



Queensland

*Transport Operations (Road Use Management) Act 1995*

# **Transport Operations (Road Use Management—Driver Licensing) Regulation 2010**

**Current as at 28 May 2021**

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Queensland

# Transport Operations (Road Use Management—Driver Licensing) Regulation 2010

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# Transport Operations (Road Use Management—Driver Licensing) Regulation 2010

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*.

### 2 Commencement

This regulation commences on 1 September 2010.

### 3 Definitions

The dictionary in schedule 9 defines particular words used in this regulation.

### 3A Meaning of licence granted under the law of an *experienced driver recognition country* or a *recognised country*

(1) In this regulation—

*experienced driver recognition country* means a country approved by Austroads and listed on its website as having obtained experienced driver recognition status.

*recognised country* means a country approved by Austroads and listed on its website as a recognised country.

(2) A reference in this regulation to a licence granted under the law of an experienced driver recognition country or a recognised country does not include a reference to a licence granted under the law of the country if—

[s 4]

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- (a) the approval of the country as an experienced driver recognition country or a recognised country states that it applies only to particular licences granted under the law of that country; and
  - (b) the approval does not apply to the licence.
- (3) In this section—
- Austrroads* means Austrroads Ltd ACN 136 812 390.

## **Part 2**

# **Queensland driver licence is authority to drive**

### **4 Motorbike licences**

- (1) The holder of a class RE learner licence is authorised to learn to ride a class RE motorbike.
- (2) The holder of a class RE P1 type, P2 type, P type or open licence is authorised to ride a class RE motorbike.
- (3) The holder of a class RE provisional, probationary or open licence is authorised to learn to ride a class R motorbike, if the holder has held a class RE provisional, probationary or open licence for at least 2 years.
- (4) Subsection (3) does not apply to a person authorised to continue to drive motor vehicles under a relevant order.
- (5) The holder of a class RE learner, provisional, probationary or open licence is authorised to learn to ride a class R motorbike if, while riding the motorbike, the person carries a certificate issued to the holder under section 38(8).
- (6) The holder of a class R P1 type, P2 type, P type or open licence is authorised to ride a class R motorbike.
- (6A) The holder of a driver licence that has the code RD stated on it, and a returning driver certificate, is authorised to learn to ride a class R or RE motorbike stated in the certificate if, while riding the motorbike, the holder carries the certificate.



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- (7) However, a holder who is authorised to learn to ride a motorbike under this section or section 128(12) or 131(2) must not ride the motorbike on a road unless—
- (a) the holder is driving under the direction of a person, whether or not the person is a passenger on the motorbike; and
  - (b) the person—
    - (i) holds an O type licence for the class of motorbike that the holder is riding; and
    - (ii) has held an O type licence for the class of motorbike that the holder is riding for at least 1 year; and
  - (c) if the person is a passenger on the motorbike—the person is in a sidecar attached to the motorbike.

Maximum penalty—20 penalty units.

- (8) A person must not direct the driving of a motorbike on a road by a holder who is authorised to learn to ride a motorbike under this section or section 128(12) or 131(2) unless the person—
- (a) holds an O type licence for the class of motorbike that the holder is riding; and
  - (b) has held an O type licence for the class of motorbike that the holder is riding for at least 1 year.

Maximum penalty—60 penalty units.

## **5 Other types of licences**

- (1) The holder of a class C learner licence is authorised to learn to drive a class C vehicle, other than a specially constructed vehicle.
- (2) The holder of a class C P1 type, P2 type, P type or open licence is authorised—
  - (a) to drive a class C vehicle; and
  - (b) to learn to drive a class LR, MR or HR vehicle.

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- (3) The holder of a class LR P1 type, P2 type, P type or open licence is authorised—
  - (a) to drive a class LR vehicle; and
  - (b) to learn to drive a class MR or HR vehicle.
- (4) The holder of a class MR P1 type, P2 type, P type or open licence is authorised—
  - (a) to drive a class MR vehicle; and
  - (b) to learn to drive a class HR or HC vehicle.
- (5) The holder of a class HR P1 type, P2 type, P type or open licence is authorised—
  - (a) to drive a class HR vehicle; and
  - (b) to learn to drive a class HC or MC vehicle.
- (6) The holder of a class HC learner licence is authorised to learn to drive a class HC vehicle.
- (7) The holder of a class HC P1 type, P2 type, P type or open licence is authorised—
  - (a) to drive a class HC vehicle; and
  - (b) to learn to drive a class MC vehicle.
- (8) The holder of a class MC P1 type, P2 type, P type or open licence is authorised to drive a class MC vehicle.
- (8A) The holder of a driver licence that has the code RD stated on it, and a returning driver certificate, is authorised to learn to drive a class of vehicle stated in the certificate if, while driving the class of vehicle, the holder carries the certificate.
- (9) However, subsections (2)(b), (3)(b), (4)(b), (5)(b) and (7)(b) do not apply to a person authorised to continue to drive motor vehicles under a relevant order.
- (10) If this section authorises the holder of a licence to drive a class of motor vehicle, the holder is authorised to learn to drive the class of vehicle with either an automatic or manual transmission or with a synchromesh gearbox.

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(11) However, a holder who is authorised to learn to drive a vehicle under this section or section 128(12) or 131(2) must not drive the vehicle on a road unless—

- (a) the holder is driving under the direction of a person who—
  - (i) holds an O type licence for the class of vehicle that the holder is driving; and
  - (ii) has held an O type licence for the class of vehicle that the holder is driving for at least 1 year; and
- (b) if the vehicle is a vehicle with passenger seating capacity—the person sits next to the holder.

Maximum penalty—20 penalty units.

(12) A person must not direct the driving of a vehicle on a road by a holder who is authorised to learn to drive a vehicle under this section or section 128(12) or 131(2) unless—

- (a) the person—
  - (i) holds an O type licence for the class of vehicle that the holder is driving; and
  - (ii) has held an O type licence for the class of vehicle that the holder is driving for at least 1 year; and
- (b) if the vehicle is a vehicle with passenger seating capacity—the person sits next to the holder.

Maximum penalty—60 penalty units.

## **6 Only 1 Queensland driver licence to be held at the same time**

(1) A person must not hold a Queensland driver licence other than under the person's name.

Maximum penalty—40 penalty units.

(2) A person must not hold more than 1 Queensland driver licence of a particular type at the same time.

Maximum penalty—40 penalty units.

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(3) Subsection (2) does not apply to a learner licence.

## **7 Licence must be valid**

A reference in this part to a licence is a reference to a valid licence.

# **Part 3 Eligibility for Queensland driver licences**

## **Division 1 Minimum age**

### **8 Minimum age—class C learner licence**

- (1) A person is not eligible for a class C learner licence unless the person is at least 16 years.
- (2) However, subsection (1) does not apply to a class C learner licence if the chief executive is satisfied under section 20 that the person has a special need for the licence.

### **9 Minimum age—licence other than class C learner licence**

- (1) A person is not eligible for a Queensland driver licence, other than a class C learner licence, a P2 type licence or an open licence, unless the person is at least 17 years.
- (2) However, subsection (1) does not apply to a class C P1 provisional licence if the chief executive is satisfied under section 20 that the person has a special need for the licence.
- (3) Also, if the chief executive is satisfied under section 38 that the person has a special need for a class RE or R licence—
  - (a) subsection (1) does not apply to a class RE learner licence; and

- 
- (b) instead the person is not eligible for a class RE learner licence unless the person is at least 16 years and 6 months.
  - (4) A person is not eligible for a P2 type licence unless the person is at least 18 years.
  - (5) A person is not eligible for an open licence unless the person is at least 20 years.

## **Division 2            Testing**

### **10B    Road rules test**

- (1) The following persons must pass a road rules test—
  - (a) an applicant for a learner licence;
  - (b) an applicant for a provisional, probationary or open licence who holds a foreign driver licence;
  - (c) an applicant for a provisional or probationary licence who holds a provisional or probationary licence of a different class;
  - (d) an applicant for a class of provisional, probationary or open licence as a returning driver who has not passed a road rules test for the class of licence applied for;
  - (e) an applicant for an open licence who holds an open licence of a different class.
- (2) However, subsection (1) does not apply if—
  - (a) within 5 years before applying for the licence, the person—
    - (i) passed a road rules test for the class of licence applied for; or
    - (ii) held an Australian driver licence for the class of licence applied for; or
  - (b) for an application for a class RE, R or C licence—

[s 10BA]

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- (i) the person held, within 5 years before applying for the licence, a driver licence, granted under the law of New Zealand or a recognised country, that corresponds to the class of licence applied for; or
  - (ii) the person is at least 25 years old and held, within 5 years before applying for the licence, a driver licence, granted under the law of an experienced driver recognition country, that corresponds to the class of licence applied for.
- (3) Also, subsection (1) does not apply if—
- (a) the person—
    - (i) holds an Australian driver licence; and
    - (ii) applies for another class of licence; and
  - (b) the road rules test the person passed for the licence already held is the same road rules test the person would be required to pass for the class of licence applied for.
- (4) In subsections (2) and (3)—
- road rules test* includes a road rules test, whatever called, under a corresponding law.

### **10BA Minimum age—online road rules test for class C learner licence**

- (1) An applicant for a class C learner licence is eligible to enrol to take an online road rules test only if the applicant is at least 15 years and 11 months.
- (2) However, subsection (1) does not apply if the chief executive is satisfied under section 20 that the applicant has a special need for a class C learner licence.

### **10BB Cheating on road rules test**

- (1) This section applies to an applicant for a driver licence who must pass a road rules test if—

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- (a) the chief executive is reasonably satisfied a person other than the applicant has taken all or part of the road rules test for the applicant; and
  - (b) the chief executive has not yet granted the applicant's application for the driver licence.
- (2) The chief executive may decide the applicant has not passed the road rules test, and may do either or both of the following—
- (a) if the applicant is enrolled in the online road rules test—cancel the applicant's enrolment;
  - (b) disqualify the applicant from taking the road rules test again, including by enrolling to take the online road rules test, for the disqualification period.
- (3) If the chief executive decides the applicant has not passed the road rules test under subsection (2), the chief executive must give the applicant a written notice stating—
- (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) if the chief executive has decided to cancel the applicant's enrolment in the online road rules test—the day from which the cancellation has effect; and
  - (d) if the chief executive has decided to disqualify the applicant from taking the road rules test again, including by enrolling to take the online road rules test—the details of the disqualification; and
  - (e) that the applicant may apply for a reconsideration of the decision under section 132; and
  - (f) that the applicant is also able, under section 65A(1) of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (4) In this section—

***disqualification period*** means a period of 6 months after the day on which the chief executive decided the tested person has not passed the road rules test under subsection (2).

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### **10BC Offence of taking road rules test for another person**

- (1) This section applies in relation to an applicant for a Queensland driver licence who must pass a road rules test to be eligible for the licence.
- (2) A person who is not the applicant must not take all or part of the road rules test for the applicant.

Maximum penalty—40 penalty units.

### **10C Practical driving test**

- (1) The following persons must pass a practical driving test in the class of vehicle that is authorised to be driven under the licence—
  - (a) an applicant for a class of provisional, probationary or open licence who holds a learner licence of that class;
  - (b) an applicant for a class of provisional, probationary or open licence who holds—
    - (i) a learner, provisional, probationary or open licence of a different class that has the code RD stated on it; and
    - (ii) a returning driver certificate;
  - (c) an applicant for a provisional, probationary or open licence who holds a foreign driver licence;
  - (d) an applicant for a provisional or probationary licence who holds a provisional or probationary licence of a different class;
  - (e) an applicant for an open licence who holds an open licence of a different class.

*Example for this paragraph—*

A person who holds an open class C licence who is applying for an open class LR licence must pass a practical driving test in a class LR type vehicle.

- (2) However, subsection (1) does not apply if—



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- (a) the person is an applicant for a class RE or R provisional, probationary or open licence; or
  - (b) for a class MC licence—
    - (i) the person has successfully completed a training course, in driving a class MC vehicle, approved by the chief executive; or
    - (ii) for a person who holds a class HC licence—the person produces a declaration, in the approved form, confirming the person’s ability to drive a B-double or road train; or
  - (c) for a class LR, MR or HR licence—the person is a police officer and the person gives the chief executive a notice signed by the commissioner stating the person has the ability to drive the class of vehicle that is authorised to be driven under the licence; or
  - (d) the person has—
    - (i) at some time, passed a practical driving test to obtain an Australian driver licence of a class that corresponds to the class of licence applied for; and
    - (ii) the person either—
      - (A) holds an Australian driver licence, other than a learner licence, of a class that corresponds to the class of licence applied for; or
      - (B) has, within 5 years before applying for the licence, held an Australian driver licence or foreign driver licence, other than a learner licence, of a class that corresponds to the class of licence applied for; or
  - (e) the person has, within 5 years before applying for the licence, passed a practical driving test for an Australian driver licence of a class that corresponds to the class of licence applied for; or
  - (f) the person holds, or has within 5 years before applying for the licence held, a driver licence, other than a driver

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- licence that corresponds to a learner licence, granted under the law of New Zealand; or
- (g) for an application for a class C licence—
- (i) the person holds, or has within 5 years before applying for the licence held, a driver licence granted under the law of a recognised country that corresponds to the class of licence applied for, other than a driver licence that corresponds to a learner licence; or
  - (ii) the person is at least 25 years old and holds, or has within 5 years before applying for the licence held, a driver licence granted under the law of an experienced driver recognition country that corresponds to the class of licence applied for, other than a driver licence that corresponds to a learner licence.

### **10CA Competency declaration (learner) for class RE learner licence applicant**

- (1) This section applies to an applicant for a class RE learner licence if the applicant's principal place of residence is within a 100km radius of a Q-Ride training area.
- (2) However, this section does not apply to an applicant for a class RE learner licence if—
  - (a) the applicant held, within 5 years before applying for the licence, any of the following licences which correspond to a class RE learner licence—
    - (i) an Australian driver licence;
    - (ii) a driver licence granted under the law of New Zealand or a recognised country;
    - (iii) if the applicant is at least 25 years old—a driver licence granted under the law of an experienced driver recognition country; or
  - (b) the applicant is applying as a returning driver; or

- (c) the applicant has, within 1 year before applying for the licence, successfully completed a practical training course in riding a motorbike to obtain an Australian driver licence that corresponds to a class RE learner licence.
- (3) The applicant must hold a competency declaration (learner).

### **10D Competency declarations and practical driving tests for class RE and R applicants**

- (1) A class RE applicant must—
- (a) if the applicant's principal place of residence is within a 100km radius of a Q-Ride training area—hold a competency declaration for a class RE motorbike; or
  - (b) if the applicant's principal place of residence is outside a 100km radius from a Q-Ride training area—
    - (i) hold a competency declaration for a class RE motorbike; or
    - (ii) pass a practical driving test for the class RE licence.
- (2) A class R applicant must—
- (a) if the applicant's principal place of residence is within a 100km radius of a Q-Ride training area—hold a competency declaration for a class R motorbike; or
  - (b) if the applicant's principal place of residence is outside a 100km radius from a Q-Ride training area—
    - (i) hold a competency declaration for a class R motorbike; or
    - (ii) pass a practical driving test for the class R licence.
- (3) Subsections (1) and (2) do not apply if—
- (a) the person has—
    - (i) at some time, passed a practical driving test to obtain an Australian driver licence of a class that corresponds to the class of licence applied for; and

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- (ii) the person either—
    - (A) holds an Australian driver licence, other than a learner licence, of a class that corresponds to the class of licence applied for; or
    - (B) has, within 5 years before applying for the licence, held an Australian driver licence or foreign driver licence, other than a learner licence, of a class that corresponds to the class of licence applied for; or
  - (b) the person has, within 5 years before applying for the licence, passed a practical driving test for an Australian driver licence of a class that corresponds to the class of licence applied for; or
  - (c) the person holds, or has within 5 years before applying for the licence held, a driver licence, other than a driver licence that corresponds to a learner licence, granted under the law of New Zealand; or
  - (d) the person holds, or has within 5 years before applying for the licence held, a driver licence granted under the law of a recognised country that corresponds to the class of licence applied for, other than a driver licence that corresponds to a learner licence; or
  - (e) the person is at least 25 years old and holds, or has within 5 years before applying for the licence held, a driver licence granted under the law of an experienced driver recognition country that corresponds to the class of licence applied for, other than a driver licence that corresponds to a learner licence.
- (4) Also, subsection (2) does not apply if—
- (a) the person—
    - (i) holds, or within the 5 years before applying for the licence held, a class RE licence or an Australian driver licence of a class that corresponds to a class RE licence; and

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- (ii) has passed a practical driving test for an Australian driver licence of a class that corresponds to a class RE licence on—
    - (A) if the test was conducted before 1 July 2009—a motorbike that is the same as a prescribed motorbike; or
    - (B) if the test was conducted on or after 1 July 2009—a prescribed motorbike; or
  - (b) the person holds a competency declaration for a class RE motorbike for which Q-Ride training was completed on a prescribed motorbike.
- (5) In this section—

*class R applicant* means an applicant for a class R provisional, probationary or open licence who holds—

- (a) a licence that authorises a person to learn to ride a class R motorbike; or
- (b) a foreign driver licence that corresponds to a class R licence.

*class RE applicant* means an applicant for a class RE provisional, probationary or open licence who holds—

- (a) a licence that authorises a person to learn to ride a class RE motorbike; or
- (b) a foreign driver licence that corresponds to a class RE licence.

## 10E Hazard perception test

- (1) A person who holds a class C learner licence, other than a returning driver, must, before taking a practical driving test in a class C vehicle—
  - (a) pass a hazard perception test for a class C vehicle; and
  - (b) have held the class C learner licence for at least 6 months before taking the hazard perception test.

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- (2) However, subsection (1)(b) does not apply to a person who holds a class C learner licence if the chief executive is satisfied under section 20 that the person has a special need for the licence.
- (3) A person who holds a class RE learner licence must pass a hazard perception test for a motorbike before the person—
  - (a) obtains a competency declaration for a class RE motorbike; or
  - (b) takes a practical driving test for the class RE motorbike licence; or
  - (c) obtains a competency declaration for a class R motorbike; or
  - (d) takes a practical driving test for a class R motorbike licence.
- (4) However, subsection (3) does not apply to a person—
  - (a) who is a returning driver; and
  - (b) who holds a returning driver certificate stating that the person may learn to ride a class RE or class R motorbike.
- (5) In this section—

*class C learner licence* means either of the following licences that corresponds to a class C learner licence—

  - (a) an Australian driver licence;
  - (b) a foreign driver licence.

## **Division 3                   Learner licences**

### **10F    Application of div 3**

This division does not apply to an applicant for a licence as a returning driver.

## **11 Learner licence—class RE**

- (1) A person is not eligible for a class RE learner licence unless—
- (a) the person holds a P1 type, P2 type, P type or O type licence of another class; and
  - (b) the person has held a P1 type, P2 type, P type or O type licence of another class for at least 1 year during the 5 years before applying for the class RE learner licence.
- (2) In this section—

*P1 type licence* includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

*P2 type licence* includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

*P type licence* includes a driver licence granted outside Queensland that corresponds to a P type licence.

## **12 Learner licence—class HC**

A person is not eligible for a class HC learner licence unless—

- (a) the person holds a class C provisional, probationary or open licence; and
- (b) the chief executive is satisfied under section 21 that the person has a special need for a class HC licence.

## **Division 4 Provisional or probationary licences**

### **12A Application of div 4**

This division does not apply to an applicant for a licence as a returning driver.

