



Tow Truck Act 1973

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Queensland

Tow Truck Act 1973

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Tow Truck Act 1973

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

Part 1 Preliminary provisions

1 Short title

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

2 Commencement

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

4 Definitions

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

4A Further provision for definition *motor vehicle*

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

4B Members of firm or partnership

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

4C Who is an appropriate person

(1AA) A person is not an appropriate person to hold or continue to hold a licence or certificate under this Act if—

- (a) the person is an identified participant in a criminal organisation; or
- (b) the person is a criminal organisation; or
- (c) for a corporation—an executive officer of the corporation is an identified participant in a criminal organisation.

(1) Without limiting what the chief executive may take into account when deciding whether a person is an appropriate person to hold or continue to hold a licence or certificate under this Act, regard must be had to the following—

- (a) the person's criminal history and, if the person is a corporation, the criminal history of each of its executive officers;
- (b) the person's traffic history;
- (c) the person's conduct while performing activities under a licence or certificate;
- (d) whether the person has been charged with or convicted of—
 - (i) an offence against this Act; or
 - (ii) a disqualifying offence;
- (e) whether the person has held a licence or certificate that has been cancelled and, if so, why it was cancelled;
- (f) whether the person holds a licence or certificate that has been or is suspended and, if so, why it was suspended;

- (g) whether the person is capable of satisfactorily performing the activities authorised under a licence or certificate, including because of any known medical condition or physical or mental incapacity;
 - (h) whether the person is subject to a domestic violence order or an interstate order as defined in the *Domestic and Family Violence Protection Act 2012*;
 - (i) whether the person has been charged with or convicted of having committed an offence in another State or another country that, if committed in Queensland, would be an offence against the *Weapons Act 1990*;
 - (j) whether the person has been charged with or convicted of having committed an offence in another State or another country that, if committed in Queensland, would be an offence against the *Drugs Misuse Act 1986*.
- (2) In this section—
- certificate* means—
- (a) an assistant’s certificate; or
 - (b) a driver’s certificate.

traffic history, of a person, see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

Part 2 Licences

5 Requirement as to licence for tow truck

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

6 Application for licence

- (1) An application for a licence shall be made to the chief executive and the applicant shall comply with all conditions prescribed by the regulations.
- (2) The chief executive must consider any report of the police commissioner given under section 36 about the applicant or an executive officer of the applicant, and any other matter the chief executive considers relevant, and if the chief executive is satisfied that—
 - (a) the applicant is an appropriate person to hold a licence; and
 - (b) the motor vehicle or motor vehicles in respect of which the application is made and its or their equipment are suitable;

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

7 Form and authority of licence

- (1) A licence—
 - (a) shall authorise the operation of the tow truck or tow trucks in respect of which it is issued, subject always to this Act; and
 - (b) shall state the place from which the business of operating the tow truck or tow trucks in respect of which it is issued may be conducted; and
 - (c) may be renewed from time to time; and
 - (d) shall not be transferable.
- (2) A licence shall not be issued or renewed unless the tow truck or tow trucks in respect of which the application is made is or are registered under a regulation under the *Transport Operations (Road Use Management) Act 1995*.

8 Duration of licence

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

9 Renewal of licence

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

10 Imposition of conditions of licence

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

11 Permits to tow motor vehicles

- (1) The chief executive may upon application, payment of the prescribed fee and upon being satisfied as to the identity of the applicant for the permit issue a permit that authorises the

holder thereof to tow motor vehicles by means of the tow truck specified therein pending the determination of an application for a licence.

- (2) A permit issued pursuant to subsection (1)—
 - (a) shall, subject to this Act, be in force for such period not exceeding 6 months as the chief executive determines; and
 - (b) may be revoked by the chief executive at any time; and
 - (c) may be issued subject to all or any of the conditions to which a licence may be subject and to such other conditions as are specified in the permit.

12 Conditions of licence

- (1) Every licence shall be subject to the performance and observance by the holder thereof of the provisions of this Act with respect to the licence or to the tow truck or tow trucks to which the licence relates and of the conditions particularised in the licence or affixed thereto.
- (2) Without limiting the generality of the provisions of subsection (1), each of the following is a condition of every licence—
 - (a) that any tow truck to which the licence relates and its equipment comply with the provisions of any Act relating to the design, construction and serviceability of the tow truck or, as the case may be, its equipment;
 - (b) that the provisions of any Act relating to limits of weight or speed that are applicable to any tow truck to which the licence relates are complied with;
 - (c) that the provisions of any Act relating to the limitation of hours of driving are observed;
 - (d) that the holder of the licence shall not operate any tow truck to which the licence relates unless it has been inspected as required under a regulation under the *Transport Operations (Road Use Management) Act*

1995 and there is a current certificate of inspection under that regulation for the vehicle;

- (e) that a person shall not on a road tow a damaged or seized motor vehicle (not being a motor vehicle that is owned by the holder of the licence) by means of any tow truck to which the licence relates unless the person has obtained the consent of the owner thereof, the owner's agent or an authorised officer to remove that motor vehicle and a duly signed towing authority relating to that motor vehicle dealt with as prescribed;
- (f) that a person shall not obtain or attempt to obtain a signature on a form of towing authority unless there has first been entered on that form the full address of the place to which the motor vehicle the subject of the towing authority will be towed and, where any business is carried on in that place, the name of the business;
- (g) that all reasonable precautions shall be taken by the holder of the licence and the driver of any tow truck to which the licence relates and any person employed thereon to prevent loss from, or damage to, a damaged or seized motor vehicle while being towed by the tow truck and that those precautions shall be taken by the holder of the licence while the motor vehicle is otherwise under his or her control;
- (h) that the holder of a licence shall cause to be made an inventory of movable property (including any radio or sound production device) found to be in the damaged or seized vehicle at the time of its arrival at the place referred to in paragraph (f) to which it has been towed and shall keep at the premises from which the holder of the licence conducts his or her business an inventory so made;
- (i) that a person shall not tow a damaged or seized motor vehicle from the scene of an incident or seizure by means of any tow truck to which the licence relates to a place other than the place referred to in paragraph (f);

- (j) that where a motor vehicle has been towed to the place referred to in paragraph (f), a person shall not, except to return the motor vehicle to the registered owner thereof or the registered owner's agent authorised in writing, remove the motor vehicle to another place without the written authority of that owner or agent given after the motor vehicle has been towed to the place from which it is to be removed;
- (k) that where a damaged or seized motor vehicle has been towed to a place where it is under the control of the holder of the licence, a person shall not refuse to deliver the motor vehicle to the registered owner thereof or the registered owner's agent duly authorised in writing on request by the owner or the owner's agent after payment of reasonable charges for the towing and storing of the motor vehicle, and where repair work has been authorised by the owner or the owner's agent, for that repair work, has been made or tendered;
- (l) that a person other than the holder of a driver's certificate or an assistant's certificate shall not accompany the driver of any tow truck to which the licence relates while the tow truck is proceeding to the scene of an incident or seizure, or towing a damaged or seized motor vehicle from the scene of an incident or seizure, unless in either case the person was the owner or the owner's agent or the driver of or a passenger in that motor vehicle;
- (m) that a person shall not obtain or attempt to obtain at the scene of an incident or seizure authority for the towing of a damaged or seized motor vehicle by means of any tow truck to which the licence relates unless the person is the driver of the tow truck having the authority express or implied of the holder of the licence, his or her servants or agents;
- (n) that the holder of the licence shall not, unless he or she is the holder of a driver's certificate obtain or attempt to obtain any authority referred to in paragraph (e);

