport of school students to and from school (other than for school excursions) on days that schools are open for instruction.

**school student** means a person who—

- (a) is under 18 years; and
- (b) is enrolled at a State school or a non-State school.

**service contract** see section 38(1).

**service contract area or route** means an area or route for which a service contract is required under section 42 or 66 to provide particular public passenger services.

**service entity**, for chapter 12, part 2, see section 154B.

**service entity provision**, for chapter 12, part 2, see section 154F.

**service equipment**, for a public passenger service, means any of the following used in operating the service—

- (a) facilities, including ticketing systems, network monitoring systems, communications equipment and timing systems;
- (b) infrastructure, including tunnels, stations, parking facilities and passenger interchanges;
- (c) goods or services related to something mentioned in paragraph (a) or (b).

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

**smartcard** means a card or something similar approved by the chief executive on which electronic records of transit and other applications are stored.

**smartcard driver authorisation** means driver authorisation in the form provided for under section 29(3)(b).

**special event** means—

- (a) for chapter 6, part 4, division 1—an event the subject of a declaration under section 67B; or
- (b) for chapter 6, part 4, division 2—an event the subject of a declaration under section 67F.

**special purpose limousine** means a motor vehicle prescribed under a regulation as a motor vehicle that may be used under a special purpose limousine service licence.

**special purpose limousine service licence** means a limousine service licence that is subject to the condition that the provision of a limousine service under the licence is restricted to 1 or more the following—

- (a) a service for the carriage of passengers to or from a wedding event;

- (b) a service for the carriage of passengers to or from a student event;
- (c) a tourist service.

**standard** means a standard in force under this Act.

**State influenced entity**, for chapter 12, part 2, see section 154G.

**State school** see the *Education (General Provisions) Act 2006*.

**stretched**, in relation to a passenger vehicle, means the passenger vehicle has been modified by adding an extra section to the body to increase the overall length of the passenger vehicle.

**stretched passenger car** means a passenger vehicle that—

- (a) has been modified by being stretched; and
- (b) has more than 9 seating positions, including the driver's position; and
- (c) was a passenger car before it was modified.

**student event** means—

- (a) an event that is held for the students of an educational institution, and their invited guests, and is one of the following—
  - (i) a school formal;
  - (ii) a graduation ceremony;
  - (iii) a debutante ball;
  - (iv) another dance or ball at which evening wear or semi-formal wear is worn; or
- (b) an event held immediately before, or immediately after, an event mentioned in paragraph (a).

**substitute taxi** means a motor vehicle used under a taxi service licence under a regulation mentioned in section 74B.

**tag off**, for chapter 11A, see section 143AA.

**tag on**, for chapter 11A, see section 143AA.

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

**tare** means the weight of a vehicle equipped for travelling on a railway, but not including any load.

**taxi**, other than in the definition *demand responsive service* means—

- (a) a motor vehicle for which a taxi service licence or peak demand taxi permit is in force; or
- (b) a substitute taxi.

**taxi industry security levy** see section 80A.

**taxi service** means a public passenger service, other than an excluded public passenger service, provided by a motor vehicle under which the vehicle—

- (a) is able, when not hired, to be hailed for hire by members of the public; or
- (b) provides a demand responsive service under which members of the public are able to hire the vehicle through electronic communication; or
- (c) plies or stands for hire on a road.

**taxi service area** means an area declared under section 71.

**taxi service licence** see section 69.

**ticket** includes a smartcard.

**timetable**, for a scheduled passenger service, means an arrangement under which the starting time or finishing time, or both, for each service is fixed.

**tourist service** means a pre-booked public passenger service operated in accordance with a publicly available itinerary to—

- (a) for all services—a common scenic or tourist attraction; or
- (b) if the service is not wholly within a service contract area or route—a major sporting or cultural event.

**transit officer** see section 111(3).



***transit officer training*** means a course of training for qualification for appointment as a transit officer complying with section 111L.

***TransLink*** means the TransLink Transit Authority established under the *Transport Operations (TransLink Transit Authority) Act 2008*, section 9.

***TransLink area*** see the *Transport Operations (TransLink Transit Authority) Act 2008*, section 7.

***TransLink service contract*** see section 62AAC.

***transport*** dangerous goods includes—

- (a) pack, load and unload the goods, and transfer them to or from a rail vehicle, for their transport; and
- (b) mark packages, and unit loads, containing dangerous goods; and
- (c) placard containers and rail vehicles in which dangerous goods are transported.

***transport coordination plan*** means the transport coordination plan developed under the *Transport Planning and Coordination Act 1994*.

***transport documentation*** means each of the following—

- (a) for a rail vehicle—
  - (i) each contractual document directly or indirectly associated with—
    - (A) a transaction for the actual or proposed transport by rail of goods or any previous transport of the goods by any transport method; or
    - (B) goods, to the extent the document is relevant to the transaction for their actual or proposed transport by rail; or
  - (ii) each document—
    - (A) contemplated in a contractual document mentioned in subparagraph (i); or

(B) required by law, or customarily given, in connection with a contractual document or transaction mentioned in subparagraph (i);

*Examples—*

- a bill of lading
- a consignment note
- a container weight declaration
- a contract of carriage
- a delivery order
- an export receipt advice
- an invoice
- a load manifest
- a sea carriage document
- a vendor declaration
- train wire
- sequential consist
- loading form

(b) for the transport of dangerous goods—documentation required to be kept under a dangerous goods regulation.

***transport indictable offence***, for chapter 11, part 4B, see section 129Y.

***unit of rolling stock*** means a vehicle designed to run on rails.

*Example—*

A unit of rolling stock includes a vehicle that operates on a railway and is used, or is proposed to be used, for either of the following purposes—

- (a) transporting passengers or freight on a railway;
- (b) maintenance work, or other work associated with, a railway.

***unscheduled long distance passenger service*** means a pre-booked public passenger service by road—

- (a) that is unscheduled; and
- (b) by which all passengers on the service are carried on a journey of at least 40km to a general destination that has been predetermined by the operator of the service; and

- 
- (c) in relation to which no passenger's journey is entirely within—
- (i) a single service contract area or route, other than for a service for the administration of taxi services; or
  - (ii) a single taxi service area.

**vehicle** includes a ferry.

**wedding event** means—

- (a) a ceremony for the marriage of 2 persons or a similar ceremony for the joining of 2 persons other than by marriage; or

*Example of similar ceremony—*

commitment ceremony for the joining of 2 persons of the same gender

- (b) an event for the celebration of a ceremony mentioned in paragraph (a); or

*Example of event for paragraph (b)—*

a wedding reception

- (c) an event that happens between a ceremony mentioned in paragraph (a) and an event for the celebration of the ceremony.

*Example of event for paragraph (c)—*

photography session for a couple being married and their assistants

## 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 2 January 2012. Future amendments of the Transport Operations (Passenger Transport) Act 1994 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

<b>Key</b>	<b>Explanation</b>	<b>Key</b>	<b>Explanation</b>
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	none	7 November 1994	9 November 1994
2	1995 Act No. 37	1 July 1995	3 August 1995
3	1995 Act No. 48	15 December 1995	24 January 1996
3A	1996 Act No. 43	24 November 1996	4 December 1996
3B	1997 Act No. 9	20 June 1997	15 August 1997
3C	1998 Act No. 13	30 March 1998	7 April 1998
3D	1998 Act No. 43	27 November 1998	24 March 1999
3E	1999 Act No. 42	22 November 1999	11 February 2000
4	2000 Act No. 6	1 July 2000	28 August 2000
4A	2000 Act No. 46	25 October 2000	8 November 2000
4B	2001 Act No. 79	21 December 2001	4 January 2002
4C	2002 Act No. 15	24 June 2002	24 June 2002

Transport Operations (Passenger Transport) Act 1994

Endnotes

Reprint No.	Amendments included	Effective	Notes
4D	2000 Act No. 40	14 October 2002	
4E	2001 Act No. 79	29 November 2002	
4F	1994 Act No. 8 (amd 2003 Act No. 54) 2003 Act No. 54	1 December 2003	
4G	2004 Act No. 9	20 May 2004	
4H	2004 Act No. 9	18 June 2004	
4I	2004 Act No. 9	25 June 2004	
4J	2004 Act No. 9	1 July 2004	
4K	2004 Act No. 53	29 November 2004	
4L	2004 Act No. 49	17 January 2005	R4L withdrawn, see R5
5	—	17 January 2005	
5A	2004 Act No. 40	19 September 2005	
5B	2005 Act No. 49	2 November 2005	
5C	2006 Act No. 21	17 May 2006	
5D	2007 Act No. 25	28 May 2007	
5E	2007 Act No. 6	1 June 2007	
5F	2007 Act No. 25	17 August 2007	
5G	2007 Act No. 36	29 August 2007	R5G withdrawn, see R6
6	—	29 August 2007	
6A	2008 Act No. 31	21 May 2008	
6B	2008 Act No. 32	1 July 2008	
6C	2007 Act No. 43	25 July 2008	
6D	2007 Act No. 43	24 October 2008	
6E	2007 Act No. 43	26 October 2008	
6F	2008 Act No. 55	1 December 2008	
6G	2008 Act No. 66 2008 Act No. 67	1 January 2009	
6H	2008 Act No. 67	1 March 2009	
6I	2009 Act No. 9	1 July 2009	R6I withdrawn, see R7
7	—	1 July 2009	
7A	2008 Act No. 67	1 November 2009	
7B	2009 Act No. 47	19 November 2009	
7C	2009 Act No. 24	1 December 2009	
7D	2010 Act No. 5 2010 Act No. 13	1 April 2010	
7E	2010 Act No. 19	23 May 2010	
7F	2010 Act No. 19	1 July 2010	
7G	2008 Act No. 71 (amd 2010 Act No. 13)	24 July 2010	
7H	2010 Act No. 6	1 September 2010	
7I	2010 Act No. 42	14 October 2010	
7J	2007 Act No. 43 (amd 2010 Act No. 13; 2010 Act No. 19)	26 October 2010	
7K	2010 Act No. 37	1 November 2010	

Reprint No.	Amendments included	Effective	Notes
7L	2010 Act No. 54	1 January 2011	
7M	2011 Act No. 12	14 April 2011	
7N	2011 Act No. 12	1 August 2011	
8	2011 Act No. 12	1 September 2011	
8A	2011 Act No. 37	2 January 2012	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	4
Renumbered provisions	2

## 6 List of legislation

### **Transport Operations (Passenger Transport) Act 1994 No. 43**

date of assent 14 September 1994

ss 1–2 commenced on date of assent

s 143 sch 3 amdts 5–8 of the Transport Infrastructure Act 1994 commenced 1 July 1994 (see s 2(2))

remaining provisions commenced 7 November 1994 (1994 SL No. 378)

Note—ss 47–50 were relocated from the Transport Operations (Translink Transit Authority) Act 2008 and renumbered as ch 6 pt 4 div 1 ss 67B–67E (2010 No. 13 ch 4 pt 7 s 132 and 2010 No. 13 ch 4 pt 5 div 3 s 124)

amending legislation—

### **Transport Infrastructure Amendment (Rail) Act 1995 No. 32 ss 1–2, 23 sch**

date of assent 14 June 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (see s 2(2), 1995 SL No. 162 ss 2(3), 19)

### **Criminal Code No. 37 of 1995 ss 1–2, 458 sch 2 pt 2**

date of assent 16 June 1995

ss 1–2 commenced on date of assent

remaining provisions never proclaimed into force and rep 1997 No. 3 s 121

### **Transport Planning and Coordination Amendment Act 1995 No. 48 pts 1, 4, s 12 sch**

date of assent 22 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 15 December 1995 (1995 SL No. 365)

### **Transport Operations (Passenger Transport) Amendment Act 1996 No. 43**

date of assent 7 November 1996

Endnotes

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ss 4–5 commenced 24 November 1996 (1996 SL No. 342)  
remaining provisions commenced on date of assent

**Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 ss 1, 2(5), pt 24**

date of assent 15 May 1997  
ss 1–2 commenced on date of assent  
remaining provisions commenced 20 June 1997 (1997 SL No. 155)