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### **13 Provisional or probationary licence—class RE**

- (1) A person is not eligible for a class RE P1 provisional licence or P1 probationary licence unless—
  - (a) the person—
    - (i) is at least 17 years but under 25 years at the time of applying for the licence; and
    - (ii) holds a class RE learner licence; and
    - (iii) has held a class RE learner licence for—
      - (A) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
      - (B) otherwise—at least 1 year during the 5 years before applying for the licence; or
  - (b) the person has, within 5 years before applying for the licence, held a class RE P1 type licence.
- (2) A person is not eligible for a class RE P2 provisional licence or P2 probationary licence unless—
  - (a) the person—
    - (i) was granted a class RE P1 type licence when the person was under 24 years; and
    - (ii) holds a class RE P1 type licence; and
    - (iii) has held a class RE P1 type licence for at least 1 year during the 5 years before applying for the licence; or
  - (b) the person—
    - (i) is at least 25 years at the time of applying for the licence; and
    - (ii) holds a class RE learner licence; and
    - (iii) has held a class RE learner licence for—
      - (A) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or



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- (B) otherwise—at least 1 year during the 5 years before applying for the licence; or
- (c) the person—
- (i) holds a P2 provisional licence or P2 probationary licence of another class; and
  - (ii) holds a class RE learner licence; and
  - (iii) has held a class RE learner licence for—
    - (A) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
    - (B) otherwise—at least 1 year during the 5 years before applying for the licence; or
- (d) the person—
- (i) holds a driver licence granted outside Queensland that corresponds to a class RE learner licence; and
  - (ii) has held a licence mentioned in subparagraph (i) for at least 3 months during the 5 years before applying for the licence; and
  - (iii) has, within 5 years before applying for the licence, held for at least 1 year—
    - (A) a provisional, probationary or restricted licence of another class; or
    - (B) a driver licence granted outside Queensland that corresponds to a provisional, probationary or restricted licence of another class; or
- (e) the person has, within 5 years before applying for the licence, held a class RE P2 type licence.
- (3) A person is not eligible for a class RE P provisional licence or P probationary licence unless—
- (a) the person—
    - (i) holds a class RE learner licence; and

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- (ii) holds a P type licence of another class; and
  - (iii) has held a class RE learner licence for—
    - (A) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
    - (B) otherwise—at least 1 year during the 5 years before applying for the licence; or
- (b) the person—
  - (i) holds a driver licence granted outside Queensland that corresponds to a class RE learner licence; and
  - (ii) holds a P type licence of another class; and
  - (iii) has held a licence mentioned in subparagraph (i) for at least 3 months during the 5 years before applying for the licence; and
  - (iv) has held a P1 type, P2 type, P type or O type licence of another class for at least 1 year during the 5 years before applying for the licence; or
- (c) the person has, within 5 years before applying for the licence, held—
  - (i) a class RE P type licence; or
  - (ii) a class RE O type licence that has been cancelled because the person was disqualified.
- (4) However, the following eligibility requirements under this section do not apply to a person whom the chief executive is satisfied under section 20 is a person who has a special need for a class RE provisional licence—
  - (a) for a class RE P1 provisional licence under subsection (1)(a)—the requirement mentioned in subsection (1)(a)(iii);
  - (b) for a class RE P2 provisional licence under subsection (2)(b)—the requirement mentioned in subsection (2)(b)(iii);

- (c) for a class RE P2 provisional licence under subsection (2)(c)—the requirement mentioned in subsection (2)(c)(iii);
- (d) for a class RE P2 provisional licence under subsection (2)(d)—the requirement mentioned in subsection (2)(d)(ii);
- (e) for a class RE P provisional licence under subsection (3)(a)—the requirement mentioned in subsection (3)(a)(iii);
- (f) for a class RE P provisional licence under subsection (3)(b)—the requirement mentioned in subsection (3)(b)(iii).

*Note—*

See also part 5 (Eligibility requirements for motorbike licences for persons with particular physical incapacities).

(5) In this section—

***P1 type licence*** includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

***P2 type licence*** includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

***P type licence*** includes a driver licence granted outside Queensland that corresponds to a P type licence.

## 14 Provisional or probationary licence—class C

- (1) A person is not eligible for a class C P1 provisional licence or P1 probationary licence unless—
  - (a) the person—
    - (i) is at least 17 years but under 25 years at the time of applying for the licence; and
    - (ii) holds a class C learner licence; and
    - (iii) has held a class C learner licence for—
      - (A) if the class C learner licence was granted before 1 July 2007 or the person is a person

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- to whom part 4 does not apply—at least 6 months during the 2 years before applying for the licence; or
  - (B) if the class C learner licence was granted after 30 June 2007 and the person satisfies the logbook requirements—at least 1 year during the 3 years before applying for the licence; or
  - (C) if the class C learner licence was granted after 30 June 2007 and the person was granted an exemption from the logbook requirements under section 34—at least 2 years during the 3 years before applying for the licence; or
- (b) the person—
- (i) holds a class RE or class R P1 type licence; and
  - (ii) holds a class C learner licence; and
  - (iii) has held a class C learner licence for—
    - (A) if the class C learner licence was granted before 1 July 2007—at least 6 months during the 2 years before applying for the licence; or
    - (B) if the class C learner licence was granted after 30 June 2007—at least 1 year during the 3 years before applying for the licence; or
- (c) the person has, within 5 years before applying for the licence, held a class C P1 type licence.
- (2) A person is not eligible for a class C P2 provisional licence or P2 probationary licence unless—
- (a) the person—
    - (i) was granted a class C P1 type licence when the person was under 24 years; and
    - (ii) holds a class C P1 type licence; and

- 
- (iii) has held a class C P1 type licence for at least 1 year; or
  - (b) the person—
    - (i) either—
      - (A) is at least 25 years at the time of applying for the licence; or
      - (B) holds a class RE or class R P2 type licence; and
    - (ii) holds a class C learner licence; and
    - (iii) has held a class C learner licence for—
      - (A) if the class C learner licence was granted before 1 July 2007—at least 6 months during the 2 years before applying for the licence; or
      - (B) if the class C learner licence was granted after 30 June 2007—at least 1 year during the 3 years before applying for the licence; or
  - (c) the person has, within 5 years before applying for the licence, held a class C P2 type licence.
- (3) A person is not eligible for a class C P provisional licence or P probationary licence unless—
- (a) the person—
    - (i) holds a class RE or class R P type licence; and
    - (ii) holds a class C learner licence; and
    - (iii) has held a class C learner licence for—
      - (A) if the class C learner licence was granted before 1 July 2007—at least 6 months during the 2 years before applying for the licence; or
      - (B) if the class C learner licence was granted after 30 June 2007—at least 1 year during

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the 3 years before applying for the licence;  
or

- (b) the person has, within 5 years before applying for the licence, held—
  - (i) a class C P type licence; or
  - (ii) a class C O type licence that has been cancelled because the person was disqualified.
- (4) However, the following eligibility requirements under this section do not apply to a person whom the chief executive is satisfied under section 20 is a person who has a special need for a class C provisional licence—
  - (a) for a class C P1 provisional licence under subsection (1)—the requirement mentioned in subsection (1)(a)(iii) or (b)(iii);
  - (b) for a class C P2 provisional licence under subsection (2)(b)—the requirement mentioned in subsection (2)(b)(iii);
  - (c) for a class C P provisional licence under subsection (3)(a)—the requirement mentioned in subsection (3)(a)(iii).

- (5) In this section—

***learner licence*** includes a driver licence granted outside Queensland that corresponds to a learner licence.

***P1 type licence*** includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

***P2 type licence*** includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

***P type licence*** includes a driver licence granted outside Queensland that corresponds to a P type licence.

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## **Division 5                      Open licences**

### **14A    Application of div 5**

This division does not apply to an applicant for a licence as a returning driver.

### **15        Open licence—class RE**

- (1) A person is not eligible for a class RE open licence unless—
- (a) the person—
    - (i) holds a class RE learner licence; and
    - (ii) has held a class RE learner licence for—
      - (A) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
      - (B) if the licence was granted outside Queensland—at least 3 months during the 5 years before applying for the licence; or
      - (C) otherwise—at least 1 year during the 5 years before applying for the licence; and
    - (iii) holds an O type licence of another class; and
    - (iv) if the licence mentioned in subparagraph (i) was granted outside Queensland—has, in the 5 years before applying for the licence, held a P1 type, P2 type, P type or O type licence for at least 1 year; or
  - (b) the person—
    - (i) holds a class RE P1 type licence; and
    - (ii) was granted the class RE P1 type licence when the person was at least 24 years but under 25 years; and
    - (iii) has held a class RE P1 type licence for at least 1 year; or

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- (c) the person—
  - (i) has, within 5 years before applying for the licence, held a class RE P1 type licence granted to the person when the person was at least 24 years but under 25 years that has been cancelled because the person was disqualified; and
  - (ii) holds a class RE P1 type licence; and
  - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class RE P1 type licence for at least 1 year; or
- (d) the person—
  - (i) holds a class RE P2 type licence; and
  - (ii) has held a class RE P2 type licence for at least—
    - (A) if the person was granted a class RE P1 type licence when the person was under 23 years and a class RE P2 type licence when the person was under 25 years—2 years; or
    - (B) otherwise—1 year; or
- (e) the person—
  - (i) has, within 5 years before applying for the licence, held a class RE P2 type licence that has been cancelled because the person was disqualified; and
  - (ii) holds a class RE P2 type licence; and
  - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class RE P2 type licence for at least—
    - (A) if the person was granted a class RE P1 type licence when the person was under 23 years and the licence mentioned in subparagraph (i) when the person was under 25 years, and the balance of the 2-year period for holding the licence mentioned in subparagraph (i) that had not expired before



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- the licence was cancelled is more than 1 year—the balance of the 2-year period; or
- (B) otherwise—1 year; or
- (f) the person—
- (i) holds a class RE P type licence; and
  - (ii) has held a class RE P type licence for at least the required period for holding the licence; or
- (g) the person—
- (i) has, within 5 years before applying for the licence, held a class RE P type licence that has been cancelled because the person was disqualified; and
  - (ii) holds a class RE P type licence; and
  - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class RE P type licence for at least—
    - (A) if the person was granted the licence mentioned in subparagraph (i) when the person was under 24 years, and the balance of the required period for holding the licence that had not expired before the licence was cancelled is more than 1 year—the balance of the required period; or
    - (B) otherwise—1 year; or
- (h) the person has, within 5 years before applying for the licence, held a class RE O type licence that has not been cancelled because the person was disqualified; or
- (i) the person—
- (i) has, within 5 years before applying for the licence, held a class RE O type licence that has been cancelled because the person was disqualified; and
  - (ii) holds a class RE P type licence; and

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- (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class RE P type licence for at least 1 year; or
- (j) the person—
  - (i) was granted a class RE P1 type licence as a returning driver when the person was at least 25 years; and
  - (ii) holds a class RE P1 type licence; and
  - (iii) has held a class RE P1 type licence for at least 1 year.

*Note—*

See also part 5 (Eligibility requirements for motorbike licences for persons with particular physical incapacities).

- (2) In this section—

***learner licence*** includes a driver licence granted outside Queensland that corresponds to a learner licence.

***P1 type licence*** includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

***P2 type licence*** includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

***P type licence*** includes a driver licence granted outside Queensland that corresponds to a P type licence.

***required period***, for holding a driver licence, means a period of—

- (a) if the person was granted the licence when the person was under 23 years—3 years; or
- (b) if the person was granted the licence when the person was at least 23 years but under 24 years—2 years; or
- (c) if the person was granted the licence when the person was at least 24 years—1 year.

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## 16 Open licence—class C

- (1) A person is not eligible for a class C open licence unless—
- (a) the person—
    - (i) holds a class RE or class R O type licence; and
    - (ii) holds a class C learner licence; and
    - (iii) has held a class C learner licence for—
      - (A) if the class C learner licence was granted before 1 July 2007—at least 6 months during the 2 years before applying for the licence; or
      - (B) if the class C learner licence was granted after 30 June 2007—at least 1 year during the 3 years before applying for the licence; or
  - (b) the person—
    - (i) holds a class C P1 type licence; and
    - (ii) was granted a class C P1 type licence when the person was at least 24 years but under 25 years; and
    - (iii) has held a class C P1 type licence for at least 1 year; or
  - (c) the person—
    - (i) has, within 5 years before applying for the licence, held a class C P1 type licence granted to the person when the person was at least 24 years but under 25 years that has been cancelled because the person was disqualified; and
    - (ii) holds a class C P1 type licence; and
    - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class C P1 type licence for at least 1 year; or
  - (d) the person—

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- (i) holds a class C P2 type licence; and
- (ii) has held a class C P2 type licence for at least—
  - (A) if the person was granted a class C P1 type licence when the person was under 23 years and a class C P2 type licence when the person was under 25 years—2 years; or
  - (B) in any other case—1 year; or
- (e) the person—
  - (i) has, within 5 years before applying for the licence, held a class C P2 type licence that has been cancelled because the person was disqualified; and
  - (ii) holds a class C P2 type licence; and
  - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class C P2 type licence for at least—
    - (A) if the person was granted a class C P1 type licence when the person was under 23 years and the licence mentioned in subparagraph (i) when the person was under 25 years, and the balance of the 2-year period for holding the licence mentioned in subparagraph (i) that had not expired before the licence was cancelled is more than 1 year—the balance of the 2-year period; or
    - (B) otherwise—1 year; or
- (f) the person—
  - (i) holds a class C P type licence; and
  - (ii) has held a class C P type licence for at least the required period for holding the licence; or
- (g) the person—
  - (i) has, within 5 years before applying for the licence, held a class C P type licence that has been cancelled because the person was disqualified; and

- 
- (ii) holds a class C P type licence; and
  - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class C P type licence for at least—
    - (A) if the person was granted the licence mentioned in subparagraph (i) when the person was under 24 years, and the balance of the required period for holding the licence that had not expired before the licence was cancelled is more than 1 year—the balance of the required period; or
    - (B) otherwise—1 year; or
  - (h) the person has, within 5 years before applying for the licence, held a class C O type licence that has not been cancelled because the person was disqualified; or
  - (i) the person—
    - (i) has, within 5 years before applying for the licence, held a class C O type licence that has been cancelled because the person was disqualified; and
    - (ii) holds a class C P type licence; and
    - (iii) has, since the cancellation of the licence mentioned in subparagraph (i), held a class C P type licence for at least 1 year; or
  - (j) the person—
    - (i) holds a class C P1 type licence; and
    - (ii) has at least the following period of P2 time credit recorded under section 16A—
      - (A) if the person was granted a class C P1 type licence when the person was under 23 years and is under 26 years at the time of applying for the class C open licence—2 years;
      - (B) otherwise—1 year; or
  - (k) the person—

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- (i) holds a class C P2 type licence; and
- (ii) has held a class C P2 type licence for at least the following period less any P2 time credit recorded under section 16A for the person—
  - (A) if the person was granted a class C P1 type licence when the person was under 23 years and a class C P2 type licence when the person was under 25 years—2 years;
  - (B) otherwise—1 year; or
- (l) the person—
  - (i) has, within 5 years before applying for the licence, held a class C P2 type licence (an *earlier licence*) that has been cancelled because the person was disqualified; and
  - (ii) holds a class C P2 type licence; and
  - (iii) has, since the cancellation of the earlier licence, held a class C P2 type licence for at least—
    - (A) if the person was granted a class C P1 type licence when the person was under 23 years and the earlier licence when the person was under 25 years, and the person's P2 time credit balance for the earlier licence is more than 1 year—the P2 time credit balance; or
    - (B) if the person's P2 time credit balance for the earlier licence is 1 year or less—1 year; or
- (m) the person—
  - (i) has, within 5 years before applying for the licence, held a class C P1 type licence for at least 1 year before the class C P1 type licence was cancelled because the person was disqualified; and
  - (ii) holds a class C P2 type licence; and
  - (iii) has, since the cancellation of the class C P1 type licence, held a class C P2 type licence for at least—

- 
- (A) if the person was granted a class C P1 type licence when the person was under 23 years and a class C P2 type licence when the person was under 25 years, and the person's time credit balance for a class C P2 type licence is more than 1 year—the time credit balance; or
- (B) if the person's time credit balance for a class C P2 type licence is 1 year or less—1 year; or
- (n) the person—
- (i) was granted a class C P1 type licence as a returning driver when the person was at least 25 years; and
  - (ii) holds a class C P1 type licence; and
  - (iii) has held a class C P1 type licence for at least 1 year.

- (2) In this section—

**learner licence** includes a driver licence granted outside Queensland that corresponds to a learner licence.

**P1 type licence** includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

**P2 time credit balance**, for a licence mentioned in subsection (1)(1)(i), means the balance of the period for holding the licence that had not expired before the licence was cancelled less any P2 time credit recorded under section 16A for the person holding the licence.

**P2 type licence** includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

**P type licence** includes a driver licence granted outside Queensland that corresponds to a P type licence.

**required period**, for holding a driver licence, means a period of—

- (a) if the person was granted the licence when the person was under 23 years—3 years; or

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- (b) if the person was granted the licence when the person was at least 23 years but under 24 years—2 years; or
- (c) if the person was granted the licence when the person was at least 24 years—1 year.

***time credit balance***, for a class C P2 type licence, means the period that the person holding the licence must hold the licence under this section less any P2 time credit recorded under section 16A for the person.

## **16A Recording P2 time credit**

- (1) This section applies to a person (an ***eligible person***) who—
  - (a) holds a valid P1 type licence or P2 type licence; and
  - (b) has held a valid P1 type licence for more than 1 year.
- (2) If the eligible person has passed a hazard perception test on or after 1 January 2014, the chief executive must record the person's P2 time credit.
- (3) In this section—

***P1 type licence*** includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

***P2 time credit***, for an eligible person, means the period in excess of 1 year that the person held a valid P1 type licence.

***P2 type licence*** includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

## **Division 5A Returning drivers**

### **16B Meaning of *returning driver***

A person is a ***returning driver*** if—

- (a) the person held a valid provisional, probationary or open licence (the ***old licence***) to drive a class of vehicle; and



- 
- (b) the old licence stopped being valid more than 5 years before the person applies for a licence of the same class as the old licence.

*Note—*

For the provisions that do not apply to an applicant for a licence as a returning driver, see sections 10CA(2)(b), 10F, 12A, 14A, 16F and 26A.

### **16C Licence authorising returning driver to learn to drive vehicle**

- (1) This section applies in relation to an application for a licence of any class, if the person applying for the licence—
- (a) applies as a returning driver; and
  - (b) does not hold a licence authorising the person to learn to drive the class of vehicle for the licence applied for.
- (2) The person is eligible for a licence authorising the person to learn to drive the class of vehicle the person was authorised to drive under the old licence.

### **16D Licence condition and certificate**

- (1) This section applies if the chief executive decides to grant a licence to an applicant for a licence as a returning driver authorising the person to learn to drive a particular class of vehicle.
- (2) The chief executive must—
- (a) state licence code RD on the licence; and
  - (b) give the person a certificate (*returning driver certificate*) stating the person may learn to drive the class of vehicle stated in the certificate.

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## **16E Provisional, probationary or open licence for a returning driver**

- (1) This section applies in relation to an application for a provisional, probationary or open licence of any class, if the person applying for the licence—
  - (a) applies as a returning driver; and
  - (b) holds a licence authorising the person to learn to drive the class of vehicle for the licence applied for.
- (2) If the person holds a provisional, probationary or open licence for a class of vehicle, other than the class applied for, the person is eligible for the class of licence being applied for that is of the same type as the licence the applicant holds.
- (3) If the person does not hold a provisional, probationary or open licence, the person is eligible for—
  - (a) if the most recent licence held by the person was cancelled because the person was disqualified—a probationary licence of the class applied for; or
  - (b) otherwise—the class of licence applied for that is of the same type as the most recent provisional, probationary or open licence held by the person.

## **Division 6 Upgrading licences**

### **16F Application of div 6**

This division does not apply to an applicant for a licence as a returning driver.

### **17 Upgrading licence class**

- (1) This section applies to a licence of a class other than class C, RE or R.

*Note—*

For the upgrading of a class RE licence to a class R licence, see section 18.

- 
- (2) A person is not eligible for the licence unless—
- (a) for a class LR or MR licence—
    - (i) the person holds a class C licence of the same type; and
    - (ii) the person has held a class C licence for at least 1 year; or
  - (b) for a class HR licence—
    - (i) the person—
      - (A) holds a class C licence of the same type; and
      - (B) has held a class C licence for at least 2 years; or
    - (ii) the person—
      - (A) holds a class LR or MR licence of the same type; and
      - (B) has held a class LR or MR licence for at least 1 year; or
  - (c) for a class HC licence—
    - (i) the person—
      - (A) holds a class C licence of the same type; and
      - (B) has held a class C licence for at least 1 year; and
      - (C) has a special need for the class HC licence; or
    - (ii) the person—
      - (A) holds a class MR or HR licence of the same type; and
      - (B) has held a class MR or HR licence for at least 1 year; or
  - (d) for a class MC licence—
    - (i) the person holds a class HR or HC licence of the same type; and

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- (ii) the person has held a class HR or HC licence for at least 1 year.
- (3) For working out, for subsection (2), the period a person has held a licence, the period is taken to include the total of any periods, within the previous 5 years, that the person has held a valid licence of the same class.
- (4) In this section—
  - licence* means—
    - (a) a provisional, probationary or open licence; or
    - (b) a driver licence granted outside Queensland that corresponds to a licence mentioned in paragraph (a).

## **18 Upgrading class RE licence to class R licence**

- (1) A person is not eligible for a class R licence unless the person—
  - (a) holds a class RE licence of the same type; and
  - (b) has held a class RE licence for at least 2 years.
- (2) For working out, for subsection (1), the period the person has held a class RE licence, the period is taken to include the total of any periods, within the previous 5 years, that the person has held a valid class RE licence.
- (3) In this section—
  - licence* means—
    - (a) a provisional, probationary or open licence; or
    - (b) a driver licence granted outside Queensland that corresponds to a licence mentioned in paragraph (a).