- (o) that the driver of any tow truck to which the licence relates shall not (except to the extent necessary to connect the towing equipment of the tow truck to a damaged or seized motor vehicle in respect of which the driver has obtained a towing authority) permit the tow truck to stand upon a road so as to cause an obstruction or to stand at the scene of an incident or seizure for a period longer than that which would reasonably be required to obtain a towing authority in respect of a damaged or seized motor vehicle for which no towing authority has been given;
- (p) that any tow truck to which the licence relates shall not be used to tow a damaged or seized motor vehicle while any person is travelling as a passenger in the damaged or seized motor vehicle;
- (q) that the holder of the licence and any person employed by the holder of the licence on or in connection with the use of any tow truck to which the licence relates shall comply with the provisions of the *Radiocommunications Act 1992* (Cwlth), and shall not permit or suffer any other person to contravene the provisions of that Act;
- (r) that the holder of the licence shall not charge a sum other than a reasonable sum for the towing, salvage or storage of a motor vehicle.

Part 3 Certificates

Division 1 General

13 Required certificates etc.

A person must not—

- (a) operate a tow truck unless the person is the holder of—

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

14 Application for driver's or assistant's certificate

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

14A Decision on application

- (1) Subject to section 19A(5), the chief executive must consider an application made under section 14 and do 1 of the following—
 - (a) grant the application;

- (b) grant the application subject to conditions;
 - (c) refuse to grant the application.
- (2) However, before deciding an application, the chief executive—
- (a) must consider the matters prescribed under a regulation for this section; and
 - (b) may consider any other matter the chief executive considers relevant.
- (3) Also, the chief executive must not grant the application if the chief executive is not satisfied the applicant is an appropriate person to hold a driver's certificate or an assistant's certificate.

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

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

Note—

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

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

16 What driver's or assistant's certificate authorises

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

17 Term of driver's or assistant's certificate

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

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

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

18 Driver's certificate dependent on driver licence

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

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

- (1) The chief executive may, upon application and payment of the prescribed fee and upon the chief executive being satisfied as to the identity of the applicant for the permit, grant the applicant a permit that authorises the holder thereof to operate or as the case requires be employed on or in connection with the use of a tow truck pending the determination of an application for a driver's certificate or assistant's certificate.
- (2) A permit granted under subsection (1)—
 - (a) shall, subject to this Act, be in force for such period not exceeding 6 months as the chief executive determines; and
 - (b) may be revoked by the chief executive at any time; and
 - (c) may be granted subject to all or any of the conditions to which a driver's certificate or an assistant's certificate may be subject and to such other conditions as are specified in the permit.

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

19A Obtaining digital photo and digitised signature

- (1) A person must allow the chief executive to take and keep—
 - (a) a digital photo and digitised signature of the person, if the person applies for—
 - (i) the grant or renewal of a driver's certificate or assistant's certificate (the *authority applied for*); or
 - (ii) the replacement of a document evidencing a driver's certificate or assistant's certificate; or
 - (b) a digital photo or digitised signature of the person, if—
 - (i) the person applies for anything else in relation to a driver's certificate or an assistant's certificate; and

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

- (b) the chief executive is not satisfied there is sufficient connection between the digital photo taken under subsection (1)(b) and the person's most recent digital photo.

19AA Extending shelf life of digital photo and digitised signature

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

Example—

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

19B Using digital photo and digitised signature

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

- (2) The chief executive may use a person's most recent digital photo and digitised signature to help in an investigation of, or proceeding for, an offence that—
- (a) happens—
 - (i) in making the application for which the person's digital photo and digitised signature are taken under section 19A(1); or
 - (ii) during the retention period for the digital photo and digitised signature; and
 - (b) involves a person obtaining or attempting to obtain any of the following by a false statement, misrepresentation or any other dishonest way—
 - (i) a relevant certificate or its renewal;
 - (ii) a PIN or anything else for—
 - (A) a relevant certificate; or
 - (B) a document evidencing a relevant certificate.
- (3) In this section—
- relevant certificate* means—
- (a) a driver's certificate or assistant's certificate; or
 - (b) a replacement of a document evidencing a driver's certificate or assistant's certificate.

19C Restricted access to a digital photo

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

digital photo by other evidence of his or her identity, or by facial recognition technology.

Example of other evidence for paragraph (c)—

a valid Australian passport

- (2) An application mentioned in subsection (1)(b) may be made by electronic communication.
- (3) The chief executive must allow a police officer to access a digital photo kept by the chief executive under this Act or a prescribed smartcard Act if either of the following applies—
 - (a) the access is for exercising a power in relation to this Act or the Criminal Code, section 328A;

Note—

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

- (b) the access is authorised under the *Police Powers and Responsibilities Act 2000*.
- (4) In this section—

access, a digital photo, means obtain a copy of the digital photo, including by electronic communication.

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

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

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

- (1) A person must not access information stored electronically on a smartcard certificate, unless the person is—
 - (a) the holder of the smartcard certificate; or

[s 19F]

- (b) a person who has the holder's consent to access the information; or
- (c) an authorised officer, including a police officer, and the access is for exercising a power under this Act; or
- (d) a police officer who is authorised under the *Police Powers and Responsibilities Act 2000* to access the information.

Maximum penalty—20 penalty units.

- (2) In this section—

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

19F Retention period for digital photo and digitised signature

- (1) This section sets out the retention period for a digital photo and digitised signature taken under this Act.
- (2) Unless subsection (3) applies, the retention period for a digital photo and digitised signature taken under section 19A(1) is—
 - (a) if an application mentioned in section 19A(1)(a) is granted or a digital photo or digitised signature taken under section 19A(1)(b) is to be used under section 19B(1)(b)—30 years after the relevant day; or
 - (b) if an application mentioned in section 19A(1)(a) is not granted—
 - (i) 6 months after the relevant day; or
 - (ii) the period decided by the chief executive;whichever is the shorter period; or
 - (c) if paragraph (a) or (b) does not apply—24 hours after the relevant day.
- (3) Despite subsection (2), if—
 - (a) an investigation as mentioned in section 19B(2) is started before the end of the retention period worked out

under subsection (2)(b) or (c) of this section for a digital photo and digitised signature; and

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

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

- (4) In this section—

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

19G Annual report about access to digital photos

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

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

19H Restricted written release of information

- (1) The chief executive may release, in writing, information kept under this Act about a person's driver's certificate or assistant's certificate to—

- (a) on receiving an application in the approved form—
 - (i) the person; or
 - (ii) with the person's written consent—another entity;
or
 - (b) the police commissioner for the purpose of any function of the police 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's certificate or assistant's certificate if—
- (a) the person produces a document evidencing the certificate to the entity as proof of the person's identity; and
 - (b) the entity applies in the approved form for the information; and
 - (c) the information is necessary to verify the validity of the certificate.
- (3) Information that may be released under subsection (1) or (2) does not include a digital photo and digitised signature.
- (4) An application mentioned in subsection (1)(a) or (2)(b) may be made by electronic communication.