**Transport Legislation Amendment Act 1997 No. 66 pts 1, 7**

date of assent 1 December 1997  
ss 1–2 commenced on date of assent  
s 63 commenced 30 April 1999 (automatic commencement under AIA s 15DA(2) (1998 SL No. 317 s 3(2))  
s 64 commenced 31 July 1999 (automatic commencement under AIA s 15DA(2) (1998 SL No. 317 s 4(2))  
remaining provisions commenced 12 December 1997 (1997 SL No. 439)

**Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1–3, sch**

date of assent 5 December 1997  
ss 1–2 commenced on date of assent  
remaining provision commenced 30 November 1996

**Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch**

date of assent 23 March 1998  
ss 1–2 commenced on date of assent  
remaining amdts commenced 30 March 1998 (1998 SL No. 55)

**Transport Legislation Amendment Act (No. 2) 1998 No. 43 s 1, pt 5**

date of assent 27 November 1998  
commenced on date of assent

**Criminal Code (Stalking) Amendment Act 1999 No. 18 pts 1, 3 sch**

date of assent 30 April 1999  
commenced on date of assent

**Road Transport Reform Act 1999 No. 42 ss 1, 2(3), pt 2 div 4**

date of assent 2 September 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 22 November 1999 (see s 2(3), 1999 SL No. 285)

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

date of assent 23 March 2000  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Transport Legislation Amendment Act 2000 No. 6 s 1, pt 5**

date of assent 20 April 2000  
ss 74, 75 and 77(1) (def “means of access”) commenced on date of assent (amdts could not be given effect)  
remaining provisions commenced on date of assent



**Transport (Busway and Light Rail) Amendment Act 2000 No. 40 pts 1, 3**

date of assent 13 October 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 14 October 2002 (automatic commencement under AIA s 15DA(2) (2001 SL No. 183 s 2))

**Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch**

date of assent 25 October 2000

commenced on date of assent

**Transport Legislation Amendment Act 2001 No. 79 ss 1, 2(3), pt 10**

date of assent 29 November 2001

ss 1–2 commenced on date of assent

pt 10 hdg, ss 81, 89(4) commenced 21 December 2001 (2001 SL No. 279)

remaining provisions commenced 29 November 2002 (2002 SL No. 306)

**Transport Legislation Amendment Act 2002 No. 15 ss 1, 2(2), pt 9**

date of assent 17 May 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 24 June 2002 (2002 SL No. 140)

**Transport Infrastructure and Another Act Amendment Act 2003 No. 54 pts 1, 3**

date of assent 18 September 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2003 (2003 SL No. 294)

**Transport Infrastructure Act 1994 No. 8 s 491(3) sch 5 (prev s 200A(3) sch 2B) (this Act is amended, see amending legislation below)**

amending legislation—

**Transport Infrastructure and Another Act Amendment Act 2003 No. 54 ss 1–2, 34, 39 (amends 1994 No. 8 above)**

date of assent 18 September 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2003 (2003 SL No. 294)

**Transport and Other Legislation Amendment Act 2004 No. 9 pts 1, 4, s 10 sch**

date of assent 20 May 2004

ss 1–2, 57(2) (to the extent it ins defs “SEQ area”, “Translink area” and “Translink service contract”) commenced on date of assent

ss 20–50, 52–54, 55 (to the extent it ins s 157), 57(1), 57(2) (to the extent it ins defs “authorised person”, “driver”, “evade payment of a fare”, “fixed track vehicle”, “light rail”, “light rail vehicle”, “master”, “prescribed day”, “railway”, “reasonably suspects”, “relevant offence”, “relevant transport legislation”, “smartcard”, “tag off”, “tag on” and “ticket”), sch amdt 9 commenced 1 July 2004 (2004 SL No. 80)

s 55 (to the extent it ins ss 160–161) commenced 25 June 2004 (2004 SL No. 79)

s 57(2) (to the extent it ins defs “category A driver disqualifying offence”, “category B driver disqualifying offence”, “category C driver disqualifying offence” and “driver disqualifying offence”) commenced 18 June 2004 (2004 SL No. 80)

Endnotes

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sch amdt 2 commenced on date of assent (amdt could not be given effect)  
remaining provisions commenced on date of assent

**Transport and Other Legislation Amendment Act (No. 2) 2004 No. 40 pts 1, 3**

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 19 September 2005 (2005 SL No. 177)

**Commission for Children and Young People and Child Guardian Amendment Act 2004 No. 49 ss 1–2, 53 sch**

date of assent 29 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 17 January 2005 (2004 SL No. 282)

**Statute Law (Miscellaneous Provisions) Act 2004 No. 53**

date of assent 29 November 2004

commenced on date of assent

**Transport Legislation Amendment Act 2005 No. 49 s 1, pt 5**

date of assent 2 November 2005

commenced on date of assent

**Maritime and Other Legislation Amendment Act 2006 No. 21 s 1, pt 5 div 2**

date of assent 17 May 2006

commenced on date of assent

**Transport Legislation and Another Act Amendment Act 2007 No. 6 pts 1, 8**

date of assent 28 February 2007

ss 1–2 commenced on date of assent

s 42 commenced 1 June 2007 (2007 SL No. 93) (amdt could not be given effect)

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

**Transport Operations Legislation Amendment Act 2007 No. 25 pts 1–2**

date of assent 28 May 2007

ss 1–2, 7A commenced on date of assent (see s 2)

remaining provisions commenced 17 August 2007 (2007 SL No. 199)

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

date of assent 29 August 2007

commenced on date of assent

**Transport Legislation Amendment Act 2007 No. 43 ss 1–2(1), pt 5 (this Act is amended, see amending legislation below)**

date of assent 25 October 2007

ss 1–2 commenced on date of assent

pt 5 hdg, ss 16–18 commenced 25 July 2008 (2008 SL No. 244)

ss 19–20, 26, 31, 32(2) (to the extent it ins defs “electronic booking system”, “peak demand management plan”, “peak demand taxi”, “peak demand taxi permit”, “peak patronage period”), 32(3) commenced 26 October 2010 (automatic commencement under AIA s 15DA(2)) (2008 SL No. 350 s 2)

s 29 (to the extent it ins ss 87B–87D) never proclaimed into force and om 2010 No. 19 s 216

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s 30 commenced 26 October 2008 (automatic commencement under AIA s 15DA(2))

remaining provisions commenced 24 October 2008 (2008 SL No. 349)

amending legislation—

**Transport and Other Legislation Amendment Act 2010 No. 13 ss 1, 2(2)(d), 138 sch pt 1 (amends 2007 No. 43 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)(d))

**Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 s 1, ch 4 pt 4 (amends 2007 No. 43 above)**

date of assent 23 May 2010

commenced on date of assent

**Transport Legislation Amendment Act 2008 No. 31 s 1, pt 7, s 72 sch**

date of assent 21 May 2008

commenced on date of assent

**Transport Operations (TransLink Transit Authority) Act 2008 No. 32 ss 1–2, pt 12**

date of assent 21 May 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2008 (2008 SL No. 188)

**Criminal Code and Other Acts Amendment Act 2008 No. 55 ss 1–2, 150 sch**

date of assent 23 October 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2008 (2008 SL No. 386)

**Penalties and Sentences and Other Acts Amendment Act 2008 No. 66 ss 1, 2(2), 4 sch pt 2**

date of assent 1 December 2008

ss 1–2 commenced on date of assent

sch pt 2 commenced 1 January 2009 immediately after the commencement of the Transport and Other Legislation Amendment Act 2008 No. 67 pt 2 (2008 SL No. 433)

remaining provision commenced on date of assent

**Transport and Other Legislation Amendment Act 2008 No. 67 ss 1, 2(1), (3)(a), (d), pt 2 div 2, pt 3 div 13, pt 6 div 1**

date of assent 1 December 2008

ss 1–2 commenced on date of assent

pt 2 div 2 commenced 1 January 2009 (2008 SL No. 424)

pt 3 div 13 commenced 1 March 2009 (see s 2(1))

remaining provisions commenced 1 November 2009 (2009 SL No. 225)

**Transport (New Queensland Driver Licensing) Amendment Act 2008 No. 71 pts 1, 5 (this Act is amended, see amending legislation below)**

date of assent 11 December 2008

Endnotes

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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, 70–74 (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))

**Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

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

date of assent 26 June 2009

ss 1–2 commenced on date of assent

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

**Transport and Other Legislation Amendment Act 2009 No. 47 s 1, pt 5, s 20 sch**

date of assent 19 November 2009

s 20 sch amdts 3–4 commenced on date of assent (amdts could not be given effect)

remaining provisions commenced on date of assent

**Criminal History Screening Legislation Amendment Act 2010 No. 5 pt 1, s 248 sch 3**

date of assent 4 March 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 April 2010 (2010 SL No. 53)

**Transport (Rail Safety) Act 2010 No. 6 ss 1–2, 357 sch 1**

date of assent 4 March 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 September 2010 (2010 SL No. 166)

**Transport and Other Legislation Amendment Act 2010 No. 13 ss 1, 2(2)(c)–(d), (3), ch 4 pt 5, s 114 sch pt 1**

date of assent 1 April 2010

ss 1–2 commenced on date of assent

ch 4 pt 5 div 2 commenced immediately after s 132 (see s 2(3))

remaining provisions commenced on date of assent (see s 2(2)(c)–(d))

**Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 ss 1, 2(4)(a), ch 2 pt 25, ch 4 pt 8, s 281 sch**

date of assent 23 May 2010

ss 1–2, ch 4 pt 8, s 281 sch commenced on date of assent

remaining provisions commenced 1 July 2010 (see s 2(4)(a) and 2010 SL No. 134)

**Integrity Reform (Miscellaneous Amendments) Act 2010 No. 37 ss 1–2, 177 sch**

date of assent 20 September 2010

ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 November 2010 (2010 SL No. 303)

**Justice and Other Legislation Amendment Act 2010 No. 42 s 1, pt 36**

date of assent 14 October 2010  
 commenced on date of assent

**Fair Trading (Australian Consumer Law) Amendment Act 2010 No. 54 ss 1–2, 67 sch**

date of assent 1 December 2010  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 January 2011 (2010 SL No. 359)

**Transport and Other Legislation Amendment Act 2011 No. 12 ss 1, 2(2)–(3), pt 11**

date of assent 14 April 2011  
 ss 1–2 commenced on date of assent  
 ss 77, 89, 90, 91 (other than to the extent it ins ss 190–191), 93, 94(3)–(5)  
 commenced 1 August 2011 (see s 2(2))  
 ss 80, 82–88, 91 (to the extent it ins ss 190–191) commenced 1 September 2011 (see  
 s 2(3))  
 remaining provisions commenced on date of assent

**Weapons Amendment Act 2011 No. 37 pt 1, s 53 sch**

date of assent 24 November 2011  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 2 January 2012 (2011 SL No. 273 item 1)

## 7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 9.

### CHAPTER 1—PRELIMINARY

#### Objectives of Act

s 2 prev s 2 om R2 (see RA s 37)  
 pres s 2 amd 2008 No. 67 s 215

#### Act does not prevent local law from imposing additional requirements

s 4A ins 2004 No. 9 s 11

#### Reference to offence against provision of an Act that is a “disqualifying offence” or a “driver disqualifying offence”

s 4B ins 2007 No. 6 s 35

### CHAPTER 2—RESPONSIBILITIES FOR TRANSPORT STRATEGIES AND PROGRAMS

#### Contents of passenger transport strategies

s 6 amd 1995 No. 48 s 13; 2009 No. 47 s 20 sch

#### Obligations about public passenger transport

s 10 amd 2009 No. 47 s 21

### **CHAPTER 3—OPERATOR ACCREDITATION**

#### **What is operator accreditation**

**s 12** sub 1997 No. 66 s 63  
amd 2004 No. 9 s 12; 2011 No. 12 s 75

#### **Scope of operator accreditation**

**s 13** amd 1995 No. 32 s 23 sch  
om 1997 No. 66 s 63

#### **Operator accreditation standards**

**s 14** amd 2000 No. 6 s 46; 2010 No. 13 s 114 sch pt 1

#### **Granting, renewing or refusing operator accreditation**

**s 17** amd 2008 No. 31 s 72 sch

#### **Amendment, suspension and cancellation of operator accreditation**

**s 20** amd 2007 No. 6 s 36; 2008 No. 31 s 72 sch

#### **Accredited operator to notify charge for disqualifying offence etc.**

**s 21** amd 2008 No. 31 s 72 sch

#### **Member of partnership must inform another partner of charge for disqualifying offence etc.**

**s 22** amd 2008 No. 31 s 72 sch

#### **Operator accreditation is evidence of being the operator**

**s 22A** ins 2000 No. 6 s 47

#### **Accredited operator to notify if authorised driver charged with or convicted of driver disqualifying offence**

**s 22B** ins 2005 No. 49 s 50  
amd 2008 No. 31 s 72 sch

### **CHAPTER 4—DRIVER AUTHORISATION**

#### **PART 1—GENERAL**

**pt hdg** ins 2008 No. 71 s 19

#### **Purpose of driver authorisation**

**s 23** sub 2004 No. 9 s 12A

#### **What is driver authorisation**

**s 24** sub 1997 No. 66 s 64  
amd 2004 No. 9 s 13; 2011 No. 12 s 76

#### **Scope of driver authorisation**

**s 25** amd 1995 No. 32 s 23 sch  
om 1997 No. 66 s 64

#### **Driver authorisation standards**

**s 26** amd 2000 No. 6 s 48; 2007 No. 6 s 37

#### **Driver must hold appropriate authorisation**

**s 27** amd 2004 No. 9 s 13A

**Ineligibility for driver authorisation—category A driver disqualifying offences**

s 28A ins 2004 No. 9 s 13B

**Driver authorisation—category B driver disqualifying offences**

s 28B ins 2004 No. 9 s 13B  
amd 2005 No. 49 s 51; 2009 No. 47 s 21A; 2011 No. 12 s 77