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## **Division 7                      Other eligibility criteria**

### **19            Other provisions about general eligibility**

- (1) A person is not eligible for the grant or renewal of a Queensland driver licence if—
  - (a) the person is prohibited from obtaining a licence under section 127(6) of the Act; or
  - (b) the person does not reside in Queensland; or
  - (c) the person is the holder of a non-Queensland driver licence, unless the person gives the chief executive the driver licence; or
  - (d) the authority to drive on a Queensland road under the person’s non-Queensland driver licence is suspended under section 82(4) or 87(1)(a); or
  - (e) the person is not eligible to hold a Queensland driver licence under section 83, 84, 87(1)(c) or 88(1)(a).
- (2) Subsection (1)(c) does not apply to a person if the chief executive is satisfied it would be unreasonable for it to apply to the person.

*Example—*

The chief executive may not require a person to surrender a foreign driver licence that forms part of the person’s identity documents for the foreign country.

## **Division 8                      Special need for licences**

### **20            Special need—learner or provisional licence**

- (1) This section does not apply to a class RE learner licence.
- (2) A person has a special need for a learner or provisional licence if—
  - (a) the person needs to drive a motor vehicle—
    - (i) to, or from, the person’s place of employment; or

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- (ii) in the course of the person’s employment; or
  - (iii) to, or from, an educational institution that the person attends; or
  - (iv) to get medical treatment for the person or a member of the person’s family; and
- (b) there is no other transport reasonably available to the person; and
  - (c) a refusal to grant the licence would cause severe hardship.
- (3) A person claiming a special need must apply to the chief executive.

*Note—*

See part 16A for requirements about the application.

- (4) The application must be accompanied by a signed statement supporting the application from—
- (a) for an application under subsection (2)(a)(i) or (ii)—the person’s employer; or
  - (b) for an application under subsection (2)(a)(iii)—the person in charge of the educational institution; or
  - (c) for an application under subsection (2)(a)(iv)—a doctor.
- (5) In deciding whether to approve the application, the chief executive must consider—
- (a) the times of day when the person must travel; and
  - (b) how often the person must travel; and
  - (c) the distance the person must travel; and
  - (d) the person’s traffic history.

## **21 Special need—HC licence**

- (1) A person has a special need for a class HC licence if the person—
- (a) resides in a remote area; and

- 
- (b) needs to drive a class HC vehicle in the course of the person's employment; and
  - (c) can not obtain a class LR or MR licence because the person does not have access to a type LR or MR vehicle to learn to drive that type of vehicle.
- (2) A person claiming a special need must apply to the chief executive.

*Note—*

See part 16A for requirements about the application.

- (3) The application must be accompanied by a signed statement from the person's employer that supports the person's claim.
- (4) In deciding whether to approve the application, the chief executive must consider the person's traffic history.
- (5) If the chief executive decides to approve the application, the chief executive must grant a class HC learner licence to the person.
- (6) For subsection (1)(a), a **remote area** is an area of a shire or city—
  - (a) declared as a local government area under the repealed *Local Government Act 1993* as in force immediately before the changeover day; and
  - (b) mentioned in schedule 5.

*Notes—*

- 1 Under the repealed *Local Government Act 1993* as in force immediately before the changeover day, shires and cities were described in the repealed *Local Government (Areas) Regulation 2005*, schedule 1 as in force immediately before the changeover day.
- 2 Each map mentioned in the repealed *Local Government (Areas) Regulation 2005*, schedule 1 as in force immediately before the changeover day can be—
  - (a) accessed by members of the public, free of charge, on the department's website; or
  - (b) purchased from any office of the department in which the *Survey and Mapping Infrastructure Act 2003* is administered.

(7) In this section—

***changeover day*** means 15 March 2008.

*Note—*

15 March 2008 is the changeover day declared under the repealed *Local Government Act 1993*, section 159YE(2) for all new, adjusted and continuing local government areas listed in schedule 1A of that Act. See the notice published in the gazette on 23 November 2007 at page 1,680.

## **Division 9                      Licence applications**

### **22            Applying for licence**

A person may apply to the chief executive for the grant or renewal of a Queensland driver licence.

*Note—*

See part 16A for requirements about the application.

### **23            Deciding application for licence**

(1) Subject to section 129D(4) and (5), the chief executive must consider an application for a Queensland driver licence and either—

- (a) grant or renew the licence; or
- (b) refuse to grant or renew the licence.

*Note—*

See also the *Transport Planning and Coordination Act 1994*, section 28EA(5) (which deals with taking digital photos and digitised signatures) for when the chief executive must refuse to consider an application.

(2) The chief executive must not grant or renew the licence if—

- (a) the applicant is not eligible for that type or class of licence; or
- (b) the chief executive is not satisfied with the applicant's identification for the licence.



- (3) If the chief executive decides to grant or renew the licence, the chief executive must promptly issue a driver licence receipt to the applicant.

*Note—*

A driver licence receipt confirms that the person mentioned on it is authorised to drive a stated class of vehicle until the receipt is superseded by the issue of a licence—see the Act, schedule 4 (Dictionary), definition *driver licence receipt*.

- (4) If the chief executive decides to refuse to grant or renew the licence, the chief executive must promptly give the applicant a written notice stating—
- (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) that the applicant may apply for a reconsideration of the decision under section 132; and
  - (d) that, if the applicant applies for a reconsideration of the decision under section 132, the applicant is also able, under section 131(4) of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (5) However, if the reason for the decision was that the applicant failed a road rules test or practical driving test, the chief executive may give an oral notice instead of a written notice unless the applicant asks for a written notice.

## **Division 10                    Licence duration and conditions**

### **24            Duration of licence**

The chief executive may—

- (a) grant a class HC learner licence for a period of up to 15 months; or
- (b) grant or renew another Queensland driver licence for a period of up to 10 years.

## **25 Conditions on licence**

- (1) The chief executive may grant a Queensland driver licence with stated conditions.
- (2) The licensee must comply with a condition stated on the licence.

*Note—*

See section 91W of the Act for compliance with the interlock condition.

Maximum penalty—20 penalty units.

- (3) If the chief executive decides to impose a condition on the licence, the chief executive must promptly notify the licensee—
  - (a) of the decision; and
  - (b) of the reasons for the decision; and
  - (c) that the licensee may apply for a reconsideration of the decision under section 132; and
  - (d) that, if the licensee applies for a reconsideration of the decision under section 132, the licensee may, under section 131(4) of the Act, apply to QCAT for a review of the decision on the reconsideration.
- (4) The chief executive may notify the licensee under subsection (3) by written notice or orally.
- (5) However, a written notice must be given if the licensee asks for a written notice.

## **Division 11 Working out period a person has held a licence**

### **26 Working out period a person has held a licence**

- (1) Subject to sections 17(3) and 18(2), for working out the period a person has held a particular class or type of licence for this regulation, the period is taken to include—

- (a) if the person obtained the licence as a returning driver and the period is being worked out for the purposes of a relevant provision—the total of any period within the 5 years occurring immediately before the time the period is being worked out; or

*Example of the operation of paragraph (a)—*

The holder of a licence obtained as a returning driver, who stopped holding a valid P1 type licence 6 years before applying for a P2 provisional licence or P2 probationary licence, can not include the period the P1 type licence was held for the purposes of section 14(2)(a)(iii).

- (b) otherwise—the total of any periods the person has held a valid licence of that class or type.
- (2) In this section—

*relevant provision* means—

- (a) section 13(2)(a)(iii), 14(2)(a)(iii), 15(1)(b)(iii), (d)(ii), (f)(ii) or (j)(iii), 16(1)(b)(iii), (d)(ii), (f)(ii), (j)(ii), (k)(ii) or (n)(iii) or 16A(1)(b); or
- (b) section 16A(3), definition *P2 time credit*.

## **Part 4 Additional eligibility requirements for class C P1 provisional licences for young drivers**

### **26A Application of pt 4**

This part does not apply to an applicant for a licence as a returning driver.

### **27 Object of pt 4**

The object of this part is to state the eligibility requirements for young drivers for class C P1 provisional licences that are in addition to the eligibility requirements stated in part 3.

## 28 Application of pt 4

- (1) This part applies to a person (a *young driver*) who—
  - (a) is under 25 years; and
  - (b) holds a class C learner licence granted or renewed after 30 June 2007; and
  - (c) does not hold a class RE or class R P1 type, P2 type, P type or O type licence.
- (2) In this section—

*learner licence* includes a driver licence granted outside Queensland that corresponds to a learner licence.

*P1 type licence* includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

*P2 type licence* includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

*P type licence* includes a driver licence granted outside Queensland that corresponds to a P type licence.

## 29 Requirements

- (1) A young driver is not eligible for a class C P1 provisional licence unless—
  - (a) the young driver records in a logbook the details of 100 hours of supervised driving in a car on a road in Australia completed by the young driver; and
  - (b) at least 10 hours of the supervised driving mentioned in paragraph (a) is at night; and
  - (c) the details recorded in the logbook are verified by a supervisor as required under section 31(1); and
  - (d) the chief executive approves the young driver's completed logbook under section 32.
- (2) For subsection (1)(a), a young driver may record up to 10 hours of supervised driving in a car on a road in Australia by

the young driver at the ratio of 1:3 if the supervisor is a driver trainer.

*Example—*

A young driver may record 10 hours of supervised driving in a car on a road in Australia as 30 hours in the logbook if the supervisor is a driver trainer.

- (3) The requirement mentioned in subsection (1)(b) does not apply if the young driver has given notice to the chief executive under section 51 about a mental or physical incapacity that is likely to adversely affect the young driver's ability to drive safely at night.
- (4) This section applies subject to sections 33 and 34.
- (5) In this section—

*driver trainer* includes a person accredited (however described) under a corresponding law to the provisions of the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015* about accreditation of driver trainers.

## 30 Logbook

- (1) The chief executive must make 1 logbook that is bound and in paper form available for use by a young driver—
  - (a) when the chief executive grants the young driver a class C learner licence; and
  - (b) when the chief executive renews the young driver's class C learner licence.
- (2) No fee is payable for a logbook made available under subsection (1).
- (3) Also, the chief executive may make a logbook that is bound and in paper form available for use by any person, whether or not the person is a young driver, if the chief executive considers it appropriate to do so.

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- (4) A logbook made available under subsection (1) or (3) remains the property of the State even if a fee is paid for making it available for use.
- (5) If a young driver's logbook is not a logbook made available under subsection (1) or (3), the logbook becomes the property of the State when it is given to the chief executive as a completed logbook for approval under section 32.

### **31 Verification of logbook entries by supervisor etc.**

- (1) A young driver must ensure the supervisor of the young driver for a driving session—
  - (a) checks the correctness of the details recorded in the young driver's logbook (the *logbook entry*) for the driving session; and
  - (b) verifies the logbook entry for the driving session in the required way.
- (2) A supervisor for a young driver's driving session must not verify, in the required way, a logbook entry for the driving session if the supervisor knows the entry is false or misleading in a material particular.

Maximum penalty—60 penalty units.

- (3) In a proceeding for an offence against subsection (2), it is enough to state the verified entry was 'false or misleading' to the supervisor's knowledge, without specifying which.
- (4) A person must not verify, in the required way, an entry for details recorded in a logbook unless the person is the young driver's supervisor for a driving session and the entry is about the driving session.

Maximum penalty—60 penalty units.

- (5) In this section—

*required way*, for verifying a logbook entry for a driving session, means—

- 
- (a) for a logbook entry in paper form—by signing the entry;  
or
  - (b) for a logbook entry in an electronic system—by using a method that identifies the person verifying the entry and indicates that person’s approval of the entry.

### **32 Approval of completed logbook by chief executive**

- (1) A young driver may apply to the chief executive for approval of the young driver’s completed logbook.

*Note—*

See part 16A for requirements about the application.

- (2) A logbook is a completed logbook only if—
  - (a) the young driver has completed and signed the declaration about the contents of the logbook that forms part of the logbook; and
  - (b) for a logbook other than a logbook in which details have been wholly recorded and verified, as required under section 31(1), by using an electronic system—all of the pages of the logbook are in hard copy and attached together.
- (3) The chief executive may approve the logbook only if the chief executive is satisfied the requirements under section 29(1)(a) to (c) have been satisfied by the young driver.
- (4) Subject to section 129D(4) and (5), after receiving the application the chief executive must decide to either approve or not approve the logbook.
- (5) If the chief executive decides to approve the logbook, the chief executive must give the young driver a written notice stating the decision.
- (6) If the chief executive decides not to approve the logbook, the chief executive must give the young driver a written notice stating—
  - (a) the decision; and

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- (b) the reasons for the decision; and
  - (c) that the young driver may apply for a reconsideration of the decision under section 132; and
  - (d) that the young driver is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration; and
  - (e) if the chief executive believes the logbook is false or misleading in a material particular—the reasons for which the chief executive believes the logbook is false or misleading in a material particular.
- (7) The chief executive is taken to have approved the logbook in relation to which the application is made, other than an application cancelled under section 129D(4) and (5), if the chief executive does not decide the application by the later of the following—
- (a) if further information or documents are requested by a notice given under section 129D(1)—the day that is 28 days after the day the chief executive receives the information or documents;
  - (b) otherwise—the day that is 28 days after the day the chief executive receives the application.

### **33 Credit for other driving experience**

- (1) Subsection (2) applies to—
- (a) a young driver who held a class C learner licence granted before 1 July 2007; or
  - (b) a young driver who holds or has held an interstate licence that corresponds to a class C learner licence; or
  - (c) a young driver who holds or has held a driver licence granted under the law of New Zealand, that corresponds to a class C learner licence.
- (2) The young driver may apply to the chief executive for credit for up to 100 hours of supervised driving in a car on a road in Australia or New Zealand completed by the young driver.



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*Note—*

See part 16A for requirements about the application.

- (3) Subsection (4) applies to a young driver who holds or has held a driver licence, that corresponds to a class C learner licence, granted under the law of a recognised country.
- (4) The young driver may apply to the chief executive for credit for up to 50 hours of supervised driving in a car on a road in a recognised country completed by the young driver.

*Note—*

See part 16A for requirements about the application.

- (5) The application may include a request for credit for up to 10 hours of supervised driving in a car on a road, in the country for which the application is made, at the ratio of 1:3 if the supervisor was a driver trainer.

*Example—*

A young driver may request that 10 hours of supervised driving in a car on a road, in the country for which the application is made, be credited as 30 hours of supervised driving if the supervisor was a driver trainer.

- (6) The application must be accompanied by—
  - (a) any application made by the young driver under section 32 for approval of a completed logbook; and
  - (b) documentary evidence of the hours of supervised driving for which the young driver is applying for credit.

*Examples of documentary evidence—*

- a document that records information similar to the information required to be recorded in a logbook
- receipts or correspondence from a driver trainer or driver training school

- (7) Subject to section 129D(4) and (5), after receiving the application the chief executive must do 1 of the following—
  - (a) grant the application, in whole or in part;
  - (b) decide not to grant the application.

- (8) If the chief executive decides to grant the application, in whole or in part, the chief executive must give the young driver a written notice stating—
- (a) the number of hours of supervised driving for which the young driver is granted credit for the purpose of satisfying the requirement under section 29(1)(a); and
  - (b) the number of hours of supervised driving at night for which the young driver is granted credit for the purpose of satisfying the requirement under section 29(1)(b).
- (9) Despite section 29(1)(a), the total number of hours of supervised driving in a car on a road in Australia, the details of which the young driver must record in a logbook to be eligible for a class C P1 provisional licence, is 100 hours less the number of hours of supervised driving for which the young driver has been given notice under subsection (8).

*Example—*

A young driver mentioned in subsection (1) may be granted credit for 100 hours of supervised driving, in which case the young driver need not satisfy the logbook requirements.

- (10) Despite section 29(1)(b), the total number of hours of supervised driving in a car on a road in Australia at night, the details of which the young driver must record in a logbook to be eligible for a class C P1 provisional licence, is 10 hours less the number of hours of supervised driving at night for which the young driver has been given notice under subsection (8).
- (11) If the chief executive decides not to grant any part of the application, the chief executive must give the young driver a written notice stating—
- (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) that the young driver may apply for a reconsideration of the decision under section 132; and

- 
- (d) that the young driver is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration; and
- (e) if the chief executive believes a document provided by the young driver to the chief executive is false or misleading in a material particular—the reasons for which the chief executive believes the document is false or misleading in a material particular.
- (12) The chief executive is taken to have granted the application, other than an application cancelled under section 129D(4) and (5), if the chief executive does not decide the application by the later of the following—
- (a) if further information or documents are requested by a notice given under section 129D(1)—the day that is 28 days after the day the chief executive receives the information or documents;
- (b) otherwise—the day that is 28 days after the day the chief executive receives the application.
- (13) In this section—
- driver trainer** includes a person accredited (however described) under—
- (a) a corresponding law to the provisions of the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015* about accreditation of driver trainers; or
- (b) the law of a foreign country that provides for accrediting persons as trainers of drivers.
- the application** means an application under subsection (2) or (4).

## 34 Exemption from logbook requirements

- (1) A young driver may apply to the chief executive for an exemption from the logbook requirements if either or both of

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the following is not reasonably available to the young driver to satisfy the requirement mentioned in section 29(1)(a)—

- (a) a car to drive on a road in Australia;
- (b) a person to be a supervisor of the young driver.

*Note—*

See part 16A for requirements about the application.

- (2) Also, a young driver may apply to the chief executive for an exemption from the logbook requirements because—

- (a) the young driver lives in an area with a limited road network; and

*Example of an area with a limited road network—*

an island with a single road around the island

- (b) there is no significant benefit for the young driver to satisfy the logbook requirements by driving a car on the road network; and
- (c) there is no reasonable likelihood of the young driver moving from the area or having an opportunity to drive a car in an area with a diverse road network.

*Note—*

See part 16A for requirements about the application.

- (3) Subject to section 129D(4) and (5), the chief executive must deal with the application in a timely way and grant or not grant the application.
- (4) In deciding whether to grant the application, the chief executive must also consider the young driver's traffic history.
- (5) If the chief executive decides to grant the application, the chief executive must give the young driver a written notice stating the decision.
- (6) If the chief executive decides not to grant the application, the chief executive must give the young driver a written notice stating—
  - (a) the decision; and
  - (b) the reasons for the decision; and

- 
- (c) that the young driver may apply for a reconsideration of the decision under section 132; and
  - (d) that the young driver is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (7) In this section—
- the application* means an application under subsection (1) or (2).

### **35 Taking of practical driving test to be eligible for class C P1 provisional licence**

- (1) A young driver may only take a practical driving test under section 10C(1) to be eligible for a class C P1 provisional licence after—
  - (a) either—
    - (i) satisfying the logbook requirements; or
    - (ii) being granted an exemption from the logbook requirements under section 34; and
  - (b) passing a hazard perception test for a class C vehicle.
- (2) However, the young driver must not take a practical driving test under section 10C(1) to be eligible for a class C P1 provisional licence within 6 weeks after satisfying the logbook requirements if at any time—
  - (a) either—
    - (i) the chief executive decided not to approve a completed logbook of the young driver under section 32 because the chief executive believes that the logbook was false or misleading in a material particular; or
    - (ii) the chief executive decided not to approve in whole or in part an application of the young driver under section 33 because the chief executive believes a document given under that section by the young

driver to the chief executive was false or misleading in a material particular; and

- (b) the decision mentioned in paragraph (a)(i) or (ii) has not been set aside by the chief executive under section 132 or by QCAT or a court.
- (3) Subsection (2) does not apply if the young driver is convicted of an offence under section 53 of the Act in relation to the giving to the chief executive of—
- (a) a completed logbook under section 32; or
  - (b) a document under section 33; or
  - (c) information under section 129D relating to an application under section 32 or 33.

## **Part 5 Eligibility requirements for motorbike licences for persons with particular physical incapacities**

### **Division 1 Preliminary**

#### **36 Object of pt 5**

The object of this part is to state, for persons with particular physical incapacities, eligibility requirements that apply instead of particular eligibility requirements stated in part 3 for obtaining a class RE or R licence.

#### **37 Application of pt 5**

This part does not apply to a person authorised to continue to drive motor vehicles under a relevant order.

## Division 2                      Special need—class RE or R licence

### 38      Special need for a class RE or R licence

(1) A person has a *special need for a class RE or R licence* if, because of a permanent physical incapacity, the only type of motorbike the person is able to ride is 1 or both of the following—

- (a) a 2-wheeled motorbike with a sidecar attached to it;
- (b) a 3-wheeled motorbike.

*Note—*

- 1 A 2-wheeled motorbike may be a class RE or class R motorbike.
- 2 A 3-wheeled motorbike may be a class RE or class R motorbike.

(2) A person claiming a special need for a class RE or R licence must apply to the chief executive.

*Note—*

See part 16A for requirements about the application.

(3) The application must be accompanied by a signed statement from a doctor supporting the person's claim that, because of a permanent physical incapacity, the only type of motorbike the person is able to ride is 1 or both of the following—

- (a) a 2-wheeled motorbike with a sidecar attached to it;
- (b) a 3-wheeled motorbike.