19I 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's certificate or assistant's certificate.
- (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.

Part 4 Authorities and permits

Division 1 Preliminary

20 Definitions for pt 4

In this part—

authority means—

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

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

21 Consideration of public interest for pt 4

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

Examples for subsection (1)—

- 1 It may be in the public interest to cancel or suspend, or if authorised under section 21B, immediately suspend a tow truck driver's or an operator's authority because the person is charged with possessing a weapon in contravention of the *Weapons Act 1990* or a dangerous drug in contravention of the *Drugs Misuse Act*

1986 and the offence was committed while performing activities under the authority.

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

Division 2 Cancellation, suspension, amendment and surrender of authorities

Subdivision 1 Immediate cancellation

21AA Immediate cancellation—identified participant or criminal organisation

- (1) The chief executive must cancel an authority holder's authority if, after the authority is granted, the chief executive is advised by the police commissioner that the authority holder is—
 - (a) an identified participant in a criminal organisation; or
 - (b) a criminal organisation.
- (2) Immediately after cancelling the authority, the chief executive must give the authority holder a QCAT information notice for the decision to cancel the authority.
- (3) The *Acts Interpretation Act 1954*, section 27B does not apply to the QCAT information notice.

- (4) The cancellation takes effect on the day the QCAT information notice is given to the authority holder.
- (5) Subdivision 2 does not apply to the cancellation of an authority under this section.

Subdivision 2 Other provisions about cancellation, suspension, amendment and surrender

21A Cancellation or suspension of authorities

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

- (a) the authority—
 - (i) was issued in error; or
 - (ii) was granted or renewed because of a false or fraudulent document, statement or representation;
- (b) the authority holder—
 - (i) is convicted of an offence against this Act; or
 - (ii) has, since the issue of the authority, been charged with or convicted of a disqualifying offence; or
 - (iii) contravenes a condition of the authority; or
 - (iv) stops being a tow truck operator, driver or assistant;
- (c) for an authority holder that is a corporation—an executive officer of the holder is or has been—
 - (i) convicted of an offence against this Act; or
 - (ii) charged with or convicted of a disqualifying offence;
- (ca) for an authority holder that is a corporation—the chief executive is advised by the police commissioner that an

- executive officer of the holder is an identified participant in a criminal organisation;
- (d) the authority holder can not properly drive the class of motor vehicle stated in the authority because of a medical condition, or physical or mental incapacity;
 - (e) the motor vehicle stated in the authority is no longer suitable for use under the authority;
 - (f) the authority holder has given false or misleading information to—
 - (i) an authorised officer; or
 - (ii) an authorised officer under the Heavy Vehicle National Law (Queensland);
 - (g) public safety has been endangered, or is likely to be endangered, because of the authority holder's conduct;
 - (h) having regard to the conduct of the authority holder, when performing activities under the authority or at any other time, the chief executive believes, on reasonable grounds—
 - (i) the person is no longer an appropriate person to hold an authority; or
 - (ii) it is in the public interest to cancel or suspend the authority.

21B Immediate suspension of authority

- (1) Despite section 21D, the chief executive may immediately suspend an authority holder's authority by written notice given to the authority holder on any of the following grounds—
 - (a) public safety has been endangered, or is likely to be endangered, because of the authority holder's conduct and the authority should be immediately suspended;
 - (b) having regard to the conduct of the authority holder, when performing activities under the authority or at any

- other time, the chief executive believes, on reasonable grounds—
- (i) the person is no longer an appropriate person to hold an authority and the authority should be immediately suspended; or
 - (ii) it is in the public interest to immediately suspend the authority;
- (c) for an authority holder that is a corporation—
- (i) the chief executive is advised by the police commissioner that an executive officer of the authority holder is an identified participant in a criminal organisation; and
 - (ii) the chief executive believes on reasonable grounds that—
 - (A) public safety has been endangered, or is likely to be endangered, because of the executive officer's conduct in relation to the authority and the authority should be immediately suspended; or
 - (B) it is in the public interest to immediately suspend the authority.
- (2) Without limiting the chief executive's powers under subsection (1), it is enough to immediately suspend an authority holder's authority if—
- (a) a person complains to a police officer about the conduct of the authority holder and, having regard to the nature of the complaint, the chief executive believes, on reasonable grounds, the conduct complained of justifies taking action under subsection (1); or
 - (b) having regard to statements or other information about the conduct of the authority holder given to the chief executive, the chief executive believes, on reasonable grounds, the statements or other information justifies taking action under subsection (1).

- (3) If the chief executive immediately suspends the authority, the suspension has effect under this section until the earlier of the following—
 - (a) the chief executive informs the authority holder of the chief executive's decision under section 21D(4);
 - (b) the end of 56 days after the notice is given to the authority holder or the end of any further period or periods by which the suspension is extended under subsection (5).
- (4) The notice of immediate suspension must state—
 - (a) the reasons for the decision; and
 - (b) the general effect of subsection (3); and
 - (c) the prescribed review information for the decision, unless the authority holder is a corporation and the decision is made because the chief executive is advised by the police commissioner that an executive officer of the corporation is an identified participant in a criminal organisation.

Note—

See also section 27A.

- (5) The chief executive may extend the period for which an authority is suspended under subsection (1) for a further period or periods of not more than 56 days on each occasion.
- (6) However, in deciding whether to extend or further extend the period of the suspension of an authority holder's authority, the chief executive must have regard to—
 - (a) the information that was available to the chief executive when the chief executive first suspended the authority under subsection (1); and
 - (b) any further information relevant to the suspension that is in the chief executive's possession or of which the chief executive has since become aware; and
 - (c) whether in all the circumstances it is appropriate that the suspension be further extended.

21C Further action after immediate suspension

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

21D Amending, suspending or cancelling authority

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

[s 21D]

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

decision is made because the chief executive is advised by the police commissioner that an executive officer of the corporation is an identified participant in a criminal organisation.

Note—

See also section 27A.

21E Other amendments of authorities

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

21F Surrender of authority on authority holder's request

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

Example—

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

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

surrender day, for a surrendered authority, means—

- (a) the day stated in the notice of surrender as the day the surrender takes effect; or

- (b) if no day is stated in the notice, the day the chief executive receives the notice.

Subdivision 3 Delivery of cancelled or suspended authorities

21G Delivery of cancelled or suspended authority

If the chief executive cancels or suspends an authority under this division, the authority holder must deliver any document evidencing the authority to the chief executive within the time specified by the chief executive in the QCAT information notice for the decision to cancel or suspend the authority or the notice of cancellation or suspension.