**Driver authorisation—category C driver disqualifying offences**

s 28C ins 2004 No. 9 s 13B

**Granting, renewing or refusing driver authorisation**

s 29 amd 2004 No. 9 s 13C; 2008 No. 71 s 20 (amd 2010 No. 13 s 70)

**Smartcard driver authorisation is property of the State**

s 29AA ins 2008 No. 71 s 20A (amd 2010 No. 13 s 71)

**Restricted driver authorisation**

s 29A ins 2000 No. 6 s 49

**Applicant to notify charge for driver disqualifying offence etc.**

prov hdg amd 2004 No. 9 s 13D(1)  
s 31 amd 2004 No. 9 s 13D(2)–(4)

**Amendment, suspension and cancellation of driver authorisations**

s 32 amd 2004 No. 9 s 13E; 2007 No. 6 s 38

**Authorised driver must notify charge for driver disqualifying offence etc.**

prov hdg amd 2004 No. 9 s 13F(1)  
s 33 amd 2004 No. 9 s 13F(2)–(4)

**Protection of children and vulnerable members of the community**

s 33A ins 2004 No. 9 s 13G

**Authorised driver must notify suspension or cancellation of licence etc.**

s 34 amd 2004 No. 9 s 13H

**Authorised driver must notify damage, loss or theft of authorising document issued by chief executive**

s 34A ins 2008 No. 71 s 21 (amd 2010 No. 13 s 72)

**Obligation to notify accredited operator of suspension or cancellation of licence etc.**

s 35 amd 2004 No. 9 s 13I

**PART 2—BIOMETRIC DATA AND OTHER INFORMATION RELATING TO DRIVER AUTHORISATION**

pt hdg ins 2008 No. 71 s 22

**Obtaining digital photo and digitised signature**

s 35A ins 2008 No. 71 s 22 (amd 2010 No. 13 s 73(1))

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

s 35AA ins 2008 No. 71 s 22 (amd 2010 No. 13 s 73(1))

**Using digital photo and digitised signature**

s 35B ins 2008 No. 71 s 22 (amd 2010 No. 13 s 73(1))

Endnotes

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**Restricted access to a digital photo**

s 35C ins 2008 No. 71 s 22 (amd 2010 No. 13 s 73(2))

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

s 35D ins 2008 No. 71 s 22

**Restricted access to information stored electronically on a smartcard driver authorisation**

s 35E ins 2008 No. 71 s 22 (amd 2010 No. 13 s 73(3))

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

s 35F ins 2008 No. 71 s 22 (amd 2010 No. 13 s 73(4))

**Annual report about access to digital photos**

s 35G ins 2008 No. 71 s 22

**PART 3—RESTRICTED RELEASE OF INFORMATION ABOUT DRIVER AUTHORISATION**

pt hdg ins 2008 No. 71 s 22

**Restricted written release of information**

prov hdg amd 2011 No. 12 s 78(1)

s 35H ins 2008 No. 71 s 22 (amd 2010 No. 13 s 73(5))  
amd 2011 No. 12 s 78(2)

**Restricted oral release of particular information**

s 35I ins 2011 No. 12 s 79

**CHAPTER 4A—TAXI SERVICE BAILMENT AGREEMENTS**

ch 4A (ss 35J–35R) ins 2011 No. 12 s 80

**CHAPTER 5A—ESSENTIAL PUBLIC TRANSPORT INFRASTRUCTURE**

ch hdg ins 2008 No. 32 s 70

**Declaration of essential public transport infrastructure**

s 36A ins 2008 No. 32 s 70

**Chief executive's power to give direction about use of essential public transport infrastructure**

s 36B ins 2008 No. 32 s 70  
amd 2010 No. 13 s 114 sch pt 1

**Persons bound by essential infrastructure direction**

s 36C ins 2008 No. 32 s 70

**Failure to comply with essential infrastructure direction**

s 36D ins 2008 No. 32 s 70

**Record of essential infrastructure direction in land registry**

s 36E ins 2008 No. 32 s 70

**Compensation**

s 36F ins 2008 No. 32 s 70



**Chief executive's power to decide matters about rail safety unaffected**

s 36G ins 2008 No. 32 s 70  
amd 2010 No. 6 s 357 sch 1

**CHAPTER 6—SERVICE CONTRACTS****PART 1—PRELIMINARY****Purpose of service contracts**

s 37 amd 1997 No. 66 s 65

**What are temporary service contracts**

s 38A ins 1997 No. 66 s 66  
om 2002 No. 15 s 45

**Chief executive may enter into service contracts**

s 38B ins 1997 No. 66 s 66  
amd 2002 No. 15 s 46

**Scope of service contracts**

s 39 amd 2000 No. 6 s 50; 2008 No. 32 s 71

**Service contracts to include minimum service levels**

s 40 amd 1997 No. 66 s 67

**Other matters to be included in service contracts**

s 41 amd 1997 No. 66 s 68; 2002 No. 15 s 47

**Declaration that service contracts are required**

s 42 amd 1995 No. 48 s 12 sch; 2008 No. 32 s 72; 2010 No. 13 s 114 sch pt 1

**Other declarations that service contracts are required**

s 42A ins 2000 No. 6 s 51  
amd 2008 No. 31 s 72 sch

**Amendment of service contract area or route**

s 42B ins 2008 No. 32 s 73

**Obligation to hold service contracts**

s 43 amd 1997 No. 66 s 69; 2000 No. 6 s 52; 2004 No. 9 s 14; 2005 No. 49 s 52;  
2008 No. 32 s 74

**Term of service contracts**

s 44 amd 1997 No. 66 s 70; 2000 No. 6 s 53; 2002 No. 15 s 48

**Conditions of service contracts**

s 45 amd 2002 No. 15 s 49; 2007 No. 43 s 17

**Review of holder's performance**

prov hdg amd 1997 No. 66 s 71(1)  
s 46 amd 1997 No. 66 s 71(2)–(5); 2000 No. 6 s 54; 2000 No. 46 s 3 sch; 2002 No.  
15 s 50; 2004 No. 9 s 15; 2008 No. 32 s 75

**Amendment, suspension or cancellation of service contracts for breach of service contracts**

prov hdg sub 2002 No. 15 s 51(1)  
s 47 amd 2002 No. 15 s 51(2)–(3); 2007 No. 43 s 18

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**Renewal of service contracts**

s 47A ins 2002 No. 15 s 52  
amd 2004 No. 9 s 10 sch

**Transfer or surrender of service contracts etc.**

s 48 amd 1997 No. 66 s 73  
sub 2000 No. 6 s 55

**Division 4—Emergency service contracts**

div 4 (ss 48A–48C) ins 2002 No. 15 s 53

**PART 2—SCHEDULED PASSENGER SERVICES**

**Division 1—Preliminary**

**Commercial and government funded service contracts**

s 50 amd 1997 No. 66 s 74  
om 2002 No. 15 s 54

**Conditions of funding**

s 51 amd 1997 No. 66 s 75; 2004 No. 9 s 16

**Approval of basis for funding or other financial assistance by State**

s 52 amd 1997 No. 66 s 76; 2010 No. 19 s 248

**Special condition for government funded service contracts for the transport of eligible school children**

s 53 om 2000 No. 6 s 56

**Special condition for service contracts for restricted school services**

prov hdg amd 2002 No. 15 s 55  
s 54 amd 2002 No. 15 s 55  
om 2008 No. 32 s 76

**Division 2—General provisions for service contracts for general route services**

div hdg sub 2000 No. 6 s 57  
amd 2004 No. 9 s 10 sch (amdt could not be given effect); 2004 No. 40 s 6;  
2008 No. 32 s 77

**Application of div 2**

s 54A ins 2004 No. 9 s 17  
amd 2008 No. 32 s 78

**Entering into a service contract for a general route service—no existing operators**

prov hdg amd 1997 No. 66 s 77(1); 2008 No. 32 s 79(1)  
s 55 amd 1997 No. 66 s 77(2)–(3); 2008 No. 32 s 79(2); 2010 No. 13 s 114 sch pt 1

**Entitlement of existing operators**

s 56 sub 1997 No. 66 s 78  
amd 2000 No. 6 s 58; 2004 No. 9 s 10 sch; 2008 No. 32 s 80

**Entering into a service contract for a general route service**

prov hdg amd 2008 No. 32 s 81(1)  
s 57 sub 1997 No. 66 s 79  
amd 2000 No. 6 s 59; 2008 No. 32 s 81(2)

**Entering into a service contract for a scheduled service—multiple existing operators**

**s 58** om 1997 No. 66 s 80

**Matters to be considered**

**s 59** sub 1997 No. 66 s 81  
amd 2004 No. 9 s 10 sch; 2008 No. 32 s 82

**Service contract for amended service contract area or route**

**s 60** amd 1997 No. 66 s 82; 2000 No. 6 s 60  
sub 2008 No. 32 s 83

**Compensation**

**s 61** amd 1997 No. 66 s 83; 2004 No. 9 s 10 sch; 2008 No. 32 s 84

**Offer of new service contract**

**s 62** amd 1997 No. 66 s 84; 2000 No. 6 s 61; 2002 No. 15 s 56; 2008 No. 32 s 85

**Notice to be given**

**s 62A** ins 1997 No. 66 s 85

**Division 2AA—TransLink service contracts**

**div hdg** ins 2004 No. 9 s 18  
amd 2008 No. 32 s 86

**Purpose of div 2AA**

**s 62AAA** ins 2004 No. 9 s 18  
om 2008 No. 32 s 87

**Definition for div 2AA**

**s 62AAB** ins 2004 No. 9 s 18

**What is a TransLink service contract**

**prov hdg** amd 2008 No. 32 s 88(1)  
**s 62AAC** ins 2004 No. 9 s 18  
amd 2008 No. 32 s 88(2)–(4)

**Entering into a TransLink service contract**

**s 62AACA** ins 2008 No. 32 s 89

**Offer of new TransLink service contract**

**prov hdg** amd 2008 No. 32 s 90(1)  
**s 62AAD** ins 2004 No. 9 s 18  
amd 2008 No. 32 s 90

**Matters to be considered generally when considering offers for TransLink service contracts**

**prov hdg** amd 2008 No. 32 s 91(1)  
**s 62AAE** ins 2004 No. 9 s 18  
amd 2008 No. 32 s 91

**Unsatisfactory performance of TransLink service contract holder**

**prov hdg** amd 2008 No. 32 s 92  
**s 62AAF** ins 2004 No. 9 s 18  
amd 2008 No. 32 s 92

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**Service contract for amended service contract area or route**

s 62AAG ins 2004 No. 9 s 18  
amd 2005 No. 49 s 53  
sub 2008 No. 32 s 93

**Compensation**

s 62AAH ins 2004 No. 9 s 18  
amd 2008 No. 32 s 94

**What happens when TransLink service contract is surrendered, cancelled or terminated**

prov hdg amd 2008 No. 32 s 95  
s 62AAI ins 2004 No. 9 s 18  
amd 2008 No. 32 s 95