(4) If the application relates to a special need for a class R licence, the chief executive may approve the application only if the person has held a P1 type, P2 type, P type or O type licence of any class within 5 years before the day of the application.

(5) Subject to section 129D(4) and (5), the chief executive must deal with the application in a timely way and approve or not approve the application.

(6) In deciding whether to approve the application, the chief executive must also consider the person's traffic history.

(7) If the chief executive decides to approve the application—

- (a) for a class RE learner licence—the eligibility requirements stated in section 11 do not apply to the person; and

*Note—*

Under section 9(3), the person must be at least 16 years and 6 months.

- (b) for a class RE provisional or probationary licence—the eligibility requirements mentioned in section 13(1) to (3) do not apply to the person and instead the eligibility requirements mentioned in section 41, 42 or 43 apply; and
  - (c) for a class RE open licence—the eligibility requirements mentioned in section 15 do not apply to the person and instead the eligibility requirements mentioned in section 44 apply; and
  - (d) for a class R provisional, probationary or open licence—the eligibility requirements mentioned in section 18 do not apply to the person and instead the eligibility requirements mentioned in division 3, subdivision 3 apply.
- (8) If the chief executive decides to approve the application and the application relates to a special need for a class R licence, the chief executive must give the person a certificate in the approved form authorising the person to learn to ride a class R motorbike under a class RE learner, provisional, probationary or open licence.

*Note—*

Under section 4(5), the holder of a class RE learner, provisional, probationary or open licence is authorised to learn to ride a class R motorbike if the person carries the certificate while riding the motorbike.

- (9) If the chief executive decides not to approve the application, the chief executive must give the person a written notice stating—
- (a) the decision; and
  - (b) the reasons for the decision; and



- (c) that the person may apply for a reconsideration of the decision under section 132; and
  - (d) that the person is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (10) In this section—
- P1 type licence* includes a driver licence granted outside Queensland that corresponds to a P1 type licence.
  - P2 type licence* includes a driver licence granted outside Queensland that corresponds to a P2 type licence.
  - P type licence* includes a driver licence granted outside Queensland that corresponds to a P type licence.

## **Division 3                    Eligibility for motorbike licence**

### **Subdivision 1            Preliminary**

#### **39            Definition for div 3**

In this division—

*learner licence* includes a driver licence granted outside Queensland that corresponds to a learner licence.

### **Subdivision 2            Eligibility for class RE provisional, probationary or open licence**

#### **40            Application of sdiv 2**

This subdivision applies to the grant of a class RE provisional, probationary or open licence to a person whom the chief executive is satisfied under section 38 is a person who has a special need for the licence.

*Note—*

See section 38(7).

#### **41 P1 provisional or P1 probationary licence—class RE**

The person is not eligible for a class RE P1 provisional licence or P1 probationary licence unless—

- (a) the person holds a class RE learner licence and has held a class RE learner licence for—
  - (i) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
  - (ii) otherwise—at least 1 year during the 5 years before applying for the licence; and
- (b) the person—
  - (i) is at least 17 years but under 25 years at the time of applying for the licence; or
  - (ii) holds—
    - (A) a P1 provisional or P1 probationary licence of another class; or
    - (B) a driver licence granted outside Queensland that corresponds to a P1 provisional or P1 probationary licence of another class.

#### **42 P2 provisional or P2 probationary licence—class RE**

(1) The person is not eligible for a class RE P2 provisional licence or P2 probationary licence unless—

- (a) the person holds a class RE learner licence and has held a class RE learner licence for—
  - (i) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or

- (ii) otherwise—at least 1 year during the 5 years before applying for the licence; and
- (b) the person—
  - (i) is at least 25 years at the time of applying for the licence; or
  - (ii) has, within 5 years before applying for the licence, held a P2 type licence of another class.
- (2) In this section—

*P2 type licence* includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

#### **43 P provisional or P probationary licence—class RE**

- (1) The person is not eligible for a class RE P provisional licence or P probationary licence unless—
  - (a) the person holds a class RE learner licence and has held a class RE learner licence for—
    - (i) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
    - (ii) otherwise—at least 1 year during the 5 years before applying for the licence; and
  - (b) the person has, within 5 years before applying for the licence, held—
    - (i) a P type licence of another class; or
    - (ii) an O type licence of another class that has been cancelled because the person was disqualified.
- (2) In this section—

*P type licence* includes a driver licence granted outside Queensland that corresponds to a P type licence.

#### **44 Open licence—class RE**

The person is not eligible for a class RE open licence unless—

- (a) the person holds a class RE learner licence and has held a class RE learner licence for—
  - (i) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
  - (ii) otherwise—at least 1 year during the 5 years before applying for the licence; and
- (b) the person has, within 5 years before applying for the licence, held an O type licence that authorises the person to drive a class C vehicle that has not been cancelled because the person was disqualified.

### **Subdivision 3 Eligibility for class R provisional, probationary or open licence**

#### **45 Application of sdiv 3**

This subdivision applies to the grant of a class R provisional, probationary or open licence to a person whom the chief executive is satisfied under section 38 is a person who has a special need for the licence.

*Note—*

See section 38(7).

#### **46 P1 provisional or P1 probationary licence—class R**

- (1) The person is not eligible for a class R P1 provisional licence or P1 probationary licence unless the chief executive has given the person a certificate under section 38(8) and—
  - (a) the person—
    - (i) has, within 5 years before applying for the licence, held a P1 type licence that authorises the person to drive a class C vehicle; and

- (ii) holds a class RE learner licence and has held a class RE learner licence for—
  - (A) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
  - (B) otherwise—at least 1 year during the 5 years before applying for the licence; or
- (b) the person—
  - (i) holds a class RE P1 provisional or P1 probationary licence; or
  - (ii) holds a driver licence granted outside Queensland that corresponds to a class RE P1 provisional or P1 probationary licence.
- (2) In this section—

*P1 type licence* includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

#### **47 P2 provisional or P2 probationary licence—class R**

- (1) The person is not eligible for a class R P2 provisional licence or P2 probationary licence unless the chief executive has given the person a certificate under section 38(8) and—
  - (a) the person—
    - (i) has, within 5 years before applying for the licence, held a P2 type licence that authorises the person to drive a class C vehicle; and
    - (ii) holds a class RE learner licence and has held a class RE learner licence for—
      - (A) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
      - (B) otherwise—at least 1 year during the 5 years before applying for the licence; or
  - (b) the person—

- (i) holds a class RE P2 provisional or P2 probationary licence; or
  - (ii) holds a driver licence granted outside Queensland that corresponds to a class RE P2 provisional or P2 probationary licence.
- (2) In this section—
- P2 type licence* includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

#### **48 P provisional or P probationary licence—class R**

- (1) The person is not eligible for a class R P provisional licence or P probationary licence unless the chief executive has given the person a certificate under section 38(8) and—
- (a) the person—
    - (i) has, within 5 years before applying for the licence, held—
      - (A) a P type licence that authorises the person to drive a class C vehicle; or
      - (B) an O type licence that authorises the person to drive a class C vehicle that has been cancelled because the person was disqualified; and
    - (ii) holds a class RE learner licence and has held a class RE learner licence for—
      - (A) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
      - (B) otherwise—at least 1 year during the 5 years before applying for the licence; or
  - (b) the person—
    - (i) holds a class RE P provisional or P probationary licence; or

- (ii) holds a driver licence granted outside Queensland that corresponds to a class RE P provisional or P probationary licence.

(2) In this section—

*P type licence* includes a driver licence granted outside Queensland that corresponds to a P type licence.

#### **49 Open licence—class R**

The person is not eligible for a class R open licence unless the chief executive has given the person a certificate under section 38(8) and—

- (a) the person—
  - (i) has, within 5 years before applying for the licence, held an O type licence that authorises the person to drive a class C vehicle that has not been cancelled because the person was disqualified; and
  - (ii) holds a class RE learner licence and has held a class RE learner licence for—
    - (A) if the person holds a competency declaration (learner)—at least 3 months during the 5 years before applying for the licence; or
    - (B) otherwise—at least 1 year during the 5 years before applying for the licence; or
- (b) the person holds a class RE O type licence.

## Part 6 **Jet's law: eligibility for licences and reporting of particular medical conditions**

### **50 Eligibility if mental or physical incapacity likely to adversely affect ability to drive safely**

- (1) A person is not eligible for the grant or renewal of a Queensland driver licence if the chief executive reasonably believes the person has a mental or physical incapacity that is likely to adversely affect the person's ability to drive safely.
- (2) However, the person is eligible for the grant or renewal of a Queensland driver licence if the chief executive reasonably believes that, by stating conditions on the licence, the person's incapacity is not likely to adversely affect the person's ability to drive safely.

*Example—*

A person with unstable night time vision has a certificate from a doctor stating the person can drive safely only during daylight. The chief executive may reasonably believe that by imposing a condition, for example, that the person may only drive during daylight, the person's incapacity is not likely to adversely affect the person's ability to drive safely.

- (3) For this section, the chief executive may require the person to give the chief executive a certificate, in the approved form, from a stated type of health professional—
  - (a) stating the person does not have a mental or physical incapacity likely to affect the person's ability to drive safely; or
  - (b) providing information about the person's mental or physical incapacity that may allow the chief executive to form a belief as mentioned in subsection (2).



**51 Responsibility to give notice of mental or physical incapacity likely to adversely affect ability to drive safely**

- (1) At the time of applying for the grant or renewal of a Queensland driver licence, the applicant must give notice in the approved form to the chief executive about any mental or physical incapacity that is likely to adversely affect the applicant's ability to drive safely.

Maximum penalty—60 penalty units.

- (2) The holder of a Queensland driver licence must give notice in the approved form to the chief executive about either of the following that is likely to adversely affect the holder's ability to drive safely, if either happens after the grant or renewal of the licence—

- (a) any permanent or long-term mental or physical incapacity;
- (b) any permanent or long-term increase in, or other aggravation of, a mental or physical incapacity, if notice in the approved form has previously been given to the chief executive about the incapacity.

Maximum penalty—60 penalty units.

- (3) It is a defence to the prosecution of a person for an offence against this section if the person establishes that, at the time of the offence, the person was unaware that—

- (a) he or she had a mental or physical incapacity; or
- (b) the incapacity was likely to adversely affect the person's ability to drive safely.

- (4) Also, it is a defence to the prosecution of a person for an offence against subsection (2)(b) if the person establishes that, at the time of the offence, the person was unaware that—

- (a) the incapacity had increased or otherwise been aggravated; or
- (b) the increase in, or other aggravation of, the incapacity was likely to adversely affect the person's ability to drive safely.

## **Part 8**                      **Display of plates**

### **Division 1**                **L plates**

#### **57**        **Definition for div 1**

In this part—

*learner* means a person who is authorised to learn to ride or drive a motor vehicle under section 4, 5, 128(12) or 131(2).

#### **58**        **Learner must not ride or drive unless L plates are displayed and clearly legible**

A learner must not ride or drive a motor vehicle, on a road, that the learner is authorised to learn to ride or drive unless—

- (a) if the motor vehicle is a motorbike—an L plate is displayed so the L character on the L plate is clearly legible from 20m behind the motorbike; or
- (b) otherwise—L plates are displayed so the L character on an L plate is clearly legible from—
  - (i) 20m in front of the motor vehicle; and
  - (ii) 20m behind the motor vehicle.

Maximum penalty—20 penalty units.

#### **59**        **Person must not direct a learner unless L plates are displayed and clearly legible**

A person to whom section 4(8) or 5(12) applies must not direct a learner who is riding or driving a motor vehicle, on a road, that the learner is authorised to learn to ride or drive unless—

- (a) if the motor vehicle is a motorbike—an L plate is displayed so the L character on the L plate is clearly legible from 20m behind the motorbike; or

- (b) otherwise—L plates are displayed so the L character on an L plate is clearly legible from—
  - (i) 20m in front of the motor vehicle; and
  - (ii) 20m behind the motor vehicle.

Maximum penalty—20 penalty units.

## **60 Other persons must not display L plates**

A person must not display an L plate while riding or driving a motor vehicle on a road unless the person—

- (a) holds a licence that authorises the person to learn to drive or ride the motor vehicle; or
- (b) is a driver trainer.

Maximum penalty—20 penalty units.

## **Division 2 Red P plates and green P plates**

### **61 Holder of P1 type licence must not ride or drive unless red P plates are displayed and clearly legible**

- (1) This section applies to a person who holds a P1 type licence.
- (2) The person must not ride a motorbike or drive a car, on a road, that the person is authorised to ride or drive unless—
  - (a) for a motorbike—a red P plate is displayed so the P character on the P plate is clearly legible from 20m behind the motorbike; or
  - (b) for a car—red P plates are displayed so the P character on a red P plate is clearly legible from—
    - (i) 20m in front of the car; and
    - (ii) 20m behind the car.

Maximum penalty—20 penalty units.

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- (3) Subsection (2) does not apply to either of the following riding a motorbike or driving a car in the course of his or her duty—
- (a) an exempted police driver;
  - (b) an emergency service worker.

**62 Holder of P2 type licence must not ride or drive unless green P plates are displayed and clearly legible**

- (1) This section applies to a person who holds a P2 type licence.
- (2) The person must not ride a motorbike or drive a car, on a road, that the person is authorised to ride or drive unless—
- (a) for a motorbike—a green P plate is displayed so the P character on the P plate is clearly legible from 20m behind the motorbike; or
  - (b) for a car—green P plates are displayed so the P character on a green P plate is clearly legible from—
    - (i) 20m in front of the car; and
    - (ii) 20m behind the car.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply to either of the following riding a motorbike or driving a car in the course of his or her duty—
- (a) an exempted police driver;
  - (b) an emergency service worker.

**63 Other persons must not display P plates**

- (1) A person must not display a red P plate while riding or driving a motor vehicle on a road unless—
- (a) the person holds a P1 type licence that authorises the person to ride a class RE or class R motor vehicle and the motor vehicle is a motorbike; or

- (b) the person holds a P1 type licence that authorises the person to drive a class C motor vehicle and the motor vehicle is a car.

Maximum penalty—20 penalty units.

- (2) A person must not display a green P plate while riding or driving a motor vehicle on a road unless —
- (a) the person holds a P2 type licence that authorises the person to ride a class RE or class R motor vehicle and the motor vehicle is a motorbike; or
- (b) the person holds a P2 type licence that authorises the person to drive a class C motor vehicle and the motor vehicle is a car.

Maximum penalty—20 penalty units.

## Part 8A Alcohol ignition interlocks

### 63A Definitions for pt 8A

In this part—

*applicant* means a person who applies for an interlock exemption under chapter 5, part 3B, division 3 of the Act.

*approved interlock* means an interlock approved under section 63B.

*interlock driver record*, for a non-exempt interlock driver, means a record in the approved form that identifies the driver of a nominated vehicle at a particular time during the driver's overlap period.

*nominated vehicle* see section 91I of the Act.

*non-exempt interlock driver* means a person whose Queensland driver licence is subject to the interlock condition.

*overlap period*, for a non-exempt interlock driver, means the period when a motor vehicle is a nominated vehicle for the driver and 1 or more other non-exempt interlock drivers.

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*record period*, for a non-exempt interlock driver, means a continuous period comprising—

- (a) the driver’s overlap period; and
- (b) an additional period of 12 months.

### **63B Approved interlocks**

The following interlocks are approved—

- Draeger Interlock XT (also known as Dräger Interlock XT)
- Guardian 2030

### **63C Nomination of vehicle if more than 1 driver with an interlock condition—Act, s 91L(2)**

For section 91L(2) of the Act, a particular vehicle can not be the nominated vehicle for more than 1 person unless—

- (a) the vehicle is fitted with a prescribed interlock that has the technical capability to identify the driver of the vehicle at a particular time, for example, by way of a PIN or swipe card; or
- (b) if paragraph (a) does not apply—each person keeps an interlock driver record.

### **63D Using technical capability to identify driver**

- (1) This section applies if section 63C(a) applies in relation to a nominated vehicle for a person.
- (2) The person must use the technical capability of the vehicle’s prescribed interlock to identify the person as the driver of the vehicle while operating the vehicle.

Maximum penalty—20 penalty units.

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**63E Producing interlock driver record**

- (1) This section applies if section 63C(b) applies in relation to a non-exempt interlock driver.
- (2) The chief executive may, during the record period for the driver, give the driver written notice requiring the driver to produce to the chief executive the driver's interlock driver record for a nominated vehicle for the period stated in the notice.
- (3) The driver must produce the record mentioned in subsection (2) within 7 days, unless the driver has a reasonable excuse.

Maximum penalty for subsection (3)—20 penalty units.

**63F Destruction of interlock driver record prohibited**

If an interlock driver record is required under this part to be kept by a non-exempt interlock driver, the driver or someone else must not destroy the record before the end of the record period for the driver.

Maximum penalty—20 penalty units.

**63G Interlock driver record destroyed, lost or stolen**

- (1) This section applies if a non-exempt interlock driver becomes aware, or reasonably suspects, that the driver's interlock driver record has been destroyed, lost or stolen during the record period for the driver.
- (2) The driver must promptly give the chief executive written notice that the interlock driver record has been, or is suspected to have been, destroyed, lost or stolen.

Maximum penalty—20 penalty units.

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**63H Offences relating to use of another person’s means of identification**

- (1) This section applies if a particular vehicle is the nominated vehicle for more than 1 non-exempt interlock driver.
- (2) A non-exempt interlock driver must not use another person’s means of identification to operate a nominated vehicle fitted with a prescribed interlock.

Maximum penalty—20 penalty units.

- (3) A non-exempt interlock driver (the *first driver*) must not allow another non-exempt interlock driver to use the first driver’s means of identification to operate a nominated vehicle fitted with a prescribed interlock.

Maximum penalty—20 penalty units.

*Examples of means of identification for subsections (2) and (3)—*

a PIN or swipe card

**63HA Interlock exemption (prescribed radius from nearest place of business)—Act, s 91Q(3)(a)(iii)(A)**

For section 91Q(3)(a)(iii)(A) of the Act, a radius of 150km is prescribed.

**63I Interlock exemption (island living)—Act, s 91Q(3)(c)**

- (1) For section 91Q(3)(c) of the Act, the chief executive may grant an applicant an interlock exemption if the chief executive is satisfied that—
  - (a) the applicant’s principal place of residence is on a Queensland island; and
  - (b) a prescribed interlock installer does not have a place of business on the island; and
  - (c) the island is not connected by a bridge to the mainland; and
  - (d) the island is not connected by a bridge to another island that is connected by a bridge to the mainland.



(2) In this section—

*Queensland island* does not include the following islands—

- Coochiemudlo Island
- Fraser Island
- Karragarra Island
- Lamb Island
- Macleay Island
- Magnetic Island
- North Stradbroke Island
- Orpheus Island
- Russell Island.

### **63K Interlock exemption (severe hardship)—Act, s 91Q(3)(c)**

- (1) For section 91Q(3)(c) of the Act, the chief executive may grant an applicant an interlock exemption in the circumstances mentioned in this section if the chief executive is satisfied of the matters mentioned in this section.
- (2) Subsection (3) applies if it is not physically possible to fit a prescribed interlock to the only motor vehicle reasonably available to be driven by the applicant.
- (3) The chief executive may grant the applicant an interlock exemption if—
  - (a) a refusal to grant the exemption would cause severe hardship to the applicant and there is no other transport reasonably available to the applicant; or
  - (b) a refusal to grant the exemption would cause severe hardship to a family member of the applicant and there is no other transport reasonably available to the family member.
- (4) Subsection (5) applies if a family member of the applicant has a medical condition, as evidenced by a doctor's certificate provided to the chief executive, that prevents the family

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member from providing a sufficient breath sample to operate an approved interlock.

- (5) The chief executive may grant the applicant an interlock exemption if—
  - (a) there is only 1 motor vehicle that is reasonably available to be driven by the applicant or family member; and
  - (b) a refusal to grant the exemption would cause severe hardship to the applicant; and
  - (c) there is no other transport reasonably available to the applicant or family member.
- (6) Subsections (7) and (8) apply only if subsections (2) and (4) do not apply.
- (7) The chief executive may grant the applicant an interlock exemption if—
  - (a) a refusal to grant the exemption would cause severe hardship to the applicant in a way other than by—
    - (i) preventing the applicant from driving in the course of the applicant’s employment, or to or from the applicant’s place of employment; or
    - (ii) preventing the applicant from driving to or from an educational institution the applicant attends; and
  - (b) there is no other transport reasonably available to the applicant.
- (8) The chief executive may grant the applicant an interlock exemption if—
  - (a) a refusal to grant the exemption would cause severe hardship to a family member of the applicant in a way other than by—
    - (i) preventing the applicant from driving the family member to or from the family member’s place of employment; or

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- (ii) preventing the applicant from driving the family member to or from an educational institution the family member attends; and
  - (b) there is no other transport reasonably available to the family member.
- (9) For subsections (4) to (8), the chief executive must not grant an interlock exemption merely because the applicant can not afford the cost of fitting (if any) a prescribed interlock to, or maintaining the interlock in, a motor vehicle.