Maximum penalty—20 penalty units.

Division 3 Record keeping

21H Records

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

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

Part 5 Offences

22 **Authority to repair**

A person—

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

23 **Consideration for obtaining certain information or work**

(1) A person—

- (a) shall not for the purpose of obtaining a towing authority or enabling any other person to obtain a towing authority, give or receive or agree to give or receive any valuable thing in consideration of the furnishing of information or advice about—
 - (i) the occurrence of an incident or seizure; or
 - (ii) the presence of—
 - (A) a damaged motor vehicle on a road; or
 - (B) a seized motor vehicle on a road that is an off-street regulated parking area for which there is an arrangement mentioned in the *Transport Operations (Road Use Management) Act 1995*, section 104; or
- (b) shall not give or agree or offer to give any valuable thing in consideration of the obtaining for himself or herself or any other person of the work of repairing a damaged motor vehicle; or

- (c) shall not receive or agree or offer to receive any valuable thing in consideration of the obtaining from any other person of the work of repairing a damaged motor vehicle.
- (2) In this section—
- valuable thing* includes any money, loan, office, place, employment, benefit or advantage and any commission or rebate payment in excess of actual value of goods or service, deduction or percentage, bonus or discount or any forbearance to demand any money or money's worth or valuable thing, but does not include any reasonable charge in respect of the towing, salvage or storage of a damaged motor vehicle or the towing or storage of a seized motor vehicle.

24 False statements and representations, and coercion

A person shall not—

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

25 Offences with respect to authorised officers

A person shall not—

- (a) assault, resist or obstruct an authorised officer in the exercise of his or her powers or in the discharge of his or her duties under this Act, or attempt so to do; or

- (b) fail to facilitate by all reasonable means the entry into or on premises from which a tow truck operator conducts his or her business, or vehicle by an authorised officer; or
- (c) fail to answer any question put to the person in pursuance of this Act by an authorised officer or give to any such question an answer that is in any respect false or misleading; or
- (d) fail to comply with the lawful requisition or any part of the lawful requisition of an authorised officer; or
- (e) when required by or under this Act to furnish any assistance or to furnish any information to an authorised officer, fail to furnish that assistance or information, as the case may be, or, in the latter case, furnish information that is in any respect false or misleading; or
- (f) fail, without reasonable excuse, the proof whereof shall lie upon the person, to produce any licence, certificate or permit, or book, notice, record, document or writing that the person is required under this Act by an authorised officer to produce or fail to allow an authorised officer to take a copy of or extract from any such licence, certificate or permit, book, notice, record, document or writing; or
- (g) directly or indirectly prevent any person from appearing before or being questioned by an authorised officer, or attempt so to do; or
- (h) use any threat or any abusive or insulting language to an authorised officer or to any other person with respect to any inspection, examination or interrogation.

26 Excess of authority

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

27 Execution against motor vehicle

- (1) Any warrant of execution for the amount of any penalty for an offence against section 5 or 26 may be executed by seizure and sale of the goods and chattels of the offender and, where the motor vehicle in respect of which the offence was committed is not the sole and absolute property of the offender, by seizure and sale of that motor vehicle as if it were the sole and absolute property of the offender.
- (1A) Where the motor vehicle in respect of which the offence was committed comprised a trailer attached to a motor vehicle the warrant may be executed by seizure and sale of the trailer or the motor vehicle to which it was attached, or both of them.
- (2) If it appears to the person to whom the warrant is directed that the motor vehicle is not, at the time of its seizure, the sole and absolute property of the offender, such person shall pay the whole of the proceeds of the sale of the motor vehicle to the clerk of the court to whom the warrant orders the person to pay the amount to be levied thereunder.
- (2A) So much of such proceeds as exceeds the amount ordered to be levied and the costs and charges of the execution shall be deemed to have come into the custody of the clerk of the court in connection with the proceedings in respect of the offence.
- (3) Any justice shall, upon the application of the chief executive or a person acting under the general or particular authority of the chief executive, issue a warrant of execution for any amount that has not been paid of any penalty for an offence against section 5 or 26.
- (3A) Notwithstanding the provisions of the *Justices Act 1886* a justice—
 - (a) shall not postpone the issue of the warrant of execution; and
 - (b) shall issue the warrant of execution notwithstanding that the decision adjudging the penalty made no provision for the levy thereof by distress or execution, or directed that in default of payment thereof forthwith or within a time allowed the offender should be imprisoned.

- (4) This section does not authorise the execution of a warrant for recovery of any amount of penalty for an offence against section 5 or 26—
- (a) before the expiration of the time (if any) for payment of the penalty allowed by the justices adjudging the penalty as part of their decision; or
 - (b) after the offender has been imprisoned for default in paying the penalty.
- (5) In this section—
- penalty* includes any costs or fees which the justices adjudging the penalty ordered, as part of their decision, to be paid.

Part 6 Review

Division 1 Review of decisions

27A Requirement to give QCAT information notice for particular decisions mentioned in sch 1

- (1) This section applies if a decision mentioned in schedule 1 is made and, in making the decision, the chief executive was advised by the police commissioner that—
- (a) the person is an identified participant in a criminal organisation; or
 - (b) the person is a criminal organisation; or
 - (c) for a corporation—an executive officer of the corporation is an identified participant in a criminal organisation.
- (2) The chief executive must give a person whose interests are affected by the decision a QCAT information notice for the decision.

- (3) The *Acts Interpretation Act 1954*, section 27B does not apply to the QCAT information notice.

28 Internal review of decisions

- (1) This section applies to a person whose interests are affected by a decision mentioned in schedule 1, except if the chief executive is required under section 27A to give the person a QCAT information notice for the decision.
- (2) The person may ask the chief executive to review the decision.
- (3) The person is entitled to receive a statement of reasons for the 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.
- (4) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
- (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed; and
 - (iii) for the person to be given a QCAT information notice if the decision on the review is not the decision sought by the person.

29 Review of decisions by QCAT

- (1) This section applies to a person who has been given a QCAT information notice for—
- (a) a decision mentioned in schedule 1; or
 - (b) a decision to immediately cancel an authority under section 21AA; or

- (c) a decision on a review under section 28 of a decision mentioned in schedule 1.
- (2) The person may apply, as provided under the QCAT Act, to QCAT for a review of the decision.
- (3) Despite the QCAT Act, section 22(3), QCAT may not stay the operation of a decision made as a result of advice given by the police commissioner that—
 - (a) a person is an identified participant in a criminal organisation; or
 - (b) a person is a criminal organisation; or
 - (c) for a corporation—an executive officer of the corporation is an identified participant in a criminal organisation.