**Division 2A—Inviting offers for prescribed school service contracts**

div hdg ins 2000 No. 6 s 62

**Application of div 2A to previous prescribed school service contracts**

s 62AA ins 2000 No. 6 s 62

**Entitlement of an existing operator providing substantially the same service under a transitional provision**

s 62AB ins 2000 No. 6 s 62  
om 2008 No. 32 s 96

**Entitlement of satisfactorily performing existing operator under a service contract**

s 62AC ins 2000 No. 6 s 62  
amd 2002 No. 15 s 57

**First opportunity to offer may be given to existing operator of school services under a service contract**

prov hdg amd 2008 No. 32 s 97(1)  
s 62AD ins 2000 No. 6 s 62  
amd 2002 No. 15 s 58; 2008 No. 32 s 97(2)–(4)

**When public offer must be invited, and when offers may be invited in another way**

s 62AE ins 2000 No. 6 s 62  
amd 2008 No. 32 s 98

**Prohibition on making offers to allow first opportunity**

s 62AF ins 2000 No. 6 s 62  
amd 2008 No. 32 s 99

**Division 3—Entering into temporary service contracts to ensure continuity of existing service**

div hdg ins 1997 No. 66 s 86  
om 2002 No. 15 s 59

**Temporary service contracts to ensure continuity of service**

s 62B ins 1997 No. 66 s 86  
om 2002 No. 15 s 59

**PART 3—ADMINISTRATION OF TAXI SERVICES****Amendments of taxi service contracts**

**s 67** amd 1997 No. 66 s 87

**Peak demand management plans**

**s 67A** ins 2007 No. 43 s 19

**PART 4—SPECIAL EVENTS**

**pt hdg** ins 2010 No. 13 s 119

**Division 1—Special events in TransLink area**

**div hdg** ins 2010 No. 13 s 119

**Declaration of special event**

**s 67B** (prev 2008 No. 32 s 47) renum and reloc 2010 No. 13 s 132  
amd 2010 No. 13 s 115

**Coordination power for scheduled passenger services to special events**

**prov hdg** amd 2010 No. 13 s 116

**s 67C** (prev 2008 No. 32 s 48) renum and reloc 2010 No. 13 s 132  
amd 2010 No. 13 s 116

**TransLink approval required for special event services**

**s 67D** (prev 2008 No. 32 s 49) renum and reloc 2010 No. 13 s 132  
amd 2010 No. 13 s 117

**Special event approvals**

**s 67E** (prev 2008 No. 32 s 50) renum and reloc 2010 No. 13 s 132  
amd 2010 No. 13 s 118

**Division 2—Special events in non-TransLink area**

**div 2 (ss 67F–67I)** ins 2010 No. 13 s 119

**CHAPTER 7—TAXI SERVICE LICENCES****Requirement for taxi service licence or peak demand taxi permit**

**prov hdg** amd 2007 No. 43 s 20(1)

**s 70** amd 2007 No. 25 s 4; 2007 No. 43 s 20(2)

**Term of taxi service licences**

**s 73** amd 1997 No. 66 s 88; 2007 No. 43 s 21

**Conditions of taxi service licences**

**s 74** amd 1996 No. 43 s 4; 1997 No. 66 s 89; 2000 No. 6 s 63; 2007 No. 43 s 22

**Notice to be kept in licensed taxi or substitute taxi**

**prov hdg** ins 2000 No. 6 s 63(3)–(4)

amd 2007 No. 43 s 23(1)

**s 74AA** (prev s 74(5)) renum 2000 No. 6 s 63(4)  
amd 2007 No. 25 s 5; 2007 No. 43 s 23(2)

**Prohibitions on using licensed taxis or substitute taxis**

**prov hdg** amd 2007 No. 43 s 24(1)

**s 74AB** ins 2000 No. 6 s 64  
amd 2007 No. 43 s 24(2)

Endnotes

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**Maximum taxi fares**

s 74A ins 1996 No. 43 s 5

**Substitute taxi**

s 74B ins 1997 No. 66 s 90

**Amendment of taxi service licence conditions**

s 75 amd 2007 No. 43 s 25

**Suspension and cancellation of taxi service licences**

s 79 amd 2007 No. 6 s 39; 2009 No. 47 s 22

**Annual taxi industry security levy payable**

s 80A ins 2007 No. 25 s 6

**Taxi Industry Security Fund**

s 80B ins 2007 No. 25 s 6

amd 2009 No. 9 s 136 sch 1; 2010 No. 13 s 114 sch pt 1

**CHAPTER 7A—PEAK DEMAND TAXI PERMITS**

ch 7A (ss 80C–80L) ins 2007 No. 43 s 26

**CHAPTER 8—LIMOUSINE SERVICE LICENCES**

**Requirement for limousine service licence for stretched passenger car**

s 83A ins 2006 No. 21 s 136

**Term of limousine service licence**

s 86 amd 1997 No. 66 s 91

sub 2007 No. 43 s 27

**Conditions of limousine service licences**

s 87 amd 1997 No. 66 s 92; 2007 No. 43 s 28

**Substitute limousine**

s 87A ins 1997 No. 66 s 93

**Record of prior booking**

prov hdg amd 2010 No. 19 s 249(1)

s 87B (prev s 87E) ins 2007 No. 43 s 29

amd 2010 No. 19 s 249(2)–(4)

renum 2010 No. 19 s 252

**Operator to keep record of prior booking**

prov hdg amd 2010 No. 19 s 250(1)

s 87C (prev s 87F) ins 2007 No. 43 s 29

amd 2010 No. 19 s 250(2)

renum 2010 No. 19 s 252

**Driver to produce record of prior booking**

prov hdg amd 2010 No. 19 s 251(1)

s 87D (prev s 87G) ins 2007 No. 43 s 29

amd 2010 No. 19 s 251(2)

renum 2010 No. 19 s 252

**Suspension and cancellation of limousine service licences**

s 91            amd 2007 No. 6 s 40

**CHAPTER 9—STANDARDS****Making of standards**

s 92            amd 2010 No. 19 s 253

**Preparation of draft standard**

s 94            amd 2009 No. 47 s 23

**Interim standards**

s 97            amd 2010 No. 13 s 114 sch pt 1; 2010 No. 19 s 281 sch

**Amendment of standards**

s 99            sub 2010 No. 19 s 254

**Application of Acts Interpretation Act 1954**

s 99A          ins 2010 No. 19 s 254

**Direction to comply with standards**

s 100          amd 2000 No. 6 s 65

**Application of standards to railway managers or railway operators**

s 101          ins 1995 No. 32 s 23 sch  
                sub 2004 No. 9 s 19

**Application of standards to light rail operators**

s 101A        ins 2011 No. 12 s 81

**CHAPTER 10—REVIEW OF DECISIONS**

ch hdg        sub 1997 No. 66 s 94  
                amd 2009 No. 24 s 1769

**PART 1—REVIEW OF DECISIONS**

pt hdg        om 1997 No. 66 s 94

**Internal review of decisions**

s 102          sub 1997 No. 66 s 94; 2009 No. 24 s 1770

**External review of decisions**

s 103          prev s 103 om 1997 No. 66 s 94  
                pres s 103 ins 2009 No. 24 s 1770

**Commissioner for Children and Young People and Child Guardian**

s 104          prev s 104 om 1997 No. 66 s 94  
                pres s 104 ins 2009 No. 24 s 1770

**Reference to review panel**

s 105          om 1997 No. 66 s 94

**Review panels**

s 106          om 1997 No. 66 s 94

**Consideration of application by review panel**

s 107          om 1997 No. 66 s 94

Endnotes

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**Decision on reconsideration**

s 108 om 1997 No. 66 s 94

**PART 2—APPEALS**

pt hdg ins 1995 No. 32 s 23 sch  
om 1997 No. 66 s 94

**Who may make an appeal**

s 109 om 1997 No. 66 s 94

**CHAPTER 11—ENFORCEMENT**

**PART 1—INTERPRETATION**

pt hdg ins 2004 No. 9 s 22

**Definition for ch 11**

s 110 prev s 110 om 1997 No. 66 s 94  
pres s 110 ins 2004 No. 9 s 22  
def “**relevant transport legislation**” amd 2010 No. 6 s 357 sch 1

**PART 2—AUTHORISED PERSONS**

pt hdg prev pt 2 hdg amd 2000 No. 40 s 21  
om 2004 No. 9 s 20  
pres pt 2 hdg (prev pt 1 hdg) renum 2004 No. 9 s 21

**Division 1—Appointment**

div hdg ins 2008 No. 67 s 216

**Subdivision 1—Appointment of authorised persons generally**

sdiv hdg ins 2008 No. 67 s 216

**Appointment of authorised persons generally**

prov hdg amd 2008 No. 67 s 217(1)  
s 111 amd 1997 No. 66 s 95; 2004 No. 9 s 23; 2008 No. 67 s 149; 2008 No. 67 s  
217(2)–(4); 2010 No. 19 s 152

**Restrictions on appointing authorised persons**

s 111A ins 2008 No. 67 s 218

**When person is suitable to be transit officer**

s 111B ins 2008 No. 67 s 218

**Subdivision 2—Assessing person’s suitability to be a transit officer**

sdiv 2 (ss 111C–111K) ins 2008 No. 67 s 218

**Subdivision 3—Requirements about training of transit officers**

sdiv 3 (s 111L) ins 2008 No. 67 s 218

**Division 2—Identity requirements**

div hdg ins 2008 No. 67 s 218

**Identity cards**

s 112 amd 2004 No. 9 s 24; 2008 No. 67 s 19; 2008 No. 66 s 4 sch pt 2; 2008 No. 67  
s 219



**Production or display of authorised person's identity card**

s 113 sub 1997 No. 66 s 96  
amd 2000 No. 5 s 461 sch 3

**Uniforms for transit officers**

s 113A ins 2008 No. 67 s 220

**Transit officer must be in uniform**

s 113B ins 2008 No. 67 s 220

**Division 3—Requirements relating to transit officers**

div hdg ins 2008 No. 67 s 220

**Transit officers must continue to have relevant skills and abilities**

s 113C ins 2008 No. 67 s 220

**Transit officer must not be under the influence of alcohol or drugs**

s 113D ins 2008 No. 67 s 220  
amd 2010 No. 13 s 120

**Division 4—Cessation of appointment**

div hdg ins 2008 No. 67 s 220

**When authorised person ceases to hold office**

s 113E ins 2008 No. 67 s 220

**Resignation**

s 113F ins 2008 No. 67 s 220

**Revocation of appointment of transit officer**

s 113G ins 2008 No. 67 s 220  
amd 2010 No. 13 s 121

**Division 5—Application of other Acts to particular transit officers**

div hdg ins 2008 No. 67 s 220

**Application of Crime and Misconduct Act 2001**

s 113H ins 2008 No. 67 s 220

**Application of Public Sector Ethics Act 1994**

s 113I ins 2008 No. 67 s 220  
amd 2010 No. 37 s 177 sch

**Division 6—Miscellaneous**

div hdg ins 2008 No. 67 s 220

**Powers of authorised persons**

s 114 amd 2004 No. 9 s 25

**Protection from liability**

s 115 amd 2003 No. 54 s 42; 2004 No. 9 s 26; 2008 No. 67 s 221

**PART 2A—DRUG AND ALCOHOL TESTING OF TRANSIT OFFICERS**

pt hdg ins 2008 No. 67 s 222

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**Chief executive may require transit officer to undergo alcohol test or drug test**

**prov hdg** amd 2000 No. 40 s 22(1)  
**s 116** prev s 116 ins 1995 No. 32 s 23 sch  
amd 1997 No. 66 s 97; 2000 No. 40 s 22(2)–(6); 2003 No. 54 s 43  
om 2004 No. 9 s 20  
pres s 116 ins 2008 No. 67 s 222  
sub 2010 No. 13 s 122

**Protection from liability for doctors advising on drug test**

**s 117** orig s 117 ins 1995 No. 32 s 23 sch  
amd 1997 No. 66 s 98; 2000 No. 40 s 23; 2003 No. 54 s 44  
om 2004 No. 9 s 20  
prev s 117 ins 2008 No. 67 s 222  
om 2010 No. 13 s 122