*Note—*

See the department's website at [www.tmr.qld.gov.au](http://www.tmr.qld.gov.au) for details of the financial assistance scheme that is available if a person has financial difficulties and can not meet the costs associated with fitting a prescribed interlock to, or maintaining the interlock in, a motor vehicle.

(10) In this section—

***family member***, of an applicant—

- (a) means—
  - (i) the applicant's spouse; or
  - (ii) a child, stepchild, foster child or ward of the applicant; or
  - (iii) a parent or step-parent of the applicant; or
  - (iv) a grandparent, or the spouse of a grandparent, of the applicant; or
  - (v) a brother or sister of the applicant; or
  - (vi) a stepbrother or stepsister of the applicant; or
  - (vii) a foster child or ward of a parent or step-parent of the applicant; or
  - (viii) an approved carer of the applicant; or
  - (ix) a child, stepchild, foster child or ward of an approved carer of the applicant; or
  - (x) a guardian of the applicant; or

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- (xi) a child, stepchild, foster child or ward of a guardian of the applicant; and
- (b) if the applicant is an Aboriginal person, includes another person who, under Aboriginal tradition, is regarded as—
  - (i) a family member mentioned in paragraph (a); or
  - (ii) an aunt or uncle of the applicant; and
- (c) if the applicant is a Torres Strait Islander, includes another person who, under Island custom, is regarded as—
  - (i) a family member mentioned in paragraph (a); or
  - (ii) an aunt or uncle of the applicant.

*foster child*, of an applicant, means a child for whom the applicant is an approved carer.

*grandparent*, of an applicant, means a parent of—

- (a) a parent of the applicant; or
- (b) a step-parent of the applicant.

## Part 9 Other restrictions on driving

### 64 Passengers on motorbikes

- (1) A person must not ride, on a road, a class RE motorbike with a passenger unless—
  - (a) the person—
    - (i) holds a class RE P1 type, P2 type, P type or open licence; and
    - (ii) has held the licence for at least 1 year; or
  - (b) the person holds a class R P1 type, P2 type, P type or open licence.

Maximum penalty—20 penalty units.

- (2) A person must not ride, on a road, a class R motorbike with a passenger unless the person holds a class R P1 type, P2 type, P type or open licence.

Maximum penalty—20 penalty units.

- (3) This section does not prevent a person riding a motorbike with a passenger on a road if the person is learning to ride and riding as required by section 4(7).

## **65 Towing vehicles**

- (1) A person must not occupy the driver's seating position of a class of motor vehicle being towed on a road by another vehicle unless the person holds a P1 type, P2 type, P type or open licence for that class of vehicle.

Maximum penalty—20 penalty units.

- (2) A person must not drive a motor vehicle towing a motor vehicle unless another person holding a P1 type, P2 type, P type or open licence authorising the other person to drive the towed vehicle is in control of the towed vehicle for the purposes of the towing.

Maximum penalty—20 penalty units.

## **66 Licence holder 75 years or older**

- (1) The holder of a Queensland driver licence who is 75 years or older must not drive a motor vehicle, on a road, unless the holder is—

- (a) carrying a valid medical certificate in the approved form; and

- (b) driving the vehicle in accordance with the certificate.

Maximum penalty—20 penalty units.

- (2) Despite subsection (1)(a), if the holder is required by an authorised officer to produce the medical certificate, the holder does not commit an offence if the holder—

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- (a) holds the certificate at the time that the requirement is made; and
  - (b) produces the certificate to a person reasonably nominated by the authorised officer within 48 hours.
- (3) In this section—
- valid medical certificate* means—
- (a) a medical certificate that has not expired; and
  - (b) if the holder was 75 years or older when the certificate was issued—the certificate was issued within the previous 13 months.

## **Part 10 Provisions relating to young drivers and their passengers**

### **Division 1 Preliminary**

#### **67 Application of pt 10**

This part does not apply to either of the following driving a motor vehicle in the course of his or her duty—

- (a) an exempted police driver;
- (b) an emergency service worker.

### **Division 2 Offences and exemptions**

#### **68 Use of mobile phones by particular driver licence holders**

- (1) This section applies to a person driving a car on a road—
- (a) who—
    - (i) holds a class C learner licence granted or renewed after 30 June 2007, or a P1 provisional licence; and

- (ii) is under 25 years; or
  - (b) who holds a class C P1 probationary licence or P1 restricted licence because of a young driver disqualification offence.
- (2) The person must not use a mobile phone while the car is—
- (a) moving; or
  - (b) stationary but not parked.
- Maximum penalty—20 penalty units.

## **69 Use of mobile phones by passengers**

- (1) This section applies to a passenger in a car driven on a road by a person—
- (a) who holds a class C learner licence or P1 provisional licence and is under 25 years; or
  - (b) who holds a class C P1 probationary licence or P1 restricted licence because of a young driver disqualification offence.
- (2) The passenger must not use a mobile phone in loudspeaker mode while the car is—
- (a) moving; or
  - (b) stationary but not parked.
- Maximum penalty—20 penalty units.

## **70 High-powered vehicles**

- (1) This section applies to a person who—
- (a) holds a P1 provisional licence or P2 provisional licence and is under 25 years; or
  - (b) holds a P1 probationary or P1 restricted licence or a P2 probationary or P2 restricted licence because of a young driver disqualification offence.

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- (2) The person must not drive a high-powered vehicle on a road unless—
- (a) the person—
    - (i) has a current certificate of exemption for the vehicle, or type of vehicle that includes the vehicle, issued under section 71; and
    - (ii) is driving the vehicle in accordance with the certificate; or
  - (b) the person is—
    - (i) a person to whom a current certificate of exemption issued under section 71A applies; and
    - (ii) driving the vehicle in accordance with the certificate; or
  - (c) the vehicle is a Toyota Landcruiser.

Maximum penalty—20 penalty units.

- (3) Subsection (4) applies if a police officer reasonably suspects a person to whom this section applies is, or has been, driving a high-powered vehicle, other than a Toyota Landcruiser, on a road.
- (4) If asked by the police officer whether the person is allowed to drive a high-powered vehicle, the person must produce for inspection 1 of the following documents, unless the person has a reasonable excuse for not complying with the request—
- (a) a current certificate of exemption issued to the person under section 71;
  - (b) a current certificate of exemption issued under section 71A that applies to the person;
  - (c) a copy of a current certificate of exemption issued under section 71A that applies to the person.

Maximum penalty—10 penalty units.

- (5) Without limiting the matters that may be a reasonable excuse for subsection (4), it is a reasonable excuse if the person has



not been issued with a certificate of exemption under section 71.

(6) In this section—

***Toyota Landcruiser***—

- (a) includes any car with the make and model of a Toyota Landcruiser; but
- (b) does not include a car with a modification that must be approved under the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*, section 13.

## **71 Certificate of exemption for high-powered vehicles—individual**

(1) A person mentioned in section 70(1) may apply to the chief executive for a certificate of exemption about driving a high-powered vehicle on a road.

*Note*—

See part 16A for requirements about the application.

(2) If the certificate of exemption is sought on the grounds mentioned in subsection (6), the application must be accompanied by a signed statement supporting the application from—

- (a) for matters relating to subsection (6)(a)(i)(A) or (B)—the person’s employer; or
- (b) for matters relating to subsection (6)(a)(i)(C)—the person in charge of the educational institution; or
- (c) for matters relating to subsection (6)(a)(i)(D)—a doctor; or
- (d) for matters relating to subsection (6)(a)(ii)(B) or (C)—the immediate family member.

(3) If the certificate of exemption is sought on the grounds mentioned in subsection (7), the application must be accompanied by—

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- (a) either—
  - (i) a copy of a document (the *manufacturer's document*) published by the vehicle's manufacturer showing the specification information for the vehicle; or
  - (ii) if a copy of the manufacturer's document is unavailable or does not provide the specification information for the vehicle—a specification information test report; and
- (b) to the extent the information is available to the applicant, the following information about the vehicle—
  - (i) make and model;
  - (ii) year of manufacture;
  - (iii) engine number;
  - (iv) VIN or chassis number.
- (4) Subject to section 129D(4) and (5), the chief executive must deal with the application in a timely way and decide to either grant or refuse to grant the application.
- (5) The chief executive may grant the application only if the chief executive is satisfied the requirements in subsection (6) or (7) have been met.
- (6) The chief executive may grant the application if the chief executive is satisfied that—
  - (a) one of the following applies—
    - (i) the person needs to drive the high-powered vehicle—
      - (A) to, or from, the person's place of employment; or
      - (B) in the course of the person's employment; or
      - (C) to, or from, an educational institution the person attends; or

- (D) to get medical treatment for the person or a member of the person's family;
- (ii) the only car reasonably available to be driven by the person is a high-powered vehicle—
  - (A) that was owned by the person on 30 June 2007 and has been owned by the person since that day, including the day of the application; or
  - (B) that is owned or leased by an immediate family member of the person; or
  - (C) that an immediate family member of the person possesses under an employment or salary package of the immediate family member;
- (iii) the only car reasonably available to be driven by the person is a high-powered vehicle that was manufactured on or after 1 January 2010, and—
  - (A) the vehicle would not be a high-powered vehicle if the vehicle had been manufactured before 1 January 2010; and
  - (B) the vehicle was owned by the person on 1 January 2014 and has been owned by the person since that day, including the day of the application; and
- (b) there is no other transport reasonably available to the person; and
- (c) a refusal to issue the certificate of exemption would cause severe hardship.
- (7) The chief executive may grant the application if the high-powered vehicle—
  - (a) is a high-powered vehicle because it has—
    - (i) a turbocharged engine that is not diesel powered; or

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- (ii) a supercharged engine that is not diesel powered; and
  - (b) does not have any of the other features of a high-powered vehicle as defined in schedule 9; and
  - (c) has a power-to-weight ratio of not more than 125kW/t.
- (8) In deciding whether to grant the application on the grounds mentioned in subsection (6), the chief executive must also consider the person's traffic history.
- (9) If the chief executive decides to grant the application, the chief executive must issue a certificate of exemption to the person about the person driving a high-powered vehicle on a road.
- (10) The certificate—
- (a) must be in the approved form; and
  - (b) may apply to the following—
    - (i) a particular high-powered vehicle;
    - (ii) a type of high-powered vehicle; and
  - (c) may, if the certificate is granted on the grounds mentioned in subsection (6), state conditions in relation to—
    - (i) the time of use of a particular high-powered vehicle or type of high-powered vehicle; and
    - (ii) the days of use of a particular high-powered vehicle or type of high-powered vehicle; and
    - (iii) the purpose for which a particular high-powered vehicle or type of high-powered vehicle may be driven; and
  - (d) must state any matters in relation to which the person must notify the chief executive, under section 74D, of any change.
- (11) If the chief executive decides not to grant the application, the chief executive must give the person a written notice stating—

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- (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) that the person may apply for a reconsideration of the decision under section 132; and
  - (d) that the person is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (12) In this section—

***grandparent***, of a person, means a parent of—

- (a) a parent of the person; or
- (b) a step-parent of the person.

***immediate family member***, of a person, means—

- (a) the person's spouse; or
- (b) a parent or step-parent of the person; or
- (c) a grandparent, or spouse of a grandparent, of the person;  
or
- (d) an approved carer or guardian of the person.

## **71A Certificate of exemption for high-powered vehicles—business**

- (1) A person may apply to the chief executive for a certificate of exemption about the person or the person's employees driving high-powered vehicles on a road for the operation of the person's business.

*Note—*

See part 16A for requirements about the application.

- (3) Subject to section 129D(4) and (5), the chief executive must deal with the application in a timely way and must decide to either grant or refuse to grant the application.
- (4) The chief executive may grant the application only if satisfied that—

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- (a) driving high-powered vehicles on a road is necessary for the operation of the person's business; and
- (b) the person is, or employs, a person mentioned in section 70(1) who performs a duty for the business; and
- (c) it is likely, because of the nature of the duty, the person mentioned in section 70(1) will be required to drive high-powered vehicles on a road to perform the duty.

*Example for paragraph (c)—*

A duty to service vehicles performed by an apprentice mechanic is likely to require the mechanic to drive high-powered vehicles on a road to test vehicles being serviced.

- (5) If the chief executive decides to grant the application, the chief executive must issue a certificate of exemption to the person about the person, or the person's employees, driving high-powered vehicles on a road.
- (6) The certificate is subject to the condition that the person, or an employee of the person, who is a person mentioned in section 70(1) may drive a high-powered vehicle on a road only—
  - (a) to perform a duty for the business; and
  - (b) if the nature of the duty requires the person to drive the high-powered vehicle on a road to perform the duty.
- (7) The chief executive may issue the certificate on any other condition the chief executive considers is reasonable in the circumstances.
- (8) The certificate—
  - (a) must be in the approved form; and
  - (b) must state the condition mentioned in subsection (6) and any conditions imposed by the chief executive on the certificate; and
  - (c) must state any matters in relation to which the person must notify the chief executive, under section 74D, of any change.

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- (9) If the chief executive decides not to grant the application, the chief executive must give the person a written notice stating—
- (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) that the person may apply for a reconsideration of the decision under section 132; and
  - (d) that the person is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.

## **72 Late night driving**

- (1) This section applies to—
- (a) a person who satisfies the following requirements—
    - (i) either—
      - (A) the person, after being given a notice to choose, agrees under section 79(3)(b) to be of good behaviour while driving for a year; or
      - (B) the person’s driver licence is suspended under section 79(5) or (9), 86, 120, 121 or 122;
    - (ii) the person committed the offence that led to the notice to choose or suspension mentioned in subparagraph (i) after 30 June 2007 and when the person was under 25 years;
    - (iii) at the time of committing the offence, the person—
      - (A) held a P1 type, P2 type or P type licence; or
      - (B) did not hold a valid driver licence and was not eligible for an open licence; or
  - (b) a person who satisfies the following requirements—

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- (i) the person is disqualified from holding or obtaining a Queensland driver licence for an offence committed after 30 June 2007;
  - (ii) the person committed the offence that led to the disqualification when the person was under 25 years;
  - (iii) at the time of committing the offence, the person—
    - (A) held a P1 type, P2 type, P type or open licence; or
    - (B) did not hold a valid driver licence.
- (2) However, this section does not apply to a person whose only valid driver licence is a learner licence.
- (3) The person must not drive a motor vehicle on a road between the hours of 11p.m. on a day and 5a.m. on the next day for 1 year beginning on the relevant day, unless the person is driving under one of the following allowing the person to drive between those hours—
- (a) a current certificate of exemption under section 73;
  - (b) a valid restricted licence under section 87 of the Act;
  - (c) a special hardship order.

Maximum penalty—20 penalty units.

- (4) Subsection (5) applies if a police officer reasonably suspects a person to whom this section applies is, or has been, driving a motor vehicle on a road between the hours of 11p.m. on a day and 5a.m. on the next day during the period of 1 year beginning on the relevant day.
- (5) If asked by the police officer whether the person is allowed to drive a motor vehicle on a road between the hours of 11p.m. on a day and 5a.m. on the next day, the person must produce for inspection a current certificate of exemption issued to the person under section 73 unless the person has a reasonable excuse for not complying with the request.

Maximum penalty—10 penalty units.



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- (6) Without limiting the matters that may be a reasonable excuse for subsection (5), it is a reasonable excuse if the person has not been issued with a certificate of exemption under section 73.
- (7) In this section—
- relevant day* means—
- (a) for a person mentioned in subsection (1)(a) who, after being given a notice to choose, agrees under section 79(3)(b) to be of good behaviour while driving for a year—the sanction day of the person’s driver licence stated in the notice to choose; or
  - (b) for a person mentioned in subsection (1)(a) whose driver licence is suspended under section 79(9) or 86—
    - (i) if a special hardship order is made for the person—the day the special hardship order is made; or
    - (ii) otherwise—the day after the last day of the suspension; or
  - (c) for a person mentioned in subsection (1)(a) whose driver licence is suspended under section 79(5), 120, 121 or 122—the day after the last day of the suspension; or
  - (d) for a person mentioned in subsection (1)(b) who is the subject of an order directing that the person be issued with a restricted licence under section 87 of the Act—the day the court makes the order; or
  - (e) for a person mentioned in subsection (1)(b) who is not the subject of an order directing that the person be issued with a restricted licence under section 87 of the Act—the day after the last day the person is disqualified from holding or obtaining a licence.

### **73 Certificate of exemption—late night driving**

- (1) A person mentioned in section 72(1) may apply to the chief executive for a certificate of exemption about driving a motor

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vehicle on a road between the hours of 11p.m. on a day and 5a.m. on the next day during the period mentioned in section 72(3).

*Note—*

See part 16A for requirements about the application.

- (2) The application must—
  - (a) state the times between the hours of 11p.m. on a day and 5a.m. on the next day for which the application is made; and
  - (b) be accompanied by a signed statement supporting the application from the person’s employer.
- (3) Subject to section 129D(4) and (5), the chief executive must deal with the application in a timely way and must decide to either grant or refuse to grant the application.
- (4) However, the chief executive may grant the application only if the chief executive is satisfied about each of the following—
  - (a) the person needs to drive a motor vehicle on a road at times between the hours of 11p.m. on a day and 5a.m. on the next day—
    - (i) to, or from, the person’s place of employment; or
    - (ii) in the course of the person’s employment;
  - (b) a refusal to issue the certificate of exemption would cause severe hardship.
- (5) In deciding whether to grant the application, the chief executive must also consider the person’s traffic history.
- (6) If the chief executive decides to grant the application, the chief executive must issue a certificate of exemption, in the approved form, to the person about allowing the person to drive a motor vehicle on a road between the hours of 11p.m. on a day and 5a.m. on the next day during the period mentioned in section 72(3).
- (7) The certificate of exemption must—

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- (a) state the following in relation to the person driving a motor vehicle between the hours of 11p.m. on a day and 5a.m. on the next day—
    - (i) the times for so driving;
    - (ii) the days for so driving;
    - (iii) the purpose for so driving; and
  - (b) state the matters in relation to which the person must notify the chief executive, under section 74D, of any change.
- (8) If the chief executive decides not to grant the application, the chief executive must give the person a written notice stating—
- (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) that the person may apply for a reconsideration of the decision under section 132; and
  - (d) that the person is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.

## 74 Peer passengers

- (1) This section applies to a person (the *driver*) who—
  - (a) holds a class C P1 provisional licence and is under 25 years; or
  - (b) holds a class C P1 probationary or P1 restricted licence because of a young driver disqualification offence.
- (2) During the period between 11p.m. on a day and 5a.m. on the next day, the driver must not drive on a road a car carrying more than 1 passenger who—
  - (a) is under 21 years; and
  - (b) is not a person with whom the driver has an immediate family relationship.

Maximum penalty—20 penalty units.

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- (3) For subsection (2)(b), the driver has an immediate family relationship with each immediate family member of the driver.
- (4) In relation to proof of whether an immediate family relationship existed between a passenger and the driver in proceedings for an offence against subsection (2)—
  - (a) a belief of a police officer, on reasonable grounds, that an immediate family relationship between the passenger and driver did not exist is sufficient evidence of that fact; and
  - (b) the driver has the onus of proving the immediate family relationship did exist.
- (5) For subsection (4)(a), the belief mentioned in that subsection may be formed by the police officer after reasonable enquiries made of the driver and passengers when the police officer finds the driver driving the passengers or soon after.
- (6) In this section—

***approved carer***, of a child, means a person who is an approved foster carer or approved kinship carer for the child.

***foster child***, of a person, means a child for whom the person is an approved carer.

***grandparent***, of the driver, means a parent of—

- (a) a parent of the driver; or
- (b) a step-parent of the driver.

***immediate family member***, of the driver, means—

- (a) the driver's spouse; or
- (b) a child, stepchild, foster child or ward of the driver; or
- (c) a step-parent of the driver; or
- (d) the spouse of a grandparent of the driver; or
- (e) a brother or sister of the driver; or
- (f) a stepbrother or stepsister of the driver; or

- (g) a foster child or ward of a parent or step-parent of the driver; or
- (h) if the driver is a child—
  - (i) an approved carer of the driver; or
  - (ii) a child, stepchild, foster child or ward of an approved carer of the driver; or
- (i) a guardian of the driver; or
- (j) a child, stepchild, foster child or ward of a guardian of the driver.

### **Division 3                      Amending, suspending or    cancelling certificates of exemption**

#### **74A      Definitions for div 3**

In this division—

*certificate of exemption* means a certificate of exemption issued under section 71, 71A or 73.

*holder* means the holder of a certificate of exemption.