Division 2 Confidentiality and application of Judicial Review Act 1991

30 Confidentiality of criminal intelligence in proceedings

- (1) This section applies if—
 - (a) a person seeks review of any of the following decisions made by the chief executive—
 - (i) a decision mentioned in schedule 1;
 - (ii) a decision to immediately cancel an authority under section 21AA; and
 - (b) the decision was made as a result of advice given by the police commissioner that—
 - (i) the person is an identified participant in a criminal organisation; or
 - (ii) the person is a criminal organisation; or
 - (iii) for a corporation—an executive officer of the corporation is an identified participant in a criminal organisation.

- (2) For a proceeding relating to an application for review of the decision in QCAT or a proceeding about the decision in the Supreme Court—
 - (a) the police commissioner is a party to the proceeding; and
 - (b) the police commissioner must give QCAT or the Supreme Court a statement of reasons about—
 - (i) the identification of the person by the police commissioner as an identified participant in a criminal organisation or as a criminal organisation; or
 - (ii) for a corporation—the identification of an executive officer of the corporation by the police commissioner as an identified participant in a criminal organisation.
- (3) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may review the identification by the police commissioner of—
 - (a) the person as—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; or
 - (b) for a corporation—an executive officer of the corporation as an identified participant in a criminal organisation.
- (4) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may, as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (a) receive evidence and hear argument about the criminal intelligence in the absence of parties to the proceeding and their representatives; and
 - (b) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.

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- (5) If QCAT or the Supreme Court considers information has been incorrectly categorised by the police commissioner as criminal intelligence, the police commissioner may withdraw the information from consideration by QCAT or the court.
- (6) Information that is withdrawn under subsection (5) by the police commissioner must not be—
- (a) disclosed by any person; or
 - (b) taken into consideration by QCAT or the Supreme Court.
- (7) In this section—
- criminal intelligence* means—
- (a) advice given by the police commissioner to the chief executive under section 36AA that a person is—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; and
 - (b) information held by the police commissioner that is relevant to whether—
 - (i) the person is an identified participant in a criminal organisation; or
 - (ii) the person is a criminal organisation.

31 Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision of the chief executive mentioned in section 30(1).
- (2) Subject to this part, unless the Supreme Court decides that a decision of the chief executive mentioned in section 30(1) is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise

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

- (1) This section applies if the driver of a tow truck makes an offer or intends to make an offer to tow a damaged motor vehicle by means of a tow truck.
- (2) The driver must, either before or when making the offer to tow the motor vehicle, produce the document evidencing the driver's certificate or permit held by the driver for inspection by the person to whom the offer is made or intended to be made.
- (3) This section applies whether or not the person to whom the offer is made or intended to be made asks the driver to produce the document.

36 Chief executive may obtain information from police commissioner—criminal history

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

[s 36A]

- (3) If asked by the chief executive, the police commissioner must give the chief executive a written report about the person's criminal history.
- (4) Subsection (3) applies to the criminal history in the police commissioner's possession or to which the police commissioner has access.

36A Notice of change in police information about a person—criminal history

- (1) This section applies if—
 - (a) the police commissioner reasonably suspects a person is—
 - (i) the holder of a licence or certificate under this Act; or
 - (ii) an executive officer of a corporation that is the holder of a licence under this Act; and
 - (b) the person's criminal history changes.
- (2) The police commissioner may notify the chief executive that the person's criminal history has changed.
- (3) The police commissioner's notice to the chief executive must state the following—
 - (a) the person's name and any other name the police 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.

36AA Requesting and using police commissioner's advice—identified participants and criminal organisations

- (1) If a person applies for an authority, or the renewal of an authority, the chief executive must ask the police commissioner whether—
 - (a) the person is—
 - (i) an identified participant in a criminal organisation;
or
 - (ii) a criminal organisation; or
 - (b) if the person is a corporation—an executive officer of the person is an identified participant in a criminal organisation.
- (2) Also, the chief executive may ask the police commissioner whether—
 - (a) the holder of an authority is—
 - (i) an identified participant in a criminal organisation;
or
 - (ii) a criminal organisation; or
 - (b) if the holder is a corporation—an executive officer of the holder is an identified participant in a criminal organisation.
- (3) The police commissioner must comply with the chief executive's request under subsection (1) or (2).
- (4) The chief executive may use the advice given by the police commissioner only for making a decision—
 - (a) as to whether the person is an appropriate person to hold or continue to hold an authority under this Act; or
 - (b) to cancel or suspend an authority under part 4, division 2.
- (5) In this section—

authority means—

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

36B Chief executive may enter into arrangement about giving and receiving information with police commissioner

- (1) This section applies only to the extent another provision of this Act allows the chief executive to give information to the police commissioner or the police commissioner to give information to the chief executive.
- (2) The chief executive and the police 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.
- (5) In this section—
information includes advice given by the police commissioner under section 36AA.

36C Confidentiality

- (1) A person must not disclose, record or use information the person gained—
 - (a) through involvement in the administration of this Act; or
 - (b) because of an opportunity provided by the involvement.Maximum penalty—200 penalty units.
- (2) However, a person may disclose, record or use the information—

-
- (a) in the discharge of a function under this Act; or
 - (b) if it is authorised—
 - (i) under another Act or a regulation; or
 - (ii) by the person to whom the information relates; or
 - (c) in a proceeding before a court or tribunal in which the information is relevant.
- (3) In this section—
- disclose** information means—
- (a) intentionally or recklessly disclose the information; or
 - (b) allow access to the information.
- information** includes a digital photo and digitised signature.

37 Evidentiary provisions

- (1) A certificate purporting to be signed by the person having custody of the records kept pursuant to section 21H certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in section 21H did or did not appear in or from those records shall upon its production in any proceeding be admissible as evidence and in the absence of evidence to the contrary conclusive evidence of the matters contained in the certificate.
- (2) A document purporting to be a report furnished to the chief executive for the purposes of this Act in relation to any applicant, holder of a licence, certificate or permit and relevant to the matter of inquiry shall upon its production in an appeal against the chief executive's decision, be admissible as evidence of the matters contained therein.

38 Exemptions

- (1) Where pursuant to the regulations, exemption or conditional exemption from compliance with all or any of the provisions of this Act is granted, the provisions in respect of which the

exemption or conditional exemption is granted shall, while the exemption or conditional exemption remains in force, cease to apply to the extent provided by the regulations subject, in the case of a conditional exemption, to the conditions imposed.

- (2) However, even though a person is exempt under a regulation from stated provisions of this Act, a regulation made under section 43 for the purposes of the *Police Powers and Responsibilities Act 2000*, chapter 4, 4A, 5 or 22 applies to the person.

39 Service of documents

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

- (a) by serving it personally on the person to whom it is directed; or
- (b) by leaving it at the address of the place of residence of the person to whom it is directed last known to the person by whom it is required to be given; or
- (c) by prepaid post letter addressed to the person to whom it is directed at the address of the place of the person's residence last known to the person by whom it is required to be given.

40 Offences generally and penalty

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

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

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

42 Indemnity to persons administering Act

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

42A Approval of forms

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

43 Regulation-making power

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

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

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

- (4) Also, without limiting subsections (1) to (3), a regulation may provide that—
- (a) a document evidencing a person's driver's certificate or assistant's certificate may include on it information about another transport authority held by the person under a prescribed transport Act, if allowed under that Act; or
 - (b) information about a driver's certificate or an assistant's certificate may be included on another transport authority.