**Alcohol or drug test results generally inadmissible**

**s 118** prev s 118 ins 1995 No. 32 s 23 sch  
amd 2000 No. 5 s 461 sch 3; 2000 No. 40 s 24  
om 2004 No. 9 s 20  
pres s 118 ins 2008 No. 67 s 222

**Protection from liability**

**s 119** ins 1995 No. 32 s 23 sch  
amd 2000 No. 6 s 66; 2000 No. 40 s 25  
om 2004 No. 9 s 20

**Entry of place**

**s 120** amd 2008 No. 67 s 20

**Warrants**

**s 121** amd 2008 No. 67 s 21

**Entry or boarding of vehicles**

**s 123** amd 2008 No. 67 s 22; 2008 No. 66 s 4 sch pt 2

**General powers in relation to places and vehicles**

**s 124** amd 1997 No. 66 s 99; 2008 No. 67 s 23; 2008 No. 66 s 4 sch pt 2

**Power to require limousines to be moved**

**s 124A** ins 1997 No. 66 s 100

**Power to seize evidence**

**s 125** amd 1997 No. 66 s 101

**Procedure after thing seized**

**s 126** amd 2004 No. 9 s 27

**Securing seized things**

**s 126A** ins 2001 No. 79 s 82

**Tampering with seized things**

**s 126B** ins 2001 No. 79 s 82  
amd 2008 No. 67 s 24

**Powers supporting seizure**

s 126C ins 2001 No. 79 s 82

**Forfeiture of seized things**

s 126D ins 2001 No. 79 s 82  
amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39); 2004 No. 9 s 28

**Dealing with forfeited things etc.**

s 126E ins 2001 No. 79 s 82

**Return of seized things**

s 126F ins 2001 No. 79 s 82

**Access to seized things**

s 126G ins 2001 No. 79 s 82

**PART 3A—POWERS OF AUTHORISED PERSONS FOR DANGEROUS GOODS  
ON RAIL VEHICLES**

pt hdg ins 2001 No. 79 s 82  
amd 2004 No. 9 s 10 sch

**Purpose of pt 3A**

s 126GA ins 2008 No. 67 s 25

**Power to hold or stop and hold rail vehicle**

s 126H ins 2001 No. 79 s 82  
amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39); 2007 No. 36 s 2  
sch; 2008 No. 67 s 26; 2008 No. 66 s 4 sch pt 2

**Further powers if vehicle entered is rail vehicle**

s 126HA ins 2008 No. 67 s 27

**Power to require rail vehicle inspection**

s 126I ins 2001 No. 79 s 82  
amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39)

**Power to prohibit use of rail vehicle**

s 126J ins 2001 No. 79 s 82  
amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39)

**Further power for securing things seized relating to transport of dangerous goods**

s 126JA ins 2008 No. 67 s 28  
amd 2008 No. 66 s 4 sch pt 2

**Power to give remedial action notices**

s 126K ins 2001 No. 79 s 82  
amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39); 2008 No. 67 s 29

**Use of equipment to examine or process things**

s 126KA ins 2008 No. 67 s 30

**Use or seizure of electronic equipment**

s 126KB ins 2008 No. 67 s 30

**Restoring vehicle or premises to original condition after action taken**

s 126KC ins 2008 No. 67 s 30

**PART 3B—POWERS OF AUTHORISED PERSONS FOR DANGEROUS SITUATIONS INVOLVING RAIL VEHICLES**

pt hdg ins 2001 No. 79 s 82

**Application of part**

s 126L ins 2001 No. 79 s 82

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

s 126M ins 2001 No. 79 s 82

**Power to give notice about dangerous situation**

s 126N ins 2001 No. 79 s 82  
sub 2008 No. 67 s 31  
amd 2010 No. 13 s 114 sch pt 1

**Dangerous situation notice**

s 126NA ins 2008 No. 67 s 31  
amd 2009 No. 24 s 1771; 2010 No. 13 s 114 sch pt 1

**Contravention of dangerous situation notice**

s 126NB ins 2008 No. 67 s 31  
amd 2008 No. 66 s 4 sch pt 2

**Oral direction may be given before dangerous situation notice is served**

s 126NC ins 2008 No. 67 s 31  
amd 2008 No. 66 s 4 sch pt 2

**Withdrawal of dangerous situation notice**

s 126ND ins 2008 No. 67 s 31

**Proceedings for an offence not affected by dangerous situation notice**

s 126NE ins 2008 No. 67 s 31

**Power to take direct action to deal with dangerous situation**

s 126O ins 2001 No. 79 s 82

**PART 3C—GOODS TOO DANGEROUS TO BE TRANSPORTED**

pt hdg ins 2008 No. 67 s 32

**Application of Act to goods too dangerous to be transported**

s 126OA ins 2008 No. 67 s 32  
amd 2010 No. 13 s 114 sch pt 1

**PART 4—OTHER ENFORCEMENT POWERS OF AUTHORISED PERSONS**

**Definition for part 4**

s 126P ins 2004 No. 9 s 29

**Power to require name, address and age**

s 127 amd 2000 No. 5 s 461 sch 3; 2001 No. 79 s 83; 1994 No. 8 s 491(3) sch 5  
(amd 2003 No. 54 ss 34, 39)  
sub 2004 No. 9 s 30

**Power to require information from certain persons**

s 128 amd 1997 No. 66 s 102; 2004 No. 9 s 31

**Power to require production of certain documents**

s 129 amd 2000 No. 6 s 67; 2001 No. 79 s 84; 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39)

**PART 4A—FUNCTIONS AND POWERS OF TRANSIT OFFICER FOR PROTECTING SAFETY OF PERSONS OR PROPERTY**

pt hdg ins 2008 No. 67 s 223

**Division 1—Powers to detain a person**

div 1 (ss 129A–129C) ins 2008 No. 67 s 223

**Division 2—Provisions about detaining persons generally**

div 2 (ss 129D–129J) ins 2008 No. 67 s 223

**Division 3—Additional provisions about detaining children or persons with impaired capacity**

div 3 (ss 129K–129N) ins 2008 No. 67 s 223

**Division 4—Additional powers after person detained**

div 4 (ss 129O–129T) ins 2008 No. 67 s 223

**Division 5—Recording details of exercise of powers under this part**

div 5 (s 129U) ins 2008 No. 67 s 223

**Division 6—Other provisions about functions and powers under this part**

div 6 (ss 129V–129X) ins 2008 No. 67 s 223

**PART 4B—POWERS OF COURT TO MAKE EXCLUSION ORDERS FOR PROTECTING THE PUBLIC OR PROPERTY**

pt hdg ins 2008 No. 67 s 223

**Definition for pt 4B**

prov hdg amd 2011 No. 12 s 82(1)

s 129Y ins 2008 No. 67 s 223

def “**exclusion order**” om 2011 No. 12 s 82(2)

def “**proper officer**” om 2011 No. 12 s 82(2)

def “**public transport network**” om 2011 No. 12 s 82(2)

def “**relevant offence**” om 2011 No. 12 s 82(2)

**What is an “exclusion order”**

s 129Z ins 2008 No. 67 s 223

**Court may make exclusion order**

s 129ZA ins 2008 No. 67 s 223

amd 2011 No. 12 s 83

**Matters court must consider in deciding whether to make exclusion order**

s 129ZB ins 2008 No. 67 s 223

amd 2011 No. 12 s 84

**Exclusion order to be explained if person before the court**

s 129ZC ins 2008 No. 67 s 223  
amd 2011 No. 12 s 85

**Amendment or revocation of exclusion order generally**

s 129ZD ins 2008 No. 67 s 223  
amd 2010 No. 13 s 123; 2011 No. 12 s 86

**Order to be given to interested persons**

s 129ZE ins 2008 No. 67 s 223

**Amendment of exclusion order that restricts access for changes in personal circumstances**

s 129ZF ins 2008 No. 67 s 223

**Offence to contravene exclusion order**

s 129ZG ins 2008 No. 67 s 223  
amd 2011 No. 12 s 87

**PART 4C—POWERS OF COURT TO MAKE CIVIL BANNING ORDERS FOR PROTECTING THE PUBLIC OR PROPERTY**

pt hdg ins 2011 No. 12 s 88

**Division 1—Preliminary**

div 1 (ss 129ZH–129ZI) ins 2011 No. 12 s 88

**Division 2—Orders**

div 2 (ss 129ZJ–129ZZ) ins 2011 No. 12 s 88

**Division 3—Appeals**

div 3 (ss 129ZZA–129ZZG) ins 2011 No. 12 s 88

**Division 4—Miscellaneous**

div 4 (ss 129ZZH–129ZZI) ins 2011 No. 12 s 88

**False or misleading information**

s 130 amd 2000 No. 6 s 68; 2004 No. 9 s 32; 2008 No. 67 s 33; 2008 No. 66 s 4 sch  
pt 2

**False, misleading or incomplete documents**

s 131 amd 2000 No. 6 s 69; 2004 No. 9 s 33; 2008 No. 67 s 34; 2008 No. 66 s 4 sch  
pt 2

**Obstructing authorised person**

prov hdg sub 2004 No. 9 s 34(1)  
s 135 sub 2000 No. 6 s 70  
amd 2004 No. 9 s 34(2)–(3)

**Impersonating authorised person**

prov hdg sub 2004 No. 9 s 35(1)  
s 136 ins 2000 No. 6 s 70  
amd 2004 No. 9 s 35(2); 2008 No. 67 s 35; 2008 No. 66 s 4 sch pt 2

**Impersonation of authorised person**

s 136 om 2000 No. 40 s 26

**PART 6—POWERS OF AUTHORISED PERSONS FOR RAILWAYS**

**pt hdg** ins 1995 No. 32 s 23 sch  
om 2004 No. 9 s 38

**Power to require name and address etc.**

**s 137** ins 1995 No. 32 s 23 sch  
amd 2000 No. 5 s 461 sch 3; 2001 No. 79 s 85; 1994 No. 8 s 491(3) sch 5  
(amd 2003 No. 54 ss 34, 39)  
om 2004 No. 9 s 38

**Power to require information from certain persons**

**s 138** ins 1995 No. 32 s 23 sch  
om 2004 No. 9 s 38

**PART 7—RAILWAY OFFENCES**

**pt hdg** ins 1995 No. 32 s 23 sch  
om 2004 No. 9 s 39

**Creating disturbance on trains etc.**

**s 141** ins 1995 No. 32 s 23 sch  
amd 2000 No. 5 s 461 sch 3  
om 2004 No. 9 s 40

**Travelling without paying fare etc.**

**s 142** ins 1995 No. 32 s 23 sch  
om 2004 No. 9 s 40

**Travelling on invalid tickets**

**s 143** orig s 143 om R1 (see RA s 40)  
prev s 143 ins 1995 No. 32 s 23 sch  
om 2004 No. 9 s 40

**CHAPTER 11A—FARE EVASION AND OTHER OFFENCES**

**ch hdg** ins 2000 No. 6 s 72  
sub 2004 No. 9 s 10 sch

**Definitions for ch 11A**

**s 143AA** (prev s 143AC) ins 2000 No. 6 s 72  
renum 2004 No. 9 s 43(3)  
def “**driver**” sub 2004 No. 9 s 43(1)–(2)  
def “**master**” ins 2004 No. 9 s 43(2)  
def “**over-travel**” om 2004 No. 9 s 43(1)  
def “**tag off**” ins 2004 No. 9 s 43(2)  
def “**tag on**” ins 2004 No. 9 s 43(2)

**When does a person evade payment of a fare**

**s 143AB** prev s 143AB ins 2000 No. 6 s 72  
om 2004 No. 9 s 42  
pres s 143AB ins 2004 No. 9 s 44

**Fare evasion**

**s 143AC** ins 2004 No. 9 s 45

**Obtaining hire or use of vehicle by fraud or misrepresentation**

s 143AD ins 2000 No. 6 s 72  
sub 2004 No. 9 s 45

**Power to require production of tickets**

s 143ADA (prev s 139) ins 1995 No. 32 s 23 sch  
amd 2004 No. 9 s 36(1)–(3)  
renum and reloc 2004 No. 9 s 36(4)

**Evidence of concession entitlement**

s 143ADB (prev s 143A) ins 1997 No. 66 s 103  
amd 2004 No. 9 s 41(1)  
renum and reloc 2004 No. 9 s 41(2)