#### **74B      Grounds for amending, suspending or cancelling    certificates of exemption**

Each of the following is a ground for amending, suspending or cancelling a certificate of exemption—

- (a) the certificate of exemption was obtained on the basis of information that the holder knew was false or misleading in a material particular;
- (b) the holder or another person to whom the certificate applies failed to comply with a condition or requirement of the certificate of exemption;
- (c) a change in circumstances has happened after the certificate of exemption was issued and, had the changed circumstances existed when the certificate of

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exemption was issued, the certificate of exemption would not have been issued because of a requirement under—

- (i) for a certificate of exemption issued under section 71—section 71(6) or (7); or
  - (ii) for a certificate of exemption issued under section 71A—section 71A(4); or
  - (iii) for a certificate of exemption issued under section 73—section 73(4);
- (d) the chief executive considers it necessary in the public interest.

#### **74C Procedure for amending, suspending or cancelling certificates of exemption**

- (1) If the chief executive considers a ground exists to amend, suspend or cancel a person's certificate of exemption (the *proposed action*), the chief executive may give the person a written notice (the *show cause notice*).
- (2) The show cause notice must—
  - (a) state the proposed action; and
  - (b) state the ground for the proposed action; and
  - (c) outline the facts and circumstances forming the basis for the ground; and
  - (d) if the proposed action is to amend a condition or requirement of the certificate of exemption—state the proposed amendment; and
  - (e) if the proposed action is to suspend the certificate of exemption—state the proposed suspension period; and
  - (f) invite the person to show cause, within a stated time of at least 28 days, why the proposed action should not be taken.

- (3) The chief executive may, before or after the end of the time stated in the show cause notice, extend the time within which the person may show cause.
- (4) If, after considering any personal or written representations made within the time stated or allowed, the chief executive still considers a ground exists to take the proposed action, the chief executive may—
  - (a) if the proposed action was to amend the certificate of exemption—
    - (i) amend the certificate of exemption in the way mentioned in the show cause notice; or
    - (ii) amend the certificate of exemption in another way having regard to the representations; or
  - (b) if the proposed action was to suspend the certificate of exemption—
    - (i) suspend the certificate of exemption for a period not longer than the period stated in the show cause notice; or
    - (ii) amend the certificate of exemption having regard to the representations; or
  - (c) if the proposed action was to cancel the certificate of exemption—
    - (i) cancel the certificate of exemption; or
    - (ii) suspend the certificate of exemption for a period; or
    - (iii) amend the certificate of exemption having regard to the representations.
- (5) The chief executive must give the person written notice of the decision.
- (6) If the chief executive decides to amend, suspend or cancel the certificate of exemption, the notice must state—
  - (a) the reasons for the decision; and

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- (b) that the person may apply for a reconsideration of the decision under section 132; and
  - (c) that the person is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (7) The decision takes effect on the later of the following—
- (a) the day the notice under subsection (5) is given to the person;
  - (b) a later day stated in the notice under subsection (5).
- (8) Subsections (1) to (6) do not apply if the chief executive proposes to amend the certificate of exemption only—
- (a) by omitting a condition or requirement; or
  - (b) for a formal or clerical reason; or
  - (c) in a way the person has agreed to; or
  - (d) in another way that does not adversely affect the person's interests.
- (9) The chief executive may amend a certificate of exemption under subsection (8) by written notice given to the person.
- (10) In this section—
- amend*, a certificate of exemption, includes impose a condition or requirement on the certificate of exemption, that it was not subject to before the amendment.

**74D Holder of certificate of exemption must give notice of change in circumstances**

- (1) The holder of a certificate of exemption must, within 14 days after the happening of a relevant change of circumstances, give written notice of the change to the chief executive.
- Maximum penalty—20 penalty units.
- (2) In this section—



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*relevant change of circumstances* means a change in any of the matters stated in a certificate of exemption under section 71(10)(d), 71A(8)(c) or 73(7)(b).

## Part 11 Demerit points

### Division 1 Allocation

#### 75 Allocation of demerit points

- (1) This section applies if—
  - (a) a person has been convicted for a contravention of—
    - (i) a demerit points offence; or
    - (ii) an interstate offence; or

*Editor's note—*  
*Convicting* is defined in the Act, schedule 4.
  - (b) an order has been made against a person under—
    - (i) the *State Penalties Enforcement Act 1999*, section 38 for a demerit points offence; or
    - (ii) a corresponding law for an interstate offence.
- (2) The chief executive may record on the person's traffic history—
  - (a) particulars of the offence; and
  - (b) the penalty imposed on the person; and
  - (c) the number of demerit points allocated for the offence under this section or section 76, 77, 78 or 78A; and
  - (d) the day the offence was committed.
- (3) Subject to sections 76, 77, 78 and 78A, the number of demerit points to be allocated is the number of points mentioned in schedule 3 for—

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- (a) if the offence is a demerit points offence—the offence;  
or
  - (b) if the offence is an interstate offence—the offence that  
corresponds to the interstate offence.
- (4) Demerit points allocated under subsection (3) are taken to be  
allocated on the day the offence was committed.
  - (5) To remove any doubt, it is declared that the Criminal Code,  
section 16, applies to this part.

## **76 Additional demerit points for driver seatbelt offences**

- (1) This section applies to each driver seatbelt offence for which  
demerit points are recorded on a person’s traffic history under  
section 75.
- (2) Each time further demerit points are recorded on the person’s  
traffic history under section 75 for a later driver seatbelt  
offence committed within 1 year after the driver seatbelt  
offence was committed, 3 additional demerit points must be  
allocated for the later driver seatbelt offence.
- (3) The additional demerit points are taken to be allocated on the  
day the later driver seatbelt offence was committed.
- (4) In this section—  
*driver seatbelt offence* means an offence against the  
Queensland Road Rules, section 264(1) or 266(1) committed  
after 31 October 2004.

## **77 Additional demerit points for motorbike rider helmet offences**

- (1) This section applies to each motorbike rider helmet offence  
for which demerit points are recorded on a person’s traffic  
history under section 75.
- (2) Each time further demerit points are recorded on the person’s  
traffic history under section 75 for a later motorbike rider  
helmet offence committed within 1 year after the motorbike  
rider helmet offence was committed, 3 additional demerit

points must be allocated for the later motorbike rider helmet offence.

- (3) The additional demerit points are taken to be allocated on the day the later motorbike rider helmet offence was committed.
- (4) In this section—

*motorbike rider helmet offence* means an offence against the Queensland Road Rules, section 270(1)(a) or (b) committed after 31 October 2004.

## **78 Additional demerit points for driving more than 20km/h over the speed limit**

- (1) This section applies to each category 1, 2 or 3 speeding offence committed after 12 April 2006, for which demerit points are recorded on a person's traffic history under section 75.
- (2) Each time further demerit points are recorded on the person's traffic history under section 75 for a later category 1, 2 or 3 speeding offence committed within 1 year after the category 1, 2 or 3 speeding offence was committed, the following additional demerit points must be allocated for the later category 1, 2 or 3 speeding offence—
  - (a) for a later category 1 speeding offence—4 demerit points;
  - (b) for a later category 2 speeding offence—6 demerit points;
  - (c) for a later category 3 speeding offence—8 demerit points.
- (3) The additional demerit points are taken to be allocated on the day the later category 1, 2 or 3 speeding offence was committed.
- (4) In this section—

*category 1 speeding offence* means an offence for a contravention of the Queensland Road Rules, section 20 by

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driving more than 20km/h, but not more than 30km/h, over the speed limit.

*category 2 speeding offence* means an offence for a contravention of the Queensland Road Rules, section 20 by driving more than 30km/h, but not more than 40km/h, over the speed limit.

*category 3 speeding offence* means an offence for a contravention of the Queensland Road Rules, section 20 by driving more than 40km/h over the speed limit.

## **78A Additional demerit points for mobile phone offences**

- (1) This section applies to each mobile phone offence for which demerit points are recorded on a person's traffic history under section 75.
- (2) Each time further demerit points are recorded on the person's traffic history under section 75 for a later mobile phone offence committed within 1 year after the mobile phone offence was committed, 4 additional demerit points must be allocated for the later mobile phone offence.
- (3) The additional demerit points are taken to be allocated on the day the later mobile phone offence was committed.
- (4) In this section—

*mobile phone offence* means an offence committed against section 68 or the Queensland Road Rules, section 300.

## **Division 2 Suspension**

### **79 Queensland driver licence holder—notice to choose**

- (1) This section applies—
  - (a) if—
    - (i) 4 or more demerit points are recorded on a person's traffic history; and

- 
- (ii) the demerit points were allocated in a continuous 1-year period while the person did not hold a driver licence; and
    - (iii) the person holds a Queensland driver licence; or
  - (b) if—
    - (i) 4 or more demerit points are recorded on a person’s traffic history; and
    - (ii) the demerit points were allocated in a continuous 1-year period; and
    - (iii) during any part of the period the person held a learner, P1 type, P2 type or P type licence, or a driver licence granted outside Queensland that corresponds to a learner, P1 type, P2 type or P type licence, but did not hold an O type licence; and
    - (iv) the person holds a Queensland driver licence; or
  - (c) if—
    - (i) 12 or more demerit points are recorded on a person’s traffic history; and
    - (ii) the demerit points were allocated in a continuous 3-year period, and during any part of the period the person held a Queensland driver licence; and
    - (iii) the person holds an open licence.
  - (2) However, this section does not apply if section 79A, 80, 81, 101, 120 or 121 applies.
  - (3) The chief executive must give the person a written notice (a ***notice to choose***) requiring the person, within a stated time of at least 21 days, to choose between—
    - (a) having the person’s licence suspended for the requisite suspension period; or
    - (b) agreeing to be of good behaviour while driving for a year.

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- (4) A person is of good behaviour while driving for a year, if no more than 1 demerit point is allocated to the person's traffic history during the year.
- (5) If, within the stated time, the person—
- (a) notifies the chief executive that the person chooses for subsection (3)(a) to apply; or
  - (b) does not notify the chief executive of the person's choice under subsection (3)(a) or (b);

the person's licence is suspended for the requisite suspension period starting on the sanction day.

*Note—*

See section 127(4) of the Act for the effect of a suspension of licence.

- (6) If—
- (a) within the stated time, the person notifies the chief executive that the person chooses for subsection (3)(b) to apply; and
  - (b) 2 or more demerit points are allocated to the person's traffic history during the year starting on the sanction day;

the chief executive must give the person a written notice stating that the person's licence is suspended for double the requisite suspension period starting on the day after the day stated in the notice.

- (7) The day stated must be at least 21 days after the day of the notice.
- (8) If the licence is an open or provisional licence, the notice must also inform the person that the person may be eligible to apply for a special hardship order under part 14 in relation to the suspension.

*Note—*

Section 108 provides for the stay of the suspension of a person's open or provisional licence if the person makes an application for a special hardship order.

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- (9) The person's licence is suspended for double the requisite suspension period starting on—
- (a) the day after the day stated in the notice; or
  - (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

*Note—*

Section 113 provides for the ending of the suspension of a person's open or provisional licence under subsection (9) if a court makes a special hardship order in relation to the person.

**79A Queensland driver licence holder—class C learner licence holder etc.**

- (1) This section applies—
- (a) if—
    - (i) 4 or more demerit points are recorded on a person's traffic history; and
    - (ii) the demerit points were allocated in a continuous 1-year period while the person did not hold a driver licence; and
    - (iii) the person holds a class C learner licence; or
  - (b) if—
    - (i) 4 or more demerit points are recorded on a person's traffic history; and
    - (ii) the demerit points were allocated in a continuous 1-year period while the person did not hold a driver licence; and
    - (iii) in relation to the 5-year period (the *5-year period*) ending on the day before the day on which the person committed the offence for which the first demerit point was allocated, the person—

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- (A) did not hold a driver licence for the entire 5-year period; or
  - (B) held a class C learner licence or corresponding learner licence for the entire 5-year period; or
  - (C) did not hold a driver licence for part of the 5-year period and held a class C learner licence or corresponding learner licence for the balance of the period; and
- (iv) the person holds a Queensland driver licence other than a class C learner licence; or
- (c) if—
- (i) 4 or more demerit points are recorded on a person’s traffic history; and
  - (ii) the demerit points were allocated in a continuous 1-year period while the person held a class C learner licence or corresponding learner licence; and
  - (iii) the person holds a Queensland driver licence; or
- (d) if—
- (i) 4 or more demerit points are recorded on a person’s traffic history; and
  - (ii) the demerit points were allocated in a continuous 1-year period; and
  - (iii) the person did not hold a driver licence for part of the period and held a class C learner licence or corresponding learner licence for the balance of the period; and
  - (iv) the person holds a Queensland driver licence.
- (2) The chief executive must give the person a written notice stating that the person’s Queensland driver licence is suspended for the requisite suspension period starting on the day stated in the notice.



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- (3) The day stated must be at least 21 days after the day of the notice.
  - (4) The person's Queensland driver licence is suspended for the requisite suspension period starting on the day stated in the notice.
  - (5) In this section—  
*corresponding learner licence* means a driver licence granted outside Queensland that corresponds to a class C learner licence.

## **80 Person subject to section 79E order**

- (1) This section applies to a person who holds an open licence if—
  - (a) the person commits a demerit points offence or interstate offence when there is no section 79E order in relation to the person; and
  - (b) a section 79E order is subsequently made in relation to the person; and
  - (c) while the person is authorised to continue to drive motor vehicles under the section 79E order, 1 of the following happens—
    - (i) the person is convicted of the demerit points offence or interstate offence;
    - (ii) an order is made against the person for the demerit points offence under the *State Penalties Enforcement Act 1999*, section 38;
    - (iii) an order is made against the person for the interstate offence under a corresponding law to the *State Penalties Enforcement Act 1999*, section 38; and
  - (d) because of the conviction or the order mentioned in paragraph (c), demerit points are recorded on the person's traffic history for the demerit points offence or interstate offence; and

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- (e) because of the recording of the demerit points for the demerit points offence or interstate offence, 12 or more demerit points are recorded on the person's traffic history and the demerit points were allocated in a continuous 3-year period.
- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended for the requisite suspension period starting on the day stated in the notice.
- (3) The day stated must be at least 14 days after the day of the notice.
- (4) The person's Queensland driver licence is suspended for the requisite suspension period starting on the day stated in the notice.

## **81 Person subject to special hardship order**

- (1) This section applies to a person who holds an open or provisional licence if—
  - (a) the person commits a demerit points offence or interstate offence when there is no special hardship order in relation to the person; and
  - (b) a special hardship order is subsequently made in relation to the person; and
  - (c) while the person is authorised to continue to drive motor vehicles under the special hardship order, 1 of the following happens—
    - (i) the person is convicted of the demerit points offence or interstate offence;
    - (ii) an order is made against the person for the demerit points offence under the *State Penalties Enforcement Act 1999*, section 38;
    - (iii) an order is made against the person for the interstate offence under a corresponding law to the

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*State Penalties Enforcement Act 1999*, section 38;  
and

- (d) because of the conviction or the order mentioned in paragraph (c), demerit points are recorded on the person's traffic history for the demerit points offence or interstate offence; and
  - (e) because of the recording of the demerit points for the demerit points offence or interstate offence, section 79(1)(b) or (c) applies in relation to the person.
- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended for the requisite suspension period, starting on the day stated in the notice.
  - (3) The day stated must be at least 21 days after the day of the notice.
  - (4) The person's Queensland driver licence is suspended for the requisite suspension period starting on—
    - (a) the day stated in the notice; or
    - (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

## **82 Non-Queensland driver licence holder**

- (1) This section applies—
  - (a) if—
    - (i) 4 or more demerit points are recorded on a person's traffic history; and
    - (ii) the demerit points were allocated in a continuous 1-year period while the person did not hold a driver licence; and

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- (iii) the person holds a non-Queensland driver licence;  
or
  - (b) if—
    - (i) 4 or more demerit points are recorded on a person’s traffic history; and
    - (ii) the demerit points were allocated in a continuous 1-year period, and during any part of the period the person held a learner, P1 type, P2 type or P type licence, but did not hold an O type licence; and
    - (iii) the person holds a non-Queensland driver licence;  
or
  - (c) if—
    - (i) 12 or more demerit points are recorded on a person’s traffic history; and
    - (ii) the demerit points were allocated in a continuous 3-year period, and during any part of the period the person held a driver licence; and
    - (iii) the person holds a driver licence granted outside Queensland that corresponds to an open licence.
- (2) The chief executive must give the person a written notice stating that the authority to drive on a Queensland road under the person’s non-Queensland driver licence is suspended for the requisite suspension period starting on the day after the day stated in the notice.
- (3) The day stated must be at least 21 days after the day of the notice.
- (4) The person’s authority to drive on a Queensland road under the person’s non-Queensland driver licence is suspended for the requisite suspension period starting on the day after the day stated in the notice.
- (5) In this section—  
*learner licence* includes a driver licence granted outside Queensland that corresponds to a learner licence.

*P1 type licence* includes a driver licence granted outside Queensland that corresponds to a P1 type licence.

*P2 type licence* includes a driver licence granted outside Queensland that corresponds to a P2 type licence.

*P type licence* includes a driver licence granted outside Queensland that corresponds to a P type licence.

### **83 Former driver licence holder**

- (1) This section applies to a person if section 79, 79A or 82 would apply to the person other than that the person is unlicensed because, since the allocation of demerit points—
  - (a) the person’s driver licence has expired; or
  - (b) the person’s driver licence has been surrendered; or
  - (c) the authority to drive on a Queensland road under the person’s non-Queensland driver licence has been withdrawn under section 128(3) or (6).
- (2) The chief executive must give the person a written notice stating that—
  - (a) the person is not eligible to hold a Queensland driver licence during the 3 months starting on the day stated in the notice; and
  - (b) any non-Queensland driver licence held by the person does not authorise the person to drive on a Queensland road during the 3 months starting on the day stated in the notice.
- (3) The day stated must be at least 21 days after the day of the notice.
- (4) The person is not eligible to hold a Queensland driver licence for 3 months starting on the day stated in the notice.
- (5) Any non-Queensland driver licence held by the person does not authorise the person to drive on a Queensland road during the 3 months starting on the day stated in the notice.

## **84 Unlicensed person**

- (1) This section applies if—
  - (a) 4 or more demerit points are recorded on a person's traffic history; and
  - (b) the demerit points were allocated in a continuous 1-year period while the person did not hold a driver licence; and
  - (c) the person does not hold a driver licence.
- (2) The chief executive must give the person a written notice stating that the person is not eligible to hold a Queensland driver licence for 3 months starting on the day stated in the notice.
- (3) The day stated must be at least 14 days after the day of the notice.
- (4) The person is not eligible to hold a Queensland driver licence for 3 months starting on the day stated in the notice.

# **Part 12 Suspension for driving more than 40km/h over the speed limit**

## **85 Application of pt 12**

- (1) This part applies to a person—
  - (a) who has been convicted for a contravention of the Queensland Road Rules, section 20, for driving more than 40km/h over the speed limit; or  
*Editor's note—*  
*Convicting* is defined in the Act, schedule 4.
  - (b) against whom an order has been made under the *State Penalties Enforcement Act 1999*, section 38 for the contravention.
- (2) However, this part does not apply if—

- (a) section 102 or 122 applies to the person; or
- (b) the person is disqualified from holding or obtaining a driver licence under section 129B of the Act.

## **86 Queensland driver licence holder**

- (1) If the person holds a Queensland driver licence, the licence is suspended for 6 months starting on—
  - (a) the day stated in a notice given under subsection (2); or
  - (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

*Note—*

Section 113 provides for the ending of the suspension of a person's open or provisional licence under subsection (1) if a court makes a special hardship order in relation to the person.

- (2) The chief executive must give the person a written notice stating—
  - (a) the person's Queensland driver licence is suspended for 6 months starting on a stated day; and
  - (b) if the licence is an open or provisional licence—that the person may be eligible to apply for a special hardship order under part 14 in relation to the suspension.

*Note—*

Section 108 provides for the stay of the suspension of a person's open or provisional licence if the person makes an application for a special hardship order.

- (3) The day stated must be at least 21 days after the day of the notice.

## **87 Non-Queensland driver licence holder**

- (1) If the person holds a non-Queensland driver licence—

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- (a) the person's authority to drive on a Queensland road under the person's non-Queensland driver licence is suspended for 6 months starting on the day stated in a notice given under subsection (2); and
  - (b) any non-Queensland driver licence held by the person does not authorise the person to drive on a Queensland road during the 6 months; and
  - (c) the person is not eligible to hold a Queensland driver licence for the 6 months.
- (2) The chief executive must give the person a written notice stating that—
- (a) the person's authority to drive on a Queensland road under the person's non-Queensland driver licence is suspended for 6 months starting on a stated day; and
  - (b) any non-Queensland driver licence held by the person does not authorise the person to drive on a Queensland road during the 6 months; and
  - (c) the person is not eligible to hold a Queensland driver licence for the 6 months.
- (3) The day stated must be at least 21 days after the day of the notice.