Note—

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

- (5) In this section—

prescribed transport Act means—

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

transport authority means—

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

Part 8 Transitional provisions

Division 1 Transitional provision for 1973 No. 39

44 Tow-truck Act 1973 references

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

Division 2 Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

45 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for the grant or renewal of an authority.
- (2) The chief executive must decide the application under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.
- (3) In this section—
authority means—
 - (a) an assistant's certificate; or
 - (b) a driver's certificate; or
 - (c) a licence.

commencement means the commencement of this section.

Schedule 1 Reviewable decisions

sections 27A, 28, 29 and 30

Part 1 Licences

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

Part 2 Driver's certificates and assistant's certificates

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

Schedule 2 Dictionary

section 4

approved form means a form approved under section 42A.

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

assistant's certificate see section 16(2).

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

criminal history, of a person—

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

criminal organisation means—

- (a) for the definition *identified participant*—a criminal organisation under the Criminal Code, section 1; or
- (b) otherwise—an organisation identified by the police commissioner as a criminal organisation within the meaning of the Criminal Code, section 1.

damaged means damaged in an incident.

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

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

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

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

driver's certificate see section 16(1).

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

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director, or the person's position is given the name of executive officer.

identified participant, in a criminal organisation, means a person who is identified by the police commissioner as a participant in the organisation within the meaning of the Criminal Code, section 60A(3).

incident means a collision or impact, however caused—

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

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

most recent digital photo, of a person—

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

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

most recent digitised signature, of a person—

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

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

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

permit means—

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

police commissioner means the commissioner of the police service.

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

- (a) under section 28—ask for the decision to be reviewed by the chief executive; and

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

prescribed smartcard Act means any of the following Acts—

- (a) the *Adult Proof of Age Card Act 2008*;
- (b) the *Transport Operations (Marine Safety) Act 1994*;
- (c) the *Transport Operations (Passenger Transport) Act 1994*;
- (d) the *Transport Operations (Road Use Management) Act 1995*.

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

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

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

seized, for a motor vehicle, means seized by a police officer under the *Police Powers and Responsibilities Act 2000*, section 124 because of section 125(1)(d) or (2) of that Act, from a road that is an off-street regulated parking area for which there is an arrangement mentioned in the *Transport Operations (Road Use Management) Act 1995*, section 104.

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

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

smartcard certificate means a smartcard driver’s certificate or a smartcard assistant’s certificate.

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

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

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

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

tow truck means a motor vehicle—

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

1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations

2 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amd	= amendment	prov	= provision
t			
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	renu	= renumbered
		m	
ins	= inserted	rep	= repealed
lap	= lapsed	(retro	= retrospectively
)	
notf	= notified	rv	= revised version
d			
num	= numbered	s	= section

Key	Explanation	Key	Explanation
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 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
		m	
prev	= previous		

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	1991 Act No. 97	17 December 1991	27 September 1994
2	1995 Act No. 57	28 November 1995	7 December 1995

Reprint No.	Amendments to	Effective	Reprint date
3	1997 Act No. 66	12 December 1997	13 January 1998
3A	1999 Act No. 42	1 December 1999	4 January 2000
3B	2000 Act No. 5	1 July 2000	1 September 2000
3C	2001 Act No. 79	21 December 2001	4 January 2002

Reprint No.	Amendments included	Effective	Notes
3D	2002 Act No. 33	4 November 2002	
3E	2002 Act No. 71	13 December 2002	
3F	2003 Act No. 19	9 May 2003	
3G	2004 Act No. 40	20 December 2004	
3H	2005 Act No. 64	1 July 2006	
3I	2006 Act No. 26	21 July 2006	
	2000 Act No. 5 (amd 2006 Act No. 26)		
3J	2007 Act No. 6	1 June 2007	
3K	2006 Act No. 57	1 July 2007	
3L	2007 Act No. 36	29 August 2007	R3L withdrawn, see R4
4	—	29 August 2007	
4A	2008 Act No. 31	21 May 2008	
4B	2008 Act No. 67	30 November 2009	
4C	2009 Act No. 24	1 December 2009	
4D	2008 Act No. 71 (amd 2010 Act No. 13)	25 July 2010	

Reprint No.	Amendments included	Effective	Notes
4E	2011 Act No. 12	14 April 2011	R4E withdrawn, see R5
5	—	14 April 2011	
5A	2012 Act No. 5	17 September 2012	

Current as at	Amendments included	Notes
17 October 2013	2013 Act No. 45	
1 November 2013	2013 Act No. 51	
10 February 2014	2013 Act No. 26	
1 July 2014	2013 Act No. 64	RA s 35

4 List of legislation

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

date of assent 26 April 1973

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

amending legislation—

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

date of assent 17 April 1985

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 1986 (proc pubd gaz 18 January 1986 p 126)

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

date of assent 25 October 1989

commenced on date of assent

Public Service (Administrative Arrangements) Act 1990 No. 73 s 3 sch 5

date of assent 10 October 1990

commenced 24 November 1990 (proc pubd gaz 24 November 1990 p 1450)

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

date of assent 17 December 1991

commenced on date of assent

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

date of assent 1 December 1994

commenced on date of assent (see s 2)

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

date of assent 28 November 1995

commenced on date of assent

amending legislation—

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

date of assent 28 November 1995

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

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

date of assent 1 December 1997

ss 1–2 commenced on date of assent

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

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

date of assent 2 September 1999

ss 1–2 commenced on date of assent

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

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

date of assent 23 March 2000

ss 1–2, 461 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

Transport Legislation Amendment Act 2001 No. 79 ss 1–2(3), pt 4

date of assent 29 November 2001

ss 1–2 commenced on date of assent

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

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

date of assent 16 August 2002

ss 1–2 commenced on date of assent

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

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

date of assent 13 December 2002

commenced on date of assent

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

date of assent 9 May 2003

commenced on date of assent

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

date of assent 27 October 2004

ss 1–2 commenced on date of assent

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

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

date of assent 28 November 2005

ss 1–2 commenced on date of assent

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

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

date of assent 1 June 2006

ss 1–2 commenced on date of assent

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

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

date of assent 23 March 2000

ss 1–2, 373–377, sch 2 commenced on date of assent (see s 2(2))

s 211 commenced 24 March 2001 (automatic commencement under AIA s 15DA(2))