**Interfering with public transport infrastructure, service, vehicle or equipment**

prov hdg sub 2004 No. 9 s 46(1)  
amd 2008 No. 67 s 224(1)

s 143AE ins 2000 No. 6 s 72  
amd 2001 No. 79 s 86; 2004 No. 9 s 46(2); 2008 No. 67 s 224(2)

**Creating disturbance or nuisance on or in public transport infrastructure**

prov hdg amd 2008 No. 67 s 225(1)

s 143AF ins 2000 No. 6 s 72  
sub 2004 No. 9 s 47  
amd 2008 No. 67 s 224(2)

**Direction to leave, or not to enter, vehicle**

s 143AG ins 2000 No. 6 s 72  
amd 2004 No. 9 s 48  
(3)–(4) (prev s 143AH(1)–(2)) renum and reloc 2004 No. 9 s 49(3)  
amd 2007 No. 36 s 2 sch

**Direction to leave or not to enter vehicle that is full**

prov hdg sub 2004 No. 9 s 49(1)  
s 143AH ins 2000 No. 6 s 72  
amd 2004 No. 9 s 49(2)–(3)

**Power to require person to leave public transport infrastructure if person committing particular offences**

prov hdg amd 2008 No. 67 s 226(1)  
s 143AHA (prev s 140) ins 1995 No. 32 s 23 sch  
amd 2000 No. 6 s 71; 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39);  
2004 No. 9 s 37(1)–(4)  
renum and reloc 2004 No. 9 s 37(5)  
amd 2008 No. 67 s 226(2)–(4); 2010 No. 6 s 357 sch 1

**Power to require person to leave or not enter public transport infrastructure if person contravening exclusion order**

s 143AHB ins 2008 No. 67 s 227



**Direction not to be given in particular circumstances**

s 143AI ins 2000 No. 6 s 72  
amd 2004 No. 9 s 10 sch; 2007 No. 6 s 41

**Person given direction to be told particular things**

s 143AJ ins 2000 No. 6 s 72  
amd 2007 No. 25 s 7

**Offence to contravene direction**

s 143AK ins 2000 No. 6 s 72  
sub 2004 No. 9 s 50

**CHAPTER 12—MISCELLANEOUS****PART 1—GENERAL**

pt hdg ins 2000 No. 40 s 27

**Approval of basis for funding for transport function**

s 143B ins 1997 No. 66 s 104  
amd 2007 No. 36 s 2 sch

**Transport arrangements for students**

prov hdg amd 2007 No. 25 s 7A(1)  
s 144 prev s 144 om R1 (see RA s 40)  
pres s 144 amd 2007 No. 25 s 7A(2)–(4); 2007 No. 6 s 42 (amdt could not be given effect)

**Chief executive may declare particular motor vehicles**

s 145 prev s 145 amd 1998 No. 13 s 191 sch  
om 2004 No. 40 s 7  
pres s 145 ins 2006 No. 21 s 137

**Effect of decisions of Planning and Environment Court**

s 146 om 2004 No. 40 s 7

**Demand management**

s 147 amd 1999 No. 42 s 42

**Inquiries about person's suitability to hold accreditation or authorisation**

s 148 amd 1997 No. 66 s 105; 2007 No. 6 s 43; 2011 No. 12 s 89

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

s 148A ins 2007 No. 6 s 44

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

s 148B ins 2007 No. 6 s 44

**Obtaining information from chief executive (corrective services)**

s 148BA ins 2011 No. 12 s 90

**Confidentiality**

s 148C ins 2007 No. 6 s 44  
amd 2008 No. 71 s 23

Endnotes

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**Offences of dishonesty**

s 149 amd 2004 No. 9 s 51

**Approval of forms**

s 150A ins 2007 No. 6 s 45

**Proceedings for offences**

s 151 amd 2007 No. 6 s 46

**No need to prove appointments**

s 152 ins 1995 No. 32 s 23 sch  
amd 2004 No. 9 s 52

**Prosecutions for railway offences**

s 153 ins 1995 No. 32 s 23 sch

**Facilitation of proof**

s 153A ins 2001 No. 79 s 87  
amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39)  
sub 2008 No. 67 s 36

**Attempt to commit offence**

s 154 amd 2004 No. 9 s 53

**Direction to pay operator the penalty recovered for fare evasion etc.**

s 154A ins 2000 No. 6 s 73

**PART 1A—GENERAL PROVISIONS RELATING TO TRANSPORT OF DANGEROUS GOODS BY RAIL**

pt 1A (ss 154AB–154AE) ins 2008 No. 67 s 37

**PART 2—AUTHORISATIONS FOR COMPETITION LEGISLATION**

pt hdg ins 2000 No. 40 s 28

**Division 1—Interpretation**

div hdg ins 2000 No. 40 s 28

**Definitions for pt 2**

s 154B ins 2000 No. 40 s 28  
amd 2004 No. 9 s 54  
def “CCA” ins 2010 No. 54 s 67 sch  
def “competition legislation” amd 2010 No. 54 s 67 sch  
def “TPA” om 2010 No. 54 s 67 sch

**Meaning of “fare provision”**

s 154C ins 2000 No. 40 s 28

**Meaning of “identified provision”**

s 154D ins 2000 No. 40 s 28

**Meaning of “management entity provision”**

s 154E ins 2000 No. 40 s 28

**Meaning of “service entity provision”**

s 154F ins 2000 No. 40 s 28

**Meaning of “State influenced entity”**

s 154G ins 2000 No. 40 s 28

**References to public passenger services in pt 2**

s 154H ins 2000 No. 40 s 28

**Extended meanings of certain expressions in pt 2**

s 154I ins 2000 No. 40 s 28

**Division 2—Authorisations**

div hdg ins 2000 No. 40 s 28

**Authorisations for coordination and integration of public passenger services**

s 154J ins 2000 No. 40 s 28

**Provisions limiting application of authorisations**

s 154K ins 2000 No. 40 s 28  
amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39); 2010 No. 6 s 357  
sch 1

**Provisions supporting application of authorisations**

s 154L ins 2000 No. 40 s 28  
amd 2010 No. 54 s 67 sch

**PART 3—REGULATION-MAKING POWER**

pt hdg ins 2000 No. 40 s 28

**Regulation-making power**

prov hdg sub 2009 No. 47 s 20 sch  
s 155 amd 2000 No. 40 s 29; 2008 No. 31 s 72 sch; 2007 No. 43 s 30

**CHAPTER 13—TRANSITIONAL AND VALIDATION PROVISIONS**

ch hdg amd R1 (see RA s 37); 2005 No. 49 s 54

**PART 1—TRANSITIONAL PROVISION FOR TRANSPORT LEGISLATION AMENDMENT ACT 2002**

pt hdg prev pt 1 hdg om R1 (see RA s 40)  
pres pt 1 hdg (prev pt 2 hdg) sub 2002 No. 15 s 60

**Continuation of temporary service contracts**

s 156 prev s 156 exp 7 November 2000 (see prev s 156(2))  
pres s 156 ins 2002 No. 15 s 60

**PART 1A—TRANSITIONAL PROVISIONS FOR TRANSPORT AND OTHER LEGISLATION AMENDMENT ACT 2004**

pt hdg ins 2004 No. 9 s 55

**Division 1—Authorised persons**

div hdg ins 2004 No. 9 s 55

**Authorised persons**

s 157 prev s 157 amd 1996 No. 43 s 7  
AIA s 20A applies (see prev s 157(3))  
exp 7 November 2000 (see prev s 157(2))  
pres s 157 ins 2004 No. 9 s 55

Endnotes

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**Division 2—Translink service contracts**

**div hdg** ins 2004 No. 9 s 55  
om 2008 No. 32 s 100

**Offers for Translink service contracts**

**s 158** orig s 158 amd 1996 No. 43 s 8  
AIA s 20A applies (see orig s 158(3))  
exp 7 November 2000 (see orig s 158(2))  
prev s 158 ins 2004 No. 9 s 55  
om 2008 No. 32 s 100

**Matters to be considered when considering offer**

**s 159** orig s 159 amd 1995 No. 48 s 12 sch; 1996 No. 43 s 9  
exp 7 November 1999 (see orig s 159(6))  
prev s 159 ins 2004 No. 9 s 55  
om 2008 No. 32 s 100

**Termination of particular service contracts in SEQ area**

**s 160** orig s 160 amd 1995 No. 48 s 12 sch; 1996 No. 43 s 10  
exp 7 November 1999 (see orig s 160(7))  
prev s 160 ins 2004 No. 9 s 55  
om 2008 No. 32 s 100

**Compensation**

**s 161** orig s 161 exp 7 May 1995 (see orig s 161(2))  
prev s 161 (orig s 150) amd 1996 No. 43 s 11; 1997 No. 66 s 106  
exp 7 November 1999 (see prev s 161(8))  
amd 2000 No. 6 s 74 (amdt could not be given effect)  
ins 2004 No. 9 s 55  
om 2008 No. 32 s 100

**Division 3—Driver disqualifying offences**

**div hdg** ins 2004 No. 9 s 55

**Driver disqualifying offences**

**s 162** orig s 162 exp 7 May 1995 (see orig s 162(3))  
prev s 162 (orig s 151) amd 1995 No. 48 s 12 sch; 1996 No. 43 s 12  
exp 7 November 1999 (see prev s 162(6))  
amd 2000 No. 6 s 75 (amdt could not be given effect)  
pres s 162 ins 2004 No. 9 s 55

**Transitional regulation-making power**

**s 163** orig s 163 exp 7 January 1995 (see orig s 163(2))  
prev s 163 exp 7 November 1995 (see prev s 163(5))  
pres s 163 ins 2004 No. 9 s 55

**PART 1B—TRANSITIONAL PROVISIONS FOR TRANSPORT AND OTHER  
LEGISLATION AMENDMENT ACT (No. 2) 2004**

**pt hdg** ins 2004 No. 40 s 9

**Provisions dealing with impact of decisions of local governments on public passenger transport**

s 164 prev s 164 exp 7 November 1996 (see s 164(2))  
pres s 164 ins 2004 No. 40 s 9

**Air transport where subsidy agreements apply**

s 165 exp 31 May 1996 (see s 165(8))

**Other air transport services for certain routes**

s 166 exp 31 May 1996 (see s 166(10))

**Provisional operator accreditation for existing operators**

s 167 exp 7 November 1996 (see s 167(3))

**Operator accreditation for courtesy and community transport services**

s 168 amd 1995 No. 48 s 12 sch  
exp 7 November 1997 (see s 168(2))

**Transitional provisional driver authorisation for drivers**

s 169 exp 7 November 1996 (see s 169(3))

**Driver authorisation for courtesy and community vehicle drivers**

s 170 orig s 170 exp 7 January 1995 (see orig s 172)  
prev s 170 amd 1995 No. 48 s 12 sch  
exp 7 November 1997 (see prev s 170(2))

**Transitional provisional driver authorisation for hire drivers**

s 171 orig s 171 exp 7 January 1995 (see orig s 172)  
prev s 171 exp 7 November 1996 (see prev s 171(3))

**Preservation of financial arrangements—interest subsidy**

s 172 orig s 172 exp 7 January 1995 (see orig s 172)  
prev s 172 amd 1995 No. 48 s 12 sch  
sub 1996 No. 43 s 13  
amd 1997 No. 81 s 3 sch  
AIA s 20A applies (see prev s 172(8))  
exp 7 November 1999 (see prev s 172(7))

**Preservation of financial arrangements—gross fare revenue**

s 172A ins 1996 No. 43 s 13  
exp 30 November 1996 (see s 172A(5))

**Preservation of other financial arrangements**

s 172B ins 1996 No. 43 s 13  
exp 30 November 1996 (see s 172B(3))

**Financial arrangements for operator without service contract**

s 172C ins 1996 No. 43 s 13  
exp 30 November 2001 (see s 172C(6))

**Financial arrangements for operators with service contracts entered into between commencement and 1 December 1996**

s 172D ins 1996 No. 43 s 13  
exp 30 November 2001 (see s 172D(5))

**Financial arrangements for operators with service contracts entered into on or after 2 December 1996**

s 172E ins 1996 No. 43 s 13  
exp 30 November 2001 (see s 172E(3))