## **88 Unlicensed person**

- (1) If the person does not hold a driver licence—
- (a) the person is not eligible to hold a Queensland driver licence for 6 months starting on the day stated in the notice given under subsection (2); and
  - (b) any non-Queensland driver licence that may be held by the person does not authorise the person to drive on a Queensland road during the 6 months.
- (2) The chief executive must give the person a written notice stating—



- (a) the person is not eligible to hold a Queensland driver licence for 6 months starting on a stated day; and
- (b) any non-Queensland driver licence held by the person does not authorise the person to drive on a Queensland road during the 6 months.

## Part 13 Provisions relating to section 79E orders

### Division 1 Preliminary

#### 89 Purpose of pt 13

This part provides for matters relating to a section 79E order.

*Note—*

A section 79E order authorises a person whose Queensland driver licence has been suspended under section 79B(2) of the Act to continue driving motor vehicles under a Queensland driver licence in circumstances stated in the order.

Despite the order, the person can not drive a motor vehicle under a Queensland driver licence until the person obtains a replacement licence under section 79F of the Act.

#### 90 Definitions for pt 13

In this part—

***relevant charge***, for a person's suspended licence, means the charge that resulted in the licence being suspended under section 79B(2) of the Act.

***suspended licence***, of a person, means the person's Queensland driver licence that has been suspended under section 79B(2) of the Act, because the person has been charged as mentioned in section 79B(1)(a), (ab), (b) or (d) of the Act.

## **Division 2                      Application for section 79E order**

### **91       Persons who are eligible, or not eligible, to apply for order**

- (1) A person who has a suspended licence is eligible to apply for a section 79E order if—
  - (a) the suspended licence is an open licence; and
  - (b) the application relates to a licence of the same class as the suspended licence.
- (2) A person who has a suspended licence is not eligible to apply for a section 79E order if—
  - (a) at the time of the relevant charge for the suspended licence—
    - (i) the person had been previously charged for an offence under section 79 or 80 of the Act; and
    - (ii) the previous charge had not been dealt with by a court, withdrawn or otherwise discontinued; or
  - (b) the act or omission that resulted in the relevant charge for the suspended licence happened, or is alleged to have happened, in 1 or more of the following circumstances—
    - (i) while the person was engaged in an activity directly connected with the person's means of earning a living;
    - (ii) while the person was driving a motor vehicle the person was not authorised, under an open licence, to drive;
    - (iii) while the person held a restricted licence issued under an order made under section 87 of the Act;
    - (iv) while the person was driving a motor vehicle to which section 79(2B) of the Act applies;

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- (v) during a period for which the person had agreed, under section 79(3)(b), to be of good behaviour while driving;
  - (vi) after the person had been given a notice to choose, but before the person had chosen as mentioned in section 79(3) in relation to the notice; or
- (c) within 5 years before the relevant charge for the suspended licence—
- (i) a Queensland driver licence held by the person had been suspended or cancelled, or the person had been disqualified from holding or obtaining a Queensland driver licence; or
  - (ii) an authority to drive on Queensland roads under a non-Queensland driver licence previously held by the person had been suspended; or
  - (iii) the person was made ineligible to hold a Queensland driver licence under section 84 or 88; or
  - (iv) the person had been convicted—
    - (A) of an offence against section 79 or 80(11) of the Act; or
    - (B) of an offence against the Criminal Code, section 328A; or
    - (C) outside Queensland of an offence that if committed in Queensland would be an offence against section 79 or 80(11) of the Act.
- (3) In subsection (2)(c)(i), the reference to a suspension, cancellation or disqualification does not include the following—
- (a) a suspension under section 79(9) of the Act;
  - (b) a suspension under section 79B(2) of the Act;
  - (c) a 24 hour suspension under section 80(22AA) of the Act;

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- (d) a suspension or cancellation that has been set aside under section 132(4);
- (e) a suspension, cancellation or disqualification that has been set aside on a review by QCAT or appeal;
- (f) a suspension, cancellation or disqualification because of the person's mental or physical incapacity;
- (g) a suspension under the *State Penalties Enforcement Act 1999*, section 105.

## 92 Applying for order

- (1) A person may apply for a section 79E order only to a relevant court for the person.
- (2) An application for a section 79E order must be—
  - (a) made within 21 clear days after the applicant's licence has been suspended under section 79B(2) of the Act; and
  - (b) made in the approved form; and
  - (c) accompanied by the information, or details of the information, the applicant intends to rely on for the application.

*Note—*

See section 94(2) and (3) for particular evidence the applicant must give to the court.

- (3) Subsection (2)(c) does not prevent the applicant from giving or producing further evidence at the hearing of the application.
- (4) The applicant must give the commissioner a copy of the application, including the information or details mentioned in subsection (2)(c)—
  - (a) if the day of the hearing is within 4 days after the day the application is made—as soon as practicable but before the day of the hearing; or

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- (b) otherwise—as soon as practicable but at least 3 days before the day of the hearing.
- (5) In this section—
- relevant court**, for a person, means any of the following applying to the person—
- (a) if the relevant charge for the person’s suspended licence was laid in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the relevant charge for the person’s suspended licence was laid;
  - (b) if the relevant charge for the person’s suspended licence was laid in another Magistrates Courts district—a court in the Magistrates Courts district in which the relevant charge for the person’s suspended licence was laid;
  - (c) if the person resides in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the person resides;
  - (d) if the person resides in another Magistrates Courts district—a court in the Magistrates Courts district in which the person resides.

## **Division 3                      Deciding application for section 79E order**

### **93            Hearing of application**

- (1) For an application for a section 79E order—
- (a) the applicant must, if required by the court, attend as a witness; and
  - (b) other persons may be called as witnesses;
- to give evidence in relation to all matters relevant to the application and may be cross-examined in relation to the evidence.
- (2) The commissioner may—

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- (a) appear and be heard at the hearing of the application; and
- (b) give or produce evidence at the hearing for or against the making of the order; and
- (c) examine and cross-examine witnesses called to give evidence at the hearing.

## **94 Deciding application**

- (1) A court may make a section 79E order only if the court is satisfied—
  - (a) the applicant for the order is a fit and proper person to continue to drive, having regard to the applicant’s traffic history, the safety of other road users and the public generally; and
  - (b) that if the order is made, having regard to the applicant’s traffic history, there would not be an unacceptable risk of the applicant committing an offence against section 79 or 80 of the Act; and
  - (c) a refusal to make the order would—
    - (i) cause extreme hardship to the applicant or the applicant’s family by depriving the applicant of the applicant’s means of earning a living; or
    - (ii) cause severe and unusual hardship to the applicant or the applicant’s family, in a way other than by depriving the applicant of the applicant’s means of earning a living; and
  - (d) when the order is made, the applicant holds an open licence that would be valid but for the suspension, under section 79B(2) of the Act, to which the order relates.

*Note—*

See also section 79E(1) of the Act for requirements about eligibility to apply for a section 79E order and the charges in relation to which a section 79E order may be made.

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- (2) For subsection (1)(c)(i), the applicant must give the following to the court—
    - (a) an affidavit made by the applicant outlining how the refusal to make the order would cause extreme hardship to the applicant or the applicant’s family;
    - (b) if the applicant is not self-employed—an affidavit made by the applicant’s employer confirming the applicant would be deprived of the applicant’s means of earning a living if the application is refused.
  - (3) For subsection (1)(c)(ii), the applicant must give to the court an affidavit made by the applicant that—
    - (a) outlines how the refusal to make the order would cause severe and unusual hardship to the applicant or the applicant’s family; and
    - (b) has attached to it statutory declarations from persons other than the applicant, other documentary evidence, or certified copies of evidence, in support of each matter stated in the affidavit.

## **95 What order must state**

- (1) If a court decides to make a section 79E order in relation to a person, the order must state the following—
  - (a) that the order only applies while the person holds a valid open licence and until the relevant charge for the person’s suspended licence in relation to which the order is made is dealt with by a court or is withdrawn or otherwise discontinued;
  - (b) that while the order applies in relation to the person, a Queensland driver licence held by the person is subject to the restrictions stated in the order;
  - (c) that, despite the order, the person is not authorised to drive a motor vehicle under a Queensland driver licence until the person obtains a replacement licence under section 79F of the Act.

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- (2) The restrictions stated in the order must include the following—
- (a) the purpose for which a motor vehicle may be driven under the licence;
  - (b) the class of motor vehicle that may be driven under the licence;
  - (c) the times at which or period of time during which a motor vehicle may be driven under the licence;
  - (d) that a motor vehicle may be driven under the licence only if the person is carrying a copy of the order.
- (3) Also, the restrictions stated in the order may include the following—
- (a) restrictions on where a motor vehicle may be driven under the licence, including, for example, the starting and ending places for journeys under the licence;
  - (b) whether or not passengers may be carried in a motor vehicle being driven under the licence and, if they can be carried, the names or other identifying details of the passengers who may be carried;
  - (c) any other restriction the court considers appropriate.

*Examples of other restrictions for this paragraph—*

- that a person wear the person's work uniform at all times while driving under the licence
- that a person carry a logbook containing the details of all driving under the licence that is work-related travel, including, for example, start and end times, destinations and odometer readings

## **Division 4                      Variation of section 79E order**

### **96            Person may apply for order to vary restrictions**

- (1) This section applies if—



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- (a) a court makes a section 79E order authorising a person to continue to drive motor vehicles under a Queensland driver licence in stated circumstances; and
  - (b) the circumstances change.

*Example—*

A person is authorised under a section 79E order to continue to drive motor vehicles under a Queensland driver licence to and from a stated place of work, and the person's place of work changes.

- (2) On application to a court by the person, the court may, by order (a **section 79E variation order**), vary the restrictions that, under the section 79E order, apply to Queensland driver licences held by the person.
- (3) However, the court may vary the restrictions only if the court—
  - (a) has had regard to the restrictions; and
  - (b) considers the justice of the case requires it to vary the restrictions.

## **97 Applying for order**

- (1) A person may apply for a section 79E variation order only to a relevant court for the person.
- (2) An application for a section 79E variation order must be—
  - (a) made in the approved form; and
  - (b) accompanied by—
    - (i) an affidavit made by the person outlining why the variation mentioned in the application is necessary; and
    - (ii) the information, or details of the information, the applicant intends to rely on for the application.
- (3) Without limiting subsection (2)(b)(ii), if the reason for the application is that the applicant has changed employer, the

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applicant must give to the court an affidavit made by the applicant's new employer confirming the applicant—

- (a) is currently employed by the new employer; and
  - (b) would be deprived of the applicant's means of earning a living if the application is refused.
- (4) Subsection (2)(b) does not prevent the applicant from giving or producing further evidence at the hearing of the application.
- (5) The applicant must give the commissioner a copy of the application, including the affidavits, and the information or details, accompanying the application—
- (a) if the day of the hearing is within 4 days after the day the application is made—as soon as practicable but before the day of the hearing; or
  - (b) otherwise—as soon as practicable but at least 3 days before the day of the hearing.
- (6) In this section—

*relevant court*, for a person in relation to whom a section 79E order applies, means any of the following applying to the person—

- (a) if the relevant charge for the person's suspended licence in relation to which the order applies was laid in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the relevant charge for the person's suspended licence in relation to which the order applies was laid;
- (b) if the relevant charge for the person's suspended licence in relation to which the order applies was laid in another Magistrates Courts district—a court in the Magistrates Courts district in which the relevant charge for the person's suspended licence in relation to which the order applies was laid;
- (c) if the person resides in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the person resides;

- (d) if the person resides in another Magistrates Courts district—a court in the Magistrates Courts district in which the person resides.

## **98 Hearing of application**

- (1) For an application for a section 79E variation order—
  - (a) the applicant must, if required by the court, attend as a witness; and
  - (b) other persons may be called as witnesses;  
to give evidence in relation to all matters relevant to the application and may be cross-examined in relation to the evidence.
- (2) The commissioner may—
  - (a) appear and be heard at the hearing of the application; and
  - (b) give and produce evidence at the hearing for or against the making of the order; and
  - (c) examine and cross-examine witnesses called to give evidence at the hearing.

## **99 What order must state**

A section 79E variation order must state the new restrictions that are to apply to Queensland driver licences held by the applicant for the remainder of the period for which the section 79E order applies in relation to the applicant.

# **Division 5 Driving under section 79E order**

## **100 Failing to comply with order**

- (1) A person authorised to continue to drive motor vehicles under a section 79E order must comply with the order, including the restrictions stated in the order that apply to Queensland driver

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licences held by the person, subject to any variation of the restrictions under a section 79E variation order.

Maximum penalty—20 penalty units.

- (2) Subsection (3) applies if—
  - (a) a person is convicted of an offence against subsection (1); and
  - (b) the relevant charge for the person's suspended licence in relation to which the section 79E order applies has not been dealt with by a court or has not been withdrawn or otherwise discontinued.
- (3) The court must disqualify the person from holding or obtaining a Queensland driver licence until the charge of the offence is dealt with by a court or is withdrawn or otherwise discontinued.

## **101 Suspension for allocation of demerit points while order applies**

- (1) This section applies if—
  - (a) a section 79E order applies in relation to a person who holds a Queensland driver licence; and
  - (b) 4 or more demerit points are allocated to the person's traffic history during any continuous 1-year period while the order applies in relation to the person.
- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended, starting on the day stated in the notice, for the longer of—
  - (a) 3 months; or
  - (b) until the relevant charge for the person's suspended licence in relation to which the section 79E order was made is dealt with by a court or is withdrawn or otherwise discontinued.

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- (3) The person's Queensland driver licence is suspended for the longer of the following starting on the day stated in the notice—
    - (a) 3 months;
    - (b) until the relevant charge for the person's suspended licence in relation to which the section 79E order was made is dealt with by a court or is withdrawn or otherwise discontinued.
  - (4) The day stated in the notice must not be less than 14 days after the day of the notice.

## **102 Suspension for driving more than 40km/h over the speed limit while order applies**

- (1) This section applies to a person who is a section 79E driver—
  - (a) who has been convicted for a contravention of the Queensland Road Rules, section 20 for driving a motor vehicle under the licence at more than 40km/h over the speed limit; or
  - (b) against whom an order has been made under the *State Penalties Enforcement Act 1999*, section 38 for the contravention.
- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended, starting on the day stated in the notice, for the longer of—
  - (a) 6 months; or
  - (b) until the relevant charge for the person's suspended licence in relation to which the person is a section 79E driver is dealt with by a court or is withdrawn or otherwise discontinued.
- (3) The person's Queensland driver licence is suspended for the longer of the following starting on the day stated in the notice—
  - (a) 6 months;

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- (b) until the relevant charge for the person's suspended licence in relation to which the person is a section 79E driver is dealt with by a court or is withdrawn or otherwise discontinued.
- (4) The day stated in the notice must not be less than 14 days after the day of the notice.

## **Part 14                      Special hardship orders**

### **Division 1                      Preliminary**

#### **103      Purpose of pt 14**

This part provides for the following—

- (a) the making of a special hardship order in relation to a person whose open or provisional licence has been suspended under a relevant provision;
- (b) other matters relating to a special hardship order mentioned in paragraph (a).

#### **104      Definitions for pt 14**

In this part—

*relevant provision* means section 79(9) or 86(1).

*suspended open or provisional licence*, of a person, means the person's open or provisional licence that has been suspended under a relevant provision.

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## **Division 2                      Court may make special hardship order**

### **105      Court may authorise particular person whose licence has been suspended to continue to drive**

- (1) This section applies to a person who—
  - (a) has a suspended open or provisional licence; and
  - (b) is eligible, and applies, for a special hardship order under division 3.
- (2) On application to a court by the person, the court may make a special hardship order authorising the person to continue to drive motor vehicles under a Queensland driver licence in stated circumstances.

## **Division 3                      Application for special hardship order**

### **106      Persons who are eligible, or not eligible, to apply for order**

- (1) A person who has a suspended open or provisional licence is eligible to apply for a special hardship order if the application relates to a licence of the same class as the suspended open or provisional licence.
- (2) A person who has a suspended open or provisional licence is not eligible to apply for a special hardship order if, within 5 years before the licence became a suspended open or provisional licence—
  - (a) a Queensland driver licence held by the person had been suspended or cancelled, or the person had been disqualified from holding or obtaining a Queensland driver licence; or

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- (b) an authority to drive on Queensland roads under a non-Queensland driver licence previously held by the person had been suspended; or
  - (c) the person was made ineligible to hold a Queensland driver licence under section 84 or 88; or
  - (d) the person had been convicted of an offence against the Criminal Code, section 328A.
- (3) In subsection (2)(a), the reference to a suspension, cancellation or disqualification does not include the following—
- (a) a suspension under section 79(9) of the Act;
  - (b) a suspension under section 79B(2) of the Act;
  - (c) a 24 hour suspension under section 80(22AA) of the Act;
  - (d) a suspension, cancellation or disqualification that was set aside under section 132(4);
  - (e) a suspension, cancellation or disqualification that was set aside on appeal other than—
    - (i) section 29 of the repealed regulation as in force before the commencement of section 30U of the repealed regulation; or
    - (ii) section 30D of the repealed regulation as in force before the commencement of section 30U of the repealed regulation;

*Note—*

Section 30U of the repealed regulation commenced on 29 October 2007.

- (f) a suspension, cancellation or disqualification because of the person's mental or physical incapacity;
- (g) a suspension under the *State Penalties Enforcement Act 1999*, section 105;
- (h) a suspension under the *Transport Operations (Passenger Transport) Act 1994*, section 91ZJ;



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- (i) a suspension or cancellation that was set aside on a review by QCAT.

## 107 Applying for order

- (1) A person may apply for a special hardship order only to a relevant court for the person.
- (2) An application for a special hardship order must be—
  - (a) made in the approved form; and
  - (b) accompanied by the information, or details of the information, the applicant intends to rely on for the application.

*Note—*

See section 111(2) and (3) for particular evidence the applicant must give to the court.

- (3) Subsection (2)(b) does not prevent the applicant from producing further evidence at the hearing of the application.
- (4) The applicant must give the chief executive a copy of the application, including the information or details mentioned in subsection (2)(b)—
  - (a) if the day of the hearing is within 8 days after the day the application is made—as soon as practicable but before the day of the hearing; or
  - (b) otherwise—as soon as practicable but at least 7 days before the day of the hearing.
- (5) In this section—

**relevant court**, for a person, means—

  - (a) if the person resides in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the person resides; or
  - (b) otherwise—a court in the Magistrates Courts district in which the person resides.

### **107A Court may transfer application**

- (1) This section applies if—
  - (a) a person applies to a court for a special hardship order; and
  - (b) the court to which the application is made (the *transferring court*) decides it is not a relevant court for the applicant.
- (2) The transferring court may order that the application for a special hardship order be transferred to a relevant court for the applicant if the transferring court is satisfied that—
  - (a) the application complies with section 107(2); and
  - (b) the applicant has complied with section 107(4).
- (3) As soon as reasonably practicable after the transferring court makes the order under subsection (2), the clerk of the transferring court must notify the applicant and the chief executive of the terms of the order, including the name of the court to which the application is transferred.
- (4) An application transferred under this section is taken to have been made under section 107(1).
- (5) In this section—  
*relevant court* see section 107(5).

### **108 Making of application for order stays suspension**

The suspension of a person's open or provisional licence is stayed from the day the chief executive receives a copy of the person's application for a special hardship order until the day before the day of the hearing of the application.

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## **Division 4                      Deciding application for special hardship order**

### **109      Hearing of application**

- (1) For an application for a special hardship order—
  - (a) the applicant must, if required by the court, attend as a witness; and
  - (b) other persons may be called as witnesses;  
to give evidence in relation to all matters relevant to the application and may be liable to cross-examination in relation to the evidence.
- (2) The chief executive may—
  - (a) appear and be heard at the hearing of the application; and
  - (b) give and produce evidence at the hearing for or against the making of the order; and
  - (c) examine and cross-examine witnesses called to give evidence at the hearing.

### **110      Similar applications may be considered together**

- (1) This section applies if—
  - (a) a person's open or provisional licence is suspended under both sections 79(9) and 86(1) in relation to the same contravention of the Queensland Road Rules, section 20; and
  - (b) the person makes an application for a special hardship order in relation to both of the suspensions.
- (2) The court may consider both applications together, and must try to ensure both applications are considered together.

## **111 Deciding application**

- (1) A court may make a special hardship order only if the court is satisfied—
  - (a) the applicant for the order is a fit and proper person to continue to drive, having regard to the applicant’s traffic history and the safety of other road users and the public generally; and
  - (b) a refusal to make the order would—
    - (i) cause extreme hardship to the applicant or the applicant’s family by depriving the applicant of the applicant’s means of earning a living; or
    - (ii) cause severe and unusual hardship to the applicant or the applicant’s family, other than by depriving the applicant of the applicant’s means of earning a living; and
  - (c) when the order is made, the applicant holds an open or provisional licence that would be valid but for the suspension, under a relevant provision, to which the order relates.

*Note—*

See also sections 105 and 106 for requirements about eligibility for a special hardship order and the licence suspensions in relation to which a special hardship order may be made.