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174) amending legislation—

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

date of assent 1 June 2006

ss 1–2 commenced on date of assent

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

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

date of assent 7 December 2006

ss 1–2 commenced on date of assent

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

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

date of assent 28 February 2007

ss 1–2 commenced on date of assent

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

Statute Law (Miscellaneous Provisions) Act 2007 No. 36

date of assent 29 August 2007

commenced on date of assent

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

date of assent 21 May 2008

commenced on date of assent

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

date of assent 1 December 2008

ss 1–2 commenced on date of assent

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

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

date of assent 11 December 2008

ss 1–2 commenced on date of assent

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

amending legislation—

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

date of assent 1 April 2010

ss 1–2 commenced on date of assent

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

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

date of assent 26 June 2009

ss 1–2 commenced on date of assent

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

Transport and Other Legislation Amendment Act 2011 No. 12 s 1, pt 8

date of assent 14 April 2011

commenced on date of assent

Domestic and Family Violence Protection Act 2012 No. 5 ss 1–2, 230 sch 1 pt 2

date of assent 17 February 2012

ss 1–2 commenced on date of assent

remaining provisions commenced 17 September 2012 (see s 2)

Transport and Other Legislation (Heavy Vehicle National Law) Amendment Act 2013 No. 26 ss 1–2, 105 sch 1

date of assent 3 June 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 10 February 2014 on the commencement of the provision of the Heavy Vehicle National Law Act 2012 commenced on that day (2014 SL No. 6)

Criminal Law (Criminal Organisations Disruption) Amendment Act 2013 No. 45 s 1, pt 7

date of assent 17 October 2013

commenced on date of assent

Directors' Liability Reform Amendment Act 2013 No. 51 ss 1–2(1), pt 69

date of assent 29 October 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 2013 (see s 2(1))

Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013 No. 64 ss 1, 2(1), pt 20

date of assent 27 November 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2014 immediately after the commencement of the Liquor (Red Tape Reduction) and Other Legislation Amendment Act 2013, s 37 (2014 SL No. 90)

5 List of annotations

Short title

s 1 amd 1994 No. 87 s 3 sch 2

Arrangement

s 3 om 1991 No. 97 s 3 sch 1

Definitions

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

amd 1997 No. 66 s 4(1); 2007 No. 6 s 10(1)

Further provision for definition motor vehicle

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

amd 1997 No. 66 s 4(4); 1999 No. 42 s 54(3) sch pt 3; 2007 No. 6 s 11

Members of firm or partnership

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

amd 1997 No. 66 s 4(5)

Who is an appropriate person

s 4C ins 2004 No. 40 s 2C

amd 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86); 2007 No. 6 s 12(1); 2008 No. 67 s 274; 2012 No. 5 s 230 sch 1 pt 2; 2013 No. 26 s 105 sch 1; 2013 No. 64 s 189

Requirement as to licence for tow truck

s 5 amd 1997 No. 66 s 5

Application for licence

s 6 amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1; 2004 No. 40 s 2D; 2007 No. 6 s 13; 2008 No. 67 s 275; 2013 No. 64 s 190

Form and authority of licence

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

Renewal of licence

s 9 amd 1990 No. 73 s 3 sch 5; 2004 No. 40 s 2E; 2008 No. 67 s 276; 2013 No. 64 s 191

Imposition of conditions of licence

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

Permits to tow motor vehicles

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

Conditions of licence

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

Division 1—General

div hdg ins 2008 No. 71 s 8

Required certificates etc.

s 13 sub 1997 No. 66 s 7

Application for driver's or assistant's certificate

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

Decision on application

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

Written notice of granting of certificate and of conditions or variations

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

What driver's or assistant's certificate authorises

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

Term of driver's or assistant's certificate

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

Renewal of driver's or assistant's certificate

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

Driver's certificate dependent on driver licence

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

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

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

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

div hdg ins 2008 No. 71 s 9

Obtaining digital photo and digitised signature

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

Extending shelf life of digital photo and digitised signature

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

Using digital photo and digitised signature

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

Restricted access to a digital photo

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

Deleting digital photo and digitised signature from register or similar record

s 19D ins 2008 No. 71 s 9

Restricted access to information stored electronically on a smartcard certificate

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

Retention period for digital photo and digitised signature

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

Annual report about access to digital photos

s 19G ins 2008 No. 71 s 9

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

div hdg ins 2008 No. 71 s 9

Restricted written release of information

s 19H ins 2008 No. 71 s 9

amd 2010 No. 13 s 61(5); 2011 No. 12 s 24; 2013 No. 64 s 192

Restricted oral release of particular information

s 19I ins 2011 No. 12 s 25

PART 4—AUTHORITIES AND PERMITS

pt hdg sub 2004 No. 40 s 2H

Division 1—Preliminary

div hdg ins 2004 No. 40 s 2H

Definitions for pt 4

s 20 amd 1990 No. 73 s 3 sch 5

sub 2004 No. 40 s 2H

Consideration of public interest for pt 4

s 21 amd 1990 No. 73 s 3 sch 5; 2001 No. 79 s 15

sub 2004 No. 40 s 2H

Division 2—Cancellation, suspension amendment and surrender of authorities

div hdg ins 2004 No. 40 s 2H

amd 2013 No. 64 s 193

Subdivision 1—Immediate cancellation

sdiv hdg ins 2013 No. 64 s 194

Immediate cancellation—identified participant or criminal organisation

s 21AA ins 2013 No. 64 s 194

Subdivision 2—Other provisions about cancellation, suspension, amendment and surrender

sdiv hdg ins 2013 No. 64 s 194

Cancellation or suspension of authorities

s 21A ins 2004 No. 40 s 2H

amd 2008 No. 67 s 279; 2013 No. 26 s 105 sch 1; 2013 No. 64 s 195

Immediate suspension of authority

s 21B ins 2004 No. 40 s 2H
amd 2009 No. 24 s 1705; 2013 No. 64 s 196

Further action after immediate suspension

s 21C ins 2004 No. 40 s 2H

Amending, suspending or cancelling authority

s 21D ins 2004 No. 40 s 2H
amd 2009 No. 24 s 1706; 2013 No. 64 s 197

Other amendments of authorities

s 21E ins 2004 No. 40 s 2H

Surrender of authority on authority holder's request

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

Subdivision 3—Delivery of cancelled or suspended authorities

sdiv hdg ins 2013 No. 64 s 198

Delivery of cancelled or suspended authority

s 21G ins 2004 No. 40 s 2H
amd 2008 No. 71 s 9B (amd 2010 No. 13 s 62); 2013 No. 64 s 199

Division 3—Record keeping

div hdg ins 2004 No. 40 s 2H

Records

s 21H ins 2004 No. 40 s 2H

Consideration for obtaining certain information or work

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

False statements and representations, and coercion

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

Excess of authority

s 26 amd 1989 No. 103 s 3 sch

Execution against motor vehicle

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

PART 6—REVIEW

pt hdg sub 2001 No. 79 s 16
amd 2009 No. 24 s 1707
sub 2013 No. 64 s 200

Division 1—Review of decisions

div hdg ins 2013 No. 64 s 200

Requirement to give QCAT information notice for particular decisions mentioned in sch 1

s 27A ins 2013 No. 64 s 201

Internal review of decisions

s 28 amd 1990 No. 73 s 3 sch 5
sub 2001 No. 79 s 16
amd 2007 No. 6 s 15
sub 2009 No. 24 s 1708
amd 2013 No. 64 s 202