**Preservation of financial arrangements—local pensioner fares**

s 172F ins 1996 No. 43 s 13  
exp 7 November 1999 (see s 172F(4))

**Making of certain standards**

s 173 exp 7 November 1995 (see s 173(3))

**Numbering and renumbering of Act**

s 175 orig s 175 ins 1995 No. 32 s 23 sch  
prev s 175 om R2 (see RA s 43)

**PART 3—VALIDATION OF PARTICULAR SERVICE CONTRACTS**

pt hdg prev pt 3 hdg exp 7 November 1999 (see s 179)  
pres pt 3 hdg ins 2005 No. 49 s 55

**Validation of service contracts in Translink area**

s 178 prev s 178 exp 7 November 1999 (see prev s 179)  
pres s 178 ins 2005 No. 49 s 55

**PART 4—PROVISION FOR MARITIME AND OTHER LEGISLATION AMENDMENT ACT 2006**

pt hdg prev pt 4 hdg exp 7 January 1995 (see orig s 172)  
pres pt 4 hdg ins 2006 No. 21 s 138

**Amendment of regulation by Maritime and Other Legislation Amendment Act 2006 does not affect powers of Governor in Council**

s 179 prev s 179 amd 1996 No. 43 s 14  
exp 7 November 1999 (see s 179)  
pres s 179 ins 2006 No. 21 s 138

**PART 5—PROVISION FOR TRANSPORT LEGISLATION AMENDMENT ACT 2008, PART 7**

pt 5 (s 180) ins 2008 No. 31 s 42

**PART 6—PROVISION FOR TRANSPORT OPERATIONS (TRANSLINK TRANSIT AUTHORITY) ACT 2008**

pt hdg prev pt 6 hdg ins 1995 No. 32 s 23 sch  
om R2 (see RA s 7(1)(k))  
pres pt 6 hdg (prev pt 5 hdg) ins 2008 No. 32 s 101  
renum 2008 No. 67 s 228; 2009 No. 47 s 20 sch amdt 3 (amdt could not be given effect)

**Existing declarations under s 42(2) for a scheduled passenger service**

s 181 (prev s 180) ins 2008 No. 32 s 101  
renum 2008 No. 67 s 229; 2009 No. 47 s 20 sch amdt 4 (amdt could not be given effect)

**PART 7—TRANSITIONAL PROVISION FOR TRANSPORT AND OTHER  
LEGISLATION AMENDMENT ACT 2008, PART 6, DIVISION 1****pt 7 (s 182)** ins 2008 No. 67 s 230**PART 8—TRANSITIONAL PROVISION FOR TRANSPORT AND OTHER  
LEGISLATION AMENDMENT ACT 2009****pt 8 (s 183)** ins 2009 No. 47 s 24**PART 9—TRANSITIONAL PROVISIONS FOR TRANSPORT AND OTHER  
LEGISLATION AMENDMENT ACT 2010****pt hdg** ins 2010 No. 13 s 124**Division 1—Provisions for relocated provisions****div 1 (s 184)** ins 2010 No. 13 s 124**Division 2—Other provisions****div 2 (ss 185–187)** ins 2010 No. 13 s 124**PART 10—VALIDATION OF REGULATION****pt 10 (s 188)** ins 2010 No. 42 s 208**PART 11—TRANSITIONAL PROVISIONS FOR TRANSPORT AND OTHER  
LEGISLATION AMENDMENT ACT 2011****pt hdg** ins 2011 No. 12 s 91**Application of amended provisions about driver disqualifying offences in relation to  
driver authorisations****s 189** ins 2011 No. 12 s 91**Application of ch 11, pt 4B immediately before the commencement****s 190** ins 2011 No. 12 s 91**Application of ch 11, pt 4C****s 191** ins 2011 No. 12 s 91**PART 12—TRANSITIONAL PROVISION FOR WEAPONS AMENDMENT ACT  
2011****pt 12 (s 192)** ins 2011 No. 37 s 53 sch**SCHEDULE 1—DISQUALIFYING OFFENCES—PROVISIONS OF THE  
CRIMINAL CODE****sch hdg** amd 2007 No. 36 s 2 sch**sch 1** amd 1997 No. 9 s 91; 1999 No. 18 s 6 sch; 2007 No. 36 s 2 sch; 2008 No. 55 s 150 sch; 2011 No. 12 s 92**SCHEDULE 1A—DRIVER DISQUALIFICATION OFFENCES****sch hdg** amd 2007 No. 36 s 2 sch; 2011 No. 12 s 93(1)**sch 1A** ins 2004 No. 9 s 55A

amd 2005 No. 49 s 56; 2007 No. 36 s 2 sch; 2008 No. 55 s 150 sch; 2009 No. 47 s 25; 2010 No. 13 s 114 sch pt 1; 2011 No. 12 s 93(2)–(8)

**SCHEDULE 2—REVIEWABLE DECISIONS**

- sch hdg** amd 1997 No. 66 s 107(1)  
**sch 2** amd 1996 No. 43 s 15; 1997 No. 66 s 107(2); 2000 No. 6 s 76; 2001 No. 79 s 88; 2002 No. 15 s 61; 2004 No. 9 s 55B; 2004 No. 40 s 8; 2008 No. 31 s 72 sch; 2008 No. 32 s 102  
sub 2009 No. 24 s 1772  
amd 2007 No. 43 s 31 (amd 2010 No. 13 s 138 sch pt 1)

**SCHEDULE 2A—PARTICULAR SERVICE CONTRACTS IN SEQ AREA**

- ins 2004 No. 9 s 56  
amd 2008 No. 32 s 102  
om 2008 No. 32 s 103

**SCHEDULE 3—DICTIONARY**

- prev sch 3 om R1 (see RA s 40)  
pres sch 3 amd 1995 No. 32 s 23 sch; 2000 No. 6 s 77(1) (om def “means of access”) (amdt could not be given effect)  
def “**accommodation house**” ins 1997 No. 66 s 108(2)  
om 2009 No. 47 s 20 sch  
def “**accommodation transfer service**” ins 1997 No. 66 s 108(2)  
om 2008 No. 32 s 104(1)  
def “**act of violence**” ins 2011 No. 12 s 94(2)  
def “**approved form**” ins 2007 No. 6 s 47(2)  
def “**assault**” ins 2008 No. 67 s 231(2)  
def “**authorised driver**” amd 1997 No. 66 s 108(3); 2004 No. 53 s 2 sch  
def “**authorised person**” sub 1995 No. 32 s 23 sch; 2004 No. 9 s 57(1)–(2); 2008 No. 67 s 231; 2011 No. 12 s 94(1)–(2)  
def “**authorising document**” ins 2008 No. 71 s 24 (amd 2010 No. 13 s 74(1))  
def “**bodily harm**” ins 2008 No. 67 s 231(2)  
def “**category A driver disqualifying offence**” ins 2004 No. 9 s 57(2)  
amd 2009 No. 47 s 26(1)–(3); 2011 No. 12 s 94(3)  
def “**category B driver disqualifying offence**” ins 2004 No. 9 s 57(2)  
amd 2004 No. 49 s 53 sch  
sub 2009 No. 47 s 26(4)  
amd 2010 No. 5 s 248 sch 3; 2011 No. 12 s 94(4)–(5)  
def “**category C driver disqualifying offence**” ins 2004 No. 9 s 57(2)  
amd 2008 No. 31 ss 43, 72 sch  
def “**CCA**” ins 2010 No. 54 s 67 sch  
def “**CCYPCG Act**” ins 2011 No. 12 s 94(2)  
def “**civil banning order**” ins 2011 No. 12 s 94(2)  
def “**commercial service contract**” om 2002 No. 15 s 62  
def “**community transport service**” amd 1997 No. 66 s 108(4)  
def “**Competition Code**” ins 2000 No. 40 s 30  
def “**competition legislation**” ins 2000 No. 40 s 30  
def “**consignor**” ins 2008 No. 67 s 38(2)  
def “**copy**” ins 2011 No. 12 s 94(2)  
def “**courtesy transport service**” amd 1997 No. 66 s 108(4)–(5)



- def “**dangerous goods**” ins 2001 No. 79 s 89(2)  
amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39)  
sub 2008 No. 67 s 38(1)–(2)
- def “**dangerous goods authority**” ins 2008 No. 67 s 38(2)
- def “**dangerous goods offence**” ins 2008 No. 67 s 38(2)
- def “**dangerous goods regulation**” ins 2008 No. 67 s 38(2)
- def “**dangerous situation**” ins 2001 No. 79 s 89(2)
- def “**dangerous situation notice**” ins 2001 No. 79 s 89(2)
- def “**demand responsive service**” ins 1998 No. 43 s 27(3)
- def “**detainable offence**” ins 2008 No. 67 s 231(2)
- def “**digital photo**” ins 2008 No. 71 s 24
- def “**digitised signature**” ins 2008 No. 71 s 24
- def “**disqualifying offence**” amd 2004 No. 9 s 57(3)–(4); 2006 No. 21 s 139(3)–(5); 2007 No. 43 s 32(3)
- def “**driver**” sub 2004 No. 9 s 57(1)–(2)
- def “**driver disqualifying offence**” ins 2004 No. 9 s 57(2)
- def “**driver service**” ins 2000 No. 6 s 77(2)
- def “**electronic booking system**” ins 2007 No. 43 s 32(2)
- def “**electronic communication**” ins 2008 No. 71 s 24
- def “**eligible school children**” om 2007 No. 6 s 47(1)
- def “**emergency service contract**” ins 2002 No. 15 s 62
- def “**essential infrastructure direction**” ins 2008 No. 32 s 104(2)
- def “**essential public transport infrastructure**” ins 2008 No. 32 s 104(2)
- def “**established route**” ins 1997 No. 66 s 108(2)  
om 2010 No. 13 s 114 sch pt 1
- def “**evade payment of a fare**” ins 2004 No. 9 s 57(2)
- def “**excluded public passenger service**” ins 1997 No. 66 s 108(2)  
amd 1998 No. 43 s 27(1)–(2)  
sub 2000 No. 6 s 77(1)–(2)
- def “**exclusion order**” ins 2008 No. 67 s 231(2)
- def “**exclusion variation order**” ins 2008 No. 67 s 231(2)
- def “**fare**” prev def ins 2000 No. 40 s 30  
om 2004 No. 9 s 57(1)  
pres def reloc from s 154B 2004 No. 9 s 54
- def “**fare provision**” ins 2000 No. 40 s 30
- def “**ferry**” amd 2004 No. 9 s 57(5)
- def “**fixed track vehicle**” ins 2004 No. 9 s 57(2)
- def “**forward-control passenger vehicle**” ins 2006 No. 21 s 139(2)
- def “**free of charge**” ins 1997 No. 66 s 108(2)
- def “**frisk search**” ins 2008 No. 67 s 231(2)
- def “**general route service**” ins 2008 No. 32 s 104(2)
- def “**goods too dangerous to be transported**” ins 2008 No. 67 s 38(2)
- def “**government funded service contract**” om 2002 No. 15 s 62
- def “**holder**” ins 1997 No. 66 s 108(2)  
amd 2001 No. 79 s 89(3)
- def “**identified provision**” ins 2000 No. 40 s 30
- def “**impaired capacity**” ins 2008 No. 67 s 231(2)
- def “**imprisonment order**” ins 2011 No. 12 s 94(2)

Endnotes

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- def “**in**” ins 2001 No. 79 s 89(2)
- def “**individual fares**” ins 1997 No. 66 s 108(2)
- def “**information notice**” ins 2001 No. 79 s 89(2)  
amd 2004 No. 9 s 57(6); 2009 No. 24 s 1773
- def “**infringement notice**” ins 2000 No. 6 s 77(2)  
amd 2007 No. 36 s 2 sch
- def “**insult**” ins 1997 No. 66 s 108(2)  
om 2010 No. 13 s 114 sch pt 1
- def “**interim civil banning order**” ins 2011 No. 12 s 94(2)
- def “**invalid ticket**” ins 1995 No. 32 s 23 sch  
om 2004 No. 9 s 57(1)
- def “**licensed taxi**” ins 2007 No. 43 s 32(2)
- def “**light rail**” ins 2004 No. 9 s 57(2)
- def “**light rail manager**” ins 2011 No. 12 s 94(2)
- def “**light rail operator**” ins 2011 No. 12 s 94(2)
- def “**light rail vehicle**” ins 2004 No. 9 s 57(2)
- def “**limousine service**” amd 2007 No. 43 s 32(4)
- def “**load**” ins 2008 No. 67 s 38(2)
- def “**local government road**” om 2010 No. 13 s 114 sch pt 1
- def “**long distance scheduled passenger service**” sub 1997 No. 66 s 108  
om 2008 No. 32 s 104(1)
- def “**luxury motor vehicle**” sub 2006 No. 21 s 139(1)–(2)
- def “**management entity**” ins 2000 No. 40 s 30
- def “**management entity provision**” ins 2000 No. 40 s 30
- def “**master**” ins 2004 No. 9 s 57(2)
- def “**most recent digital photo**” ins 2008 No. 71 s 24 (amd 2010 No. 13 s 74(2))
- def “**most recent digitised signature**” ins 2008 No. 71 s 24 (amd 2010 No. 13 s 74(2))
- def “**motor vehicle**” ins 2006 No. 21 s 139(2)
- def “**non-State school**” ins 2007 No. 6 s 47(2)
- def “**non-TransLink area**” ins 2010 No. 13 s 125
- def “**obstruct**” sub 1997 No. 66 s 108
- def “**off-road passenger vehicle**” ins 2006 No. 21 s 139(2)
- def “**operator**” amd 2001 No. 79 s 89(4)
- def “**pack**” ins 2008 No. 67 s 38(2)
- def “**packaging**” ins 2008 No. 67 s 38(2)
- def “**passenger car**” ins 2006 No. 21 s 139(2)
- def “**passenger vehicle**” ins 2006 No. 21 s 139(2)
- def “**peak demand management plan**” ins 2007 No. 43 s 32(2)
- def “**peak demand taxi**” ins 2007 No. 43 s 32(2)
- def “**peak demand taxi permit**” ins 2007 No. 43 s 32(2)
- def “**peak patronage period**” ins 2007 No. 43 s 32(2)
- def “**placard**” ins 2008 No. 67 s 38(2)
- def “**prescribed day**” ins 2004 No. 9 s 57(2)
- def “**prescribed details**” ins 2007 No. 43 s 32(2)
- def “**prescribed person**” ins 2008 No. 67 s 231(2)
- def “**prescribed school service contract**” ins 2000 No. 6 s 77(2)

- def “**prescribed smartcard Act**” ins 2008 No. 71 s 24
- def “**prime contractor**” ins 2008 No. 67 s 38(2)
- def “**proper officer**” ins 2008 No. 67 s 231(2)  
sub 2011 No. 12 s 94(1)–(2)
- def “**public passenger service**” amd 2000 No. 6 s 77(3)
- def “**public transport infrastructure**” ins 2008 No. 67 s 231(2)  
amd 2011 No. 12 s 94(6)
- def “**public transport network**” ins 2008 No. 67 s 231(2)  
sub 2011 No. 12 s 94(1)–(2)
- def “**rail**” ins 2001 No. 79 s 89(2)
- def “**rail vehicle**” ins 2001 No. 79 s 89(2)  
amd 2008 No. 67 s 38(3)
- def “**railway**” ins 1997 No. 66 s 108(2)  
sub 2001 No. 79 s 89(1)–(2); 2004 No. 9 s 57(1)–(2)
- def “**railway manager**” ins 1995 No. 32 s 23 sch
- def “**railway operator**” ins 1995 No. 32 s 23 sch
- def “**reasonably**” ins 1995 No. 32 s 23 sch
- def “**reasonably believes**” ins 2002 No. 15 s 62
- def “**reasonably suspects**” ins 2004 No. 9 s 57(2)
- def “**relevant area**” ins 2007 No. 43 s 32(2)
- def “**relevant emergency service officer**” ins 2008 No. 67 s 38(2)
- def “**relevant information**” ins 2008 No. 67 s 231(2)
- def “**relevant offence**”, for chapter 11, part 4, ins 2004 No. 9 s 57(2)  
om 2011 No. 12 s 94(1)
- def “**relevant offence**”, for chapter 11, part 4B, ins 2008 No. 67 s 231(2)  
om 2011 No. 12 s 94(1)
- def **relevant offence**” ins 2011 No. 12 s 94(2)
- def “**relevant order**” ins 2011 No. 12 s 94(2)
- def “**relevant transport legislation**” ins 2004 No. 9 s 57(2)
- def “**remedial action notice**” ins 2001 No. 79 s 89(2)
- def “**respondent**” ins 2011 No. 12 s 94(2)
- def “**restricted driver authorisation**” ins 2000 No. 6 s 77(2)
- def “**restricted school service**” amd 2007 No. 6 s 47(3)  
om 2008 No. 32 s 104(1)
- def “**retention period**” ins 2008 No. 71 s 24
- def “**road**” sub 1997 No. 66 s 108
- def “**road works**” amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39)
- def “**scheduled passenger service**” amd 1997 No. 66 s 108(6)  
sub 2008 No. 32 s 104(1)–(2)
- def “**school service**” amd 1997 No. 66 s 108(7); 2007 No. 6 s 47(3); 2008 No. 32 s 104(3)
- def “**school student**” ins 2007 No. 6 s 47(2)
- def “**SEQ area**” ins 2004 No. 9 s 57(2)  
om 2008 No. 32 s 104(1)
- def “**service contract area or route**” amd 1998 No. 43 s 27(5)
- def “**service entity**” ins 2000 No. 40 s 30
- def “**service entity provision**” ins 2000 No. 40 s 30

Endnotes

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- def “**service equipment**” prev def ins 2000 No. 40 s 30  
om 2004 No. 9 s 57(1)  
pres def reloc from s 154B 2004 No. 9 s 54
- def “**shelf life**” ins 2008 No. 71 s 24 (amd 2010 No. 13 s 74(1))
- def “**smartcard**” ins 2004 No. 9 s 57(2)
- def “**smartcard driver authorisation**” ins 2008 No. 71 s 24 (amd 2010 No. 13 s 74(1))
- def “**special event**” ins 2010 No. 13 s 125
- def “**special purpose limousine**” ins 2007 No. 43 s 32(2)
- def “**special purpose limousine service licence**” ins 2007 No. 43 s 32(2)
- def “**State influenced entity**” ins 2000 No. 40 s 30
- def “**State school**” ins 2007 No. 6 s 47(2)
- def “**stretched**” ins 2006 No. 21 s 139(2)
- def “**stretched passenger car**” ins 2006 No. 21 s 139(2)
- def “**student event**” ins 2007 No. 43 s 32(2)
- def “**substitute taxi**” ins 2007 No. 43 s 32(2)
- def “**tag off**” ins 2004 No. 9 s 57(2)
- def “**tag on**” ins 2004 No. 9 s 57(2)
- def “**take**” ins 2008 No. 71 s 24
- def “**tare**” ins 2001 No. 79 s 89(2)
- def “**taxi**” sub 1998 No. 43 s 27(4); 2007 No. 43 s 32(1)–(2)
- def “**taxi industry security levy**” ins 2007 No. 25 s 8
- def “**taxi service**” sub 1997 No. 66 s 108  
amd 2007 No. 36 s 2 sch
- def “**taxi service area**” amd 2010 No. 13 s 114 sch pt 1
- def “**temporary service contract**” ins 1997 No. 66 s 108(2)  
om 2002 No. 15 s 62
- def “**ticket**” ins 2004 No. 9 s 57(2)
- def “**timetable**” ins 2008 No. 32 s 104(2)
- def “**tourist service**” om 2008 No. 32 s 104(1)  
ins 2010 No. 19 s 255
- def “**tourist transfer service**” ins 1997 No. 66 s 108(2)  
om 2008 No. 32 s 104(1)
- def “**TPA**” ins 2000 No. 40 s 30  
om 2010 No. 54 s 67 sch
- def “**transit officer**” ins 2008 No. 67 s 231(2)
- def “**transit officer training**” ins 2008 No. 67 s 231(2)
- def “**TransLink**” ins 2010 No. 13 s 125
- def “**TransLink area**” ins 2004 No. 9 s 57(2)  
sub 2008 No. 32 s 104(1)–(2)
- def “**TransLink service contract**” ins 2004 No. 9 s 57(2)  
amd 2008 No. 32 s 104(4)
- def “**transport**” ins 2001 No. 79 s 89(2)
- def “**transport documentation**” ins 2008 No. 67 s 38(2)
- def “**transport indictable offence**” ins 2008 No. 67 s 231(2)
- def “**unit of rolling stock**” ins 2008 No. 67 s 38(2)

def “**unscheduled long distance passenger service**” ins 2000 No. 6 s 77(2)  
 amd 2008 No. 31 s 72 sch  
 def “**wedding event**” ins 2007 No. 43 s 32(2)

## 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 1701 ES Version June 2010—Authority to Issue/Transfer Taxi/Limousine Number Plates (pubd gaz 24 September 2010 p 207)

Form 2330 ES Version December 2005—Taxi Subsidy Scheme Application (pubd gaz 20 January 2006 p 208)

Form 2367 Version June 2011—Taxi/Limousine Service Licence Renewal Application (pubd gaz 5 August 2011 p 828)

Form 2768 ES Version November 2008—Operator Accreditation Renewal Application (pubd gaz 19 December 2008 p 2173)

Form 2828 Version July 2000—Infringement notice (Queensland Rail)—First and Final notice (pubd gaz 24 November 2000 p 1181)

Form 2975 Version June 2011—Limousine Service Licence Application (pubd gaz 5 August 2011 p 828)

Form 2976 Version June 2011—Taxi/Limousine Service Licence/Permit Amendment Application (pubd gaz 5 August 2011 p 828)

Form 2978 Version 5 December 2010—Driver Authorisation Application (pubd gaz 21 January 2011 p 108)

Form 2979 Version 1 July 2010—Driver Authorisation Renewal Application (pubd gaz 21 January 2011 p 108)

Form 2979 ES Version October 2009—Driver Authorisation Renewal Application (pubd gaz 30 October 2009 p 656)

Form 2982 ES Version April 2009—Operator Accreditation Application (pubd gaz 24 April 2009 p 1879)

Form 3134 Version June 2011—Taxi/Limousine Service Licence Notification of Transfer/Lease and Management/Renewal of Lease and Management (pubd gaz 5 August 2011 p 828)

Form 3712 Version 1 November 2010—Medical Certificate for Motor Vehicle Driver (pubd gaz 21 January 2011 p 108)

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- Form 3871 Version February 2009—Operator Accreditation Renewal Application (pubd gaz 20 February 2009 p 851)
- Form 3872 Version June 2011—Taxi/Limousine Service Licence Renewal Application (pubd gaz 5 August 2011 p 829)
- Form 3880 ES Version December 2005—Restricted Driver Authorisation Notification (pubd gaz 20 January 2006 p 208)
- Form 3881 ES Version December 2005—Restricted Driver Authorisation—Pro Forma Employers Letter (pubd gaz 20 January 2006 p 208)
- Form 3912 Version January 2006—Driver Authorisation Renewal Application (pubd gaz 20 January 2006 p 208)
- Form 4381 ES Version July 2010—Special Purpose Limousine Licence (pubd gaz 3 September 2010 p 60)
- Form 4595 Version July 2008—Authority to Check a Visa Holder's Work Entitlement (pubd gaz 4 July 2008 p 1415)
- Form 4621 Version June 2011—Attach/Remove/Replace Taxi Taxi/Limousine Plate Application (pubd gaz 5 August 2011 p 829)
- Form 4669 Version 1 Aug 2010—Release of Digital Photo Application (pubd gaz 21 January 2011 p 108)
- Form 4729 ES Version 1 June 2010—Replacement Industry Authority (pubd gaz 21 January 2011 p 108)
- Form 4774 —Exclusion Order (pubd gaz 30 October 2009 p 656)
- Form 4775—Exclusion Order Amendment (pubd gaz 30 October 2009 p 656)
- Form 4776—Exclusion Order Amend / Revoke (pubd gaz 30 October 2009 p 656)
- Form 4777—Exclusion Variation Order (pubd gaz 30 October 2009 p 656)
- Form 4923 Version September 2011—Civil Banning Order (pubd gaz 2 September 2011 p 41)
- Form 4924 Version September 2011—Civil Banning Revocation Order (pubd gaz 2 September 2011 p 41)
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Previous	Renumbered as
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