Review of decisions by QCAT

s 29 prev s 29 amd 1990 No. 73 s 3 sch 5
om 2001 No. 79 s 16
pres s 29 ins 2009 No. 24 s 1708
sub 2013 No. 64 s 203

Division 2—Confidentiality and application of Judicial Review Act 1991

div hdg ins 2013 No. 64 s 203

Confidentiality of criminal intelligence in proceedings

s 30 prev s 30 amd 1990 No. 73 s 3 sch 5
om 2001 No. 79 s 16
pres s 30 ins 2013 No. 64 s 203

Application of Judicial Review Act 1991

s 31 prev s 31 amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1
om 2001 No. 79 s 16
pres s 31 ins 2013 No. 64 s 203

Venue and nature of appeal

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

Determination of appeal

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

Smartcard certificate is property of the State

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

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

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

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

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

Chief executive may obtain information from police commissioner—criminal history

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

amd 2013 No. 64 s 204

Notice of change in police information about a person—criminal history

s 36A ins 2007 No. 6 s 16

amd 2008 No. 67 s 281; 2013 No. 64 s 205

Requesting and using police commissioner’s advice—identified participants and criminal organisations

s 36AA ins 2013 No. 64 s 206

Chief executive may enter into arrangement about giving and receiving information with police commissioner

s 36B ins 2007 No. 6 s 16

amd 2013 No. 64 s 207

Confidentiality

s 36C ins 2007 No. 6 s 16

amd 2008 No. 71 s 10

Evidentiary provisions

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

Exemptions

s 38 amd 2002 No. 33 s 15; 2005 No. 64 s 30; 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86); 2006 No. 57 s 51; 2013 No. 45 s 68

Service of documents

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

Offences generally and penalty

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

Offences by corporation

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

om 2013 No. 51 s 202

Approval of forms

s 42A ins 1995 No. 57 ss 1–2, 4 sch 1

Regulation-making power

s 43 amd 1990 No. 73 s 3 sch 5; R1 (see RA s 39); 1995 No. 57 ss 1–2, 4 sch 1; 1997 No. 66 s 13; 2002 No. 33 s 16; 2005 No. 64 s 31; 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86); 2006 No. 57 s 52; 2009 No. 24 s 1709; 2008 No. 71 s 11 (amd 2010 No. 13 s 63); 2013 No. 45 s 69

PART 8—TRANSITIONAL PROVISIONS

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

Division 1—Transitional provision for 1973 No. 39

div hdg ins 2013 No. 64 s 208

Tow-truck Act 1973 references

s 44 ins 1995 No. 57 ss 1–2, 4 sch 1

Division 2—Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

div hdg ins 2013 No. 64 s 209

Applications not finally decided

s 45 prev s 45 ins 1995 No. 57 ss 1–2, 4 sch 1
exp 28 February 1996 (see s 45(3))
pres s 45 ins 2013 No. 64 s 209

SCHEDULE 1—REVIEWABLE DECISIONS

sch 1 (prev sch) ins 2001 No. 79 s 17
sub 2004 No. 40 s 2J
renum 2007 No. 6 s 17
amd 2008 No. 71 s 11A (amd 2010 No. 13 s 64); 2013 No. 64 s 210

SCHEDULE 2—DICTIONARY

sch hdg ins 2007 No. 6 s 18
sch 2 Note—definitions for this Act were originally located in s 4.
def *approved form* ins 1995 No. 57 ss 1–2, 4 sch 1
reloc 2007 No. 6 s 10(5)
amd 2013 No. 64 s 211(2)
def *articulated motor vehicle* reloc 2007 No. 6 s 10(5)
def *assistant's certificate* reloc 2007 No. 6 s 10(5)
sub 2008 No. 71 s 12 (amd 2010 No. 13 s 65(1)–(3))
def *authorised officer* amd 1985 No. 30 s 71; 1990 No. 73 s 3 sch 5; 1999 No. 42 s 54(3) sch pt 3; 2000 No. 5 s 461 sch 3
reloc 2007 No. 6 s 10(5)
def *Commissioner* om from prev s 4 1990 No. 73 s 3 sch 5
def *criminal history* reloc 2007 No. 6 s 12(2)
def *criminal organisation* ins 2013 No. 64 s 211(1)
def *damaged* reloc 2007 No. 6 s 10(5)
def *department* ins 1990 No. 73 s 3 sch 5
om from prev s 4 1991 No. 97 s 3 sch 1
def *digital photo* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
def *digitised signature* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
def *Director-General* ins 1990 No. 73 s 3 sch 5
om from prev s 4 R1 (see RA s 36)
def *disqualifying offence* ins 2004 No. 40 s 2B
amd 2007 No. 6 s 10(3)
reloc 2007 No. 6 s 10(5)
def *driver licence* ins 2007 No. 6 s 10(2)
reloc 2007 No. 6 s 10(5)
def *driver's certificate* reloc 2007 No. 6 s 10(5)
sub 2008 No. 71 s 12 (amd 2010 No. 13 s 65(1)–(3))
def *electronic communication* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
def *executive officer* ins 2008 No. 67 s 283
def *identified participant* ins 2013 No. 64 s 211(1)
def *incident* ins 1997 No. 66 s 4(2)
reloc 2007 No. 6 s 10(5)
def *licence* reloc 2007 No. 6 s 10(5)

- def *most recent digital photo* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1), (4))
- def *most recent digitised signature* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1), (4))
- def *motor vehicle* reloc 2007 No. 6 s 10(5)
- def *operate* reloc 2007 No. 6 s 10(5)
- def *permit* reloc 2007 No. 6 s 10(5)
- sub 2008 No. 71 s 12 (amd 2010 No. 13 s 65(1)–(3))
- def *police commissioner* ins 2013 No. 64 s 211(1)
- def *prescribed review information* ins 2009 No. 24 s 1710
- def *prescribed smartcard Act* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def *QCAT information notice* ins 2013 No. 64 s 211(1)
- def *retention period* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def *road* amd 1999 No. 42 s 54(3) sch pt 3
reloc 2007 No. 6 s 10(5)
- def *seized* ins 1997 No. 66 s 4(2)
- amd 1999 No. 42 s 54(3) sch pt 3; 2000 No. 5 s 461 sch 3; 2003 No. 19 s 3 sch; 2006 No. 26 s 119 sch 2; 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86)
reloc 2007 No. 6 s 10(5)
- amd 2013 No. 26 s 105 sch 1
- def *shelf life* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1), (3))
- def *smartcard assistant's certificate* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def *smartcard certificate* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1), (3))
- def *smartcard driver's certificate* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def *take* ins 2008 No. 71 s 12(2) (amd 2010 No. 13 s 65(1))
- def *tow* reloc 2007 No. 6 s 10(5)
- def *towing authority* amd 1995 No. 57 ss 1–2, 4 sch 1
reloc 2007 No. 6 s 10(5)
- def *tow truck* amd 1997 No. 66 s 4(3); 2007 No. 6 s 10(4)
reloc 2007 No. 6 s 10(5)