- (2) For subsection (1)(b)(i), the applicant must give the following to the court—
  - (a) an affidavit made by the applicant outlining how the refusal to make the order would cause extreme hardship to the applicant or the applicant’s family;
  - (b) if the applicant is not self-employed—an affidavit made by the applicant’s employer confirming the applicant would be deprived of the applicant’s means of earning a living if the application is refused.
- (3) For subsection (1)(b)(ii), the applicant must give the court an affidavit made by the applicant that—

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- (a) outlines how the refusal to make the order would cause severe and unusual hardship to the applicant or the applicant's family; and
  - (b) has attached to it statutory declarations from persons other than the applicant, other documentary evidence, or certified copies of evidence, in support of each matter stated in the affidavit.

## **112 What order must state**

- (1) If a court decides to make a special hardship order in relation to a person, the order must state the following—
  - (a) that the order only applies—
    - (i) while the person holds a valid open or provisional licence; and
    - (ii) until the end of the order period stated in the order;
  - (b) that, despite the matters mentioned in paragraph (a), if during the order period stated in the order the person is, for any reason, disqualified by a court for a period from holding or obtaining a Queensland driver licence, the order stops applying in relation to the person;
  - (c) that while the order applies in relation to the person, a Queensland driver licence held by the person is subject to the restrictions stated in the order.
- (2) For subsection (1)(a)(ii)—
  - (a) the order period stated in the order must be equivalent to the length of the suspension period applicable under the relevant provision under which the person's licence was suspended; and
  - (b) any part of the suspension period served before the suspension was stayed under section 108 must be disregarded.
- (3) The restrictions stated in the order must include the following—

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- (a) the purpose for which a motor vehicle may be driven under the licence;
  - (b) the class of motor vehicle that may be driven under the licence;
  - (c) the times at which or period of time during which a motor vehicle may be driven under the licence;
  - (d) that a motor vehicle may be driven under the licence only if the licence holder is carrying a copy of the order.
- (4) Also, the restrictions stated in the order may include the following—
- (a) restrictions on where a motor vehicle may be driven under the licence, including, for example, the starting and ending places for journeys under the licence;
  - (b) whether or not passengers may be carried in a motor vehicle being driven under the licence, and if they can be carried, the names or other identifying details of the passengers who may be carried;
  - (c) any other restriction the court considers appropriate.

*Examples of other restrictions for this paragraph—*

- that a person wear the person's work uniform at all times while driving under the licence
- that a person carry a logbook containing the details of all driving under the licence that is work-related travel, including, for example, start and end times, destinations and odometer readings

## **113 Effect of court's decision**

- (1) If a court makes a special hardship order in relation to a person—
  - (a) the suspension of the person's open or provisional licence ends when the order is made; and
  - (b) while the order applies in relation to the person, the person is authorised to continue to drive under a

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Queensland driver licence subject to the restrictions stated in the order.

- (2) If a court refuses to make a special hardship order in relation to a person, the suspension of the person's open or provisional licence continues for the period of the licence's suspension under the relevant provision that had not been served before the application for the order was made.

## **Division 5                      Obtaining replacement licence**

### **114      Replacement licence if there is a special hardship order**

- (1) This section applies to a person authorised to continue to drive motor vehicles by a special hardship order.
- (2) Unless the person has a reasonable excuse, the person must, in the way required under subsection (3), apply for a licence (a *replacement licence*) that—
  - (a) is of the same type, class or description as the licence suspended under a relevant provision; and
  - (b) includes a code indicating that the holder of the licence is authorised to drive motor vehicles only under a special hardship order.

Maximum penalty—20 penalty units.

*Note—*

See part 16A for requirements about the application.

- (3) An application under subsection (2) must be—
  - (a) accompanied by a copy of the order; and
  - (b) made within 14 days after the order is made.
- (4) In deciding the application, the chief executive must—
  - (a) have regard to the special hardship order; and
  - (b) deal with the application as if it were an application for a Queensland driver licence.

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- (5) Despite subsection (4)(b), the chief executive may only refuse the application if under an Act—
- (a) the person’s open or provisional licence is suspended or cancelled, or the person is disqualified from holding or obtaining a Queensland driver licence, for a reason other than the reason that resulted in the suspension to which the special hardship order relates; or
  - (b) the person’s open or provisional licence would have been suspended or cancelled, or the person would have been disqualified from holding or obtaining a Queensland driver licence, but for the person’s open or provisional licence being already suspended under a relevant provision.

## Division 6                      Variation of special hardship order

### 115      Person may apply for order to vary restrictions

- (1) This section applies if—
- (a) a court makes a special hardship order authorising a person to continue to drive motor vehicles under a Queensland driver licence in stated circumstances; and
  - (b) the circumstances have changed.

*Example—*

A person is authorised under a special hardship order to continue to drive motor vehicles under a Queensland driver licence to and from a stated place of work, and the person’s place of work changes.

- (2) On application to a court by the person, the court may, by order (a ***special hardship variation order***), vary the restrictions that, under the special hardship order, apply to Queensland driver licences held by the person.
- (3) However, the court may vary the restrictions only if the court—
- (a) has had regard to the restrictions; and



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- (b) considers the justice of the case requires it to vary the restrictions.

## **116 Applying for order**

- (1) A person may apply for a special hardship variation order only to a relevant court for the person.
- (2) An application for a special hardship variation order must be—
  - (a) made in the approved form; and
  - (b) accompanied by—
    - (i) an affidavit made by the person outlining why the variation mentioned in the application is necessary; and
    - (ii) the information, or details of the information, the applicant intends to rely on for the application.
- (3) Without limiting subsection (2)(b)(ii), if the reason for the application is that the applicant has changed employer, the applicant must produce to the court an affidavit made by the applicant’s new employer confirming the applicant—
  - (a) is currently employed by the new employer; and
  - (b) would be deprived of the applicant’s means of earning a living if the application is refused.
- (4) Subsection (2)(b) does not prevent the applicant from producing further evidence at the hearing of the application.
- (5) The applicant must give the chief executive a copy of the application, including the affidavits, and the information or details, accompanying the application—
  - (a) if the day of the hearing is within 8 days after the day the application is made—as soon as practicable but before the day of the hearing; or
  - (b) otherwise—as soon as practicable but at least 7 days before the day of the hearing.
- (6) In this section—

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*relevant court*, for a person, means—

- (a) if the person resides in the Brisbane Magistrates Courts District—a court in the division of the Brisbane Magistrates Courts District in which the person resides; or
- (b) otherwise—a court in the Magistrates Courts district in which the person resides.

### **116A Court may transfer application**

- (1) This section applies if—
  - (a) a person applies to a court for a special hardship variation order; and
  - (b) the court to which the application is made (the *transferring court*) decides it is not a relevant court for the applicant.
- (2) The transferring court may order that the application for a special hardship variation order be transferred to a relevant court for the person if the transferring court is satisfied that—
  - (a) the application complies with section 116(2); and
  - (b) the applicant has complied with section 116(3) and (5).
- (3) As soon as reasonably practicable after the transferring court makes the order under subsection (2), the clerk of the transferring court must notify the applicant and the chief executive of the terms of the order, including the name of the court to which the application is transferred.
- (4) An application transferred under this section is taken to have been made under section 116(1).
- (5) In this section—  
*relevant court* see section 116(6).

### **117 Hearing of application**

- (1) For an application for a special hardship variation order—

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- (a) the applicant must, if required by the court, attend as a witness; and
  - (b) other persons may be called as witnesses;  
to give evidence in relation to all matters relevant to the application and may be cross-examined in relation to the evidence.
- (2) The chief executive may—
- (a) appear and be heard at the hearing of the application; and
  - (b) give and produce evidence at the hearing for or against the making of the order; and
  - (c) examine and cross-examine witnesses called to give evidence at the hearing.

### **118 What order must state**

A special hardship variation order must state the new restrictions that are to apply to Queensland driver licences held by the applicant for the remainder of the period for which the special hardship order applies in relation to the applicant.

## **Division 7                      Driving under special hardship order**

### **119 Failing to comply with order**

- (1) A person authorised to continue to drive motor vehicles under a special hardship order must comply with the order, including the restrictions stated in the order that apply to Queensland driver licences held by the person, subject to any variation of the restrictions under a special hardship variation order.

Maximum penalty—20 penalty units.

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- (2) If a person is convicted of an offence against subsection (1), the court must disqualify the person from holding or obtaining a Queensland driver licence for the following period—
  - (a) if the person is convicted while the special hardship order applies in relation to the person—the period comprising—
    - (i) the period between the day of the conviction and the end of the order period for the person; and
    - (ii) 3 months from the end of the order period for the person;
  - (b) if the person is convicted after the special hardship order stops applying to the person—3 months from the day of the conviction.

## **120 Suspension for allocation of demerit points—licence subject to good behaviour requirement**

- (1) This section applies to a person if—
  - (a) for the same contravention of the Queensland Road Rules, section 20—
    - (i) demerit points were recorded on the person’s traffic history resulting in the person being given a notice to choose; and
    - (ii) the person’s Queensland driver licence was suspended under section 86; and
  - (b) for the notice to choose, the person agreed, under section 79(3)(b), to be of good behaviour while driving for a year; and
  - (c) for the suspension under section 86, a special hardship order applies in relation to the person; and
  - (d) the person holds a Queensland driver licence; and
  - (e) 1 or more demerit points are recorded on the person’s traffic history.

- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended for double the order period for the person, starting on the day stated in the notice.
- (3) The day stated in the notice must be at least 21 days after the day of the notice.
- (4) The person's Queensland driver licence is suspended for double the order period for the person, starting on—
  - (a) the day stated in the notice; or
  - (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

## **121 Suspension for allocation of demerit points—other licence**

- (1) This section applies to a person if—
  - (a) a special hardship order applies in relation to the person; and
  - (b) the person holds a Queensland driver licence; and
  - (c) 1 or more demerit points are recorded on the person's traffic history.
- (2) However, this section does not apply if section 120 applies to the person.
- (3) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended for double the order period for the person, starting on the day stated in the notice.
- (4) The day stated in the notice must be at least 21 days after the day of the notice.
- (5) The person's Queensland driver licence is suspended for double the order period for the person, starting on—

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- (a) the day stated in the notice; or
- (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated in the notice—the day, not before the day on which the person gives the notice to the chief executive, chosen by the person.

## **122 Suspension for driving more than 40km/h over the speed limit while order applies**

- (1) This section applies to a person if—
  - (a) a special hardship order applies in relation to the person; and
  - (b) the person holds a Queensland driver licence; and
  - (c) either—
    - (i) the person is convicted for a contravention of the Queensland Road Rules, section 20 for driving a motor vehicle under the licence at more than 40km/h over the speed limit; or
    - (ii) an order under the *State Penalties Enforcement Act 1999*, section 38 for the contravention is made against the person.
- (2) The chief executive must give the person a written notice stating that the person's Queensland driver licence is suspended for double the order period for the person, starting on the day stated in the notice.
- (3) The day stated in the notice must be at least 21 days after the day of the notice.
- (4) The person's Queensland driver licence is suspended for double the order period for the person, starting on—
  - (a) the day stated in the notice; or
  - (b) if the person notifies the chief executive that the person wants the suspension to start earlier than the day stated in the notice—the day, not before the day on which the

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person gives the notice to the chief executive, chosen by the person.

## **Part 15**                      **Amending, surrendering, suspending or cancelling licences**

### **123**      **Surrendering licence**

- (1) The holder of a Queensland driver licence may surrender the licence by giving the chief executive written notice.
- (2) If the licence is in the holder's possession, it must be forwarded to the chief executive with the written notice.

### **124**      **Grounds for amending, suspending or cancelling licences**

Each of the following is a ground for amending, suspending or cancelling a Queensland driver licence—

- (a) the licensee has a mental or physical incapacity that is likely to adversely affect the licensee's ability to drive safely;
- (b) the licence was obtained on the basis of information that the licensee knew was false or misleading in a material particular;
- (c) the licensee has contravened a condition of the licence;
- (d) the licensee has been disqualified from holding or obtaining a driver licence in another country;
- (e) the licensee has obtained a non-Queensland driver licence;
- (f) for a class HC learner licence—the licensee no longer has a special need for a class HC licence;
- (g) the licensee no longer resides in Queensland;

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- (h) the application for the grant or renewal of the licence did not comply with part 16A;
- (i) the person was not eligible for the class or type of licence.

## **125 Procedure for amending, suspending or cancelling licences**

- (1) If the chief executive considers a ground exists to amend, suspend or cancel a person's Queensland driver licence (the *proposed action*), the chief executive may give the person a written notice (the *show cause notice*).
- (2) The show cause notice must—
  - (a) state the proposed action; and
  - (b) state the ground for the proposed action; and
  - (c) outline the facts and circumstances forming the basis for the ground; and
  - (d) if the proposed action is to amend a condition of the licence—state the proposed amendment; and
  - (e) if the proposed action is to suspend the licence—state the proposed suspension period; and
  - (f) invite the person to show cause, within a stated time of at least 28 days, why the proposed action should not be taken.
- (3) The chief executive may, before or after the end of the time stated in the show cause notice, extend the time within which the person may show cause.
- (4) If, after considering any personal or written representations made within the time stated or allowed, the chief executive still considers a ground exists to take the proposed action, the chief executive may—
  - (a) if the proposed action was to amend the licence—
    - (i) amend the licence in the way mentioned in the show cause notice; or



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- (ii) amend the licence in another way having regard to the representations; or
    - (b) if the proposed action was to suspend the licence—
      - (i) suspend the licence for a period not longer than the period stated in the show cause notice; or
      - (ii) amend the licence having regard to the representations; or
    - (c) if the proposed action was to cancel the licence—
      - (i) cancel the licence; or
      - (ii) suspend the licence for a period; or
      - (iii) amend the licence having regard to the representations.
  - (5) The chief executive must give the person written notice of the decision.
  - (6) If the chief executive decides to amend, suspend or cancel the licence, the notice must state—
    - (a) the reasons for the decision; and
    - (b) that the person may apply for a reconsideration of the decision under section 132; and
    - (c) that the person is also able, under section 131(4) of the Act, to apply to QCAT for a review of the decision on the reconsideration.
  - (7) Other than for a ground mentioned in section 124(b), the decision takes effect on the later of the following—
    - (a) the day the notice under subsection (5) is given to the person;
    - (b) a later day stated in the notice under subsection (5).

*Note—*

Section 126(2) of the Act applies for a ground mentioned in section 124(b).

- (8) Subsections (1) to (6) do not apply if the chief executive proposes to amend the licence only—

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- (a) by omitting a condition; or
  - (b) for a formal or clerical reason; or
  - (c) in a way the person has agreed to; or
  - (d) in another way that does not adversely affect the person's interests.
- (9) The chief executive may amend a licence under subsection (8) by written notice given to the person.
- (10) In this section—
- amend*, a licence, includes impose a condition on a licence that was unconditional before the amendment.

## **126 Immediate amendment or suspension of Queensland driver licence**

- (1) This section applies if—
- (a) the chief executive is given information by a licence holder, or about a licence holder by a health professional, whether or not the licence holder or health professional uses an approved form to give the information; and
  - (b) because of the information, the chief executive reasonably considers the licence holder may have a permanent or long-term mental or physical incapacity that is likely to adversely affect the licence holder's ability to drive safely; and
  - (c) the chief executive reasonably considers—
    - (i) public safety has been endangered, or is likely to be endangered, because the licence holder's ability to drive safely is likely to be adversely affected; or
    - (ii) immediate amendment or suspension of the licence holder's Queensland driver licence is otherwise necessary in the public interest.

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- (2) The chief executive may, by written notice to the licence holder, immediately amend or suspend the licence holder's Queensland driver licence.
  - (3) The notice under subsection (2) must state—
    - (a) the reasons for the chief executive's decision; and
    - (b) that the licence holder may apply for a reconsideration of the decision under section 132; and
    - (c) that the licence holder is also able, under section 131(4) of the Act, to apply to QCAT for a review of the decision on the reconsideration.
  - (4) Within 7 days after giving the licence holder the notice under subsection (2), the chief executive must give the licence holder a show cause notice under section 125(1).
  - (5) The amendment or suspension—
    - (a) takes effect immediately when the notice under subsection (2) is given to the licence holder; and
    - (b) continues to operate until the show cause notice given to the licence holder under section 125(1) is finally dealt with.
  - (6) In this section—

*licence holder* means a person who is the holder of a Queensland driver licence.

## **127 Return of licence or returning driver certificate for amendment**

- (1) The chief executive may give the holder of a Queensland driver licence a written notice requiring the holder to return the licence, in a stated way and within a stated time of at least 14 days, to enable—
  - (a) the conditions stated on the licence to be amended; or
  - (b) information stated on the licence that is incorrect to be amended, if the chief executive reasonably believes the error was caused by the chief executive.

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- (2) A notice given under subsection (1)(b) must include a statement identifying the information that is incorrect and the correct information.
- (3) If the notice is given under subsection (1)(a)—
  - (a) the chief executive must, after receiving the licence, issue to the holder a driver licence receipt stating the conditions as amended; and
  - (b) the conditions, as amended, take effect from the appropriate day under section 125(7), even if the holder does not return the licence for amendment.
- (4) If the notice is given under subsection (1)(b), the chief executive must, after receiving the licence, issue to the holder a driver licence receipt stating the correct information.
- (5) The chief executive may give the holder of a returning driver certificate a written notice requiring the holder to return the certificate, in a stated way and within a stated time of at least 14 days, to enable information stated in the certificate that is incorrect to be amended, if the chief executive reasonably believes the error was caused by the chief executive.
- (6) A notice given under subsection (5) must include a statement identifying the information that is incorrect and the correct information.
- (7) The chief executive must, after receiving the certificate from the holder, issue to the holder a replacement certificate stating the correct information.
- (8) The holder of a Queensland driver licence or a returning driver certificate must comply with a notice given under this section to the holder, unless the holder has a reasonable excuse.

Maximum penalty—20 penalty units.

*Example of a reasonable excuse—*

The licence or certificate has been, or the holder reasonably suspects it has been, destroyed, lost or stolen.

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## Part 16 Recognition of other driver licences

### 128 Non-Queensland driver licence

- (1) A valid non-Queensland driver licence authorises the holder to drive, on a Queensland road, a class of motor vehicle that the holder is authorised to drive under the licence.
- (1A) Also, a valid foreign driver licence, other than a limited vehicle licence, authorises the holder to drive a class C vehicle on a Queensland road.
- (1B) Subsection (1A) applies even if the holder of the foreign driver licence would not be authorised to drive a vehicle with the same GVM, or a vehicle built or fitted to carry the same number of passengers, under the licence.
- (2) The holder of a non-Queensland driver licence must comply with a condition of the licence.  
Maximum penalty—20 penalty units.
- (3) If a holder of a non-Queensland driver licence fails a practical driving test, the holder's authority is withdrawn immediately.
- (4) The chief executive may, by written notice to the holder of a non-Queensland driver licence, immediately withdraw the holder's authority under subsection (1) or (1A) if—
  - (a) the chief executive is given information by the holder, or about the holder by a health professional, whether or not the holder or health professional uses an approved form to give the information; and
  - (b) because of the information, the chief executive reasonably considers the holder may have a mental or physical incapacity that is likely to adversely affect the holder's ability to drive safely; and
  - (c) the chief executive reasonably considers—

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- (i) public safety has been endangered, or is likely to be endangered, because the holder's ability to drive safely is likely to be adversely affected; or
  - (ii) immediate withdrawal of the authority is otherwise necessary in the public interest.
- (5) A notice under subsection (4) must state—
  - (a) the reasons for the chief executive's decision; and
  - (b) the withdrawal takes effect immediately when the notice is given to the holder of the non-Queensland driver licence; and
  - (c) that the holder may apply for a reconsideration of the decision under section 132; and
  - (d) that the holder is also able, under section 65A of the Act, to apply to QCAT for a review of the decision on the reconsideration.
- (6) If the holder takes up residence in Queensland, the authority is withdrawn—
  - (a) for an interstate licence—3 months after the holder takes up residence; or
  - (b) for a foreign licence—
    - (i) if the holder is an Australian citizen—3 months after the holder takes up residence; or
    - (ii) if the holder is not an Australian citizen but is granted a resident visa before taking up residence—3 months after the holder takes up residence; or
    - (iii) if the holder is not an Australian citizen but is granted a resident visa after taking up residence—3 months after the visa is granted.
- (7) Subsection (6)(a) does not apply to a defence force member, or an eligible family member of a defence force member, who carries, while driving, a current Australian Defence Force Identification Card issued by the Australian Defence Force.

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- (8) Also, the authority is withdrawn when the holder is granted a Queensland driver licence.
  - (9) Despite subsections (3), (6) and (8), a valid non-Queensland driver licence, granted for a class of motor vehicle, authorises the holder of the licence to—
    - (a) for a class of motor vehicle for which a class RE or R licence is required—
      - (i) if the holder’s principal place of residence is within a 100km radius from a Q-Ride training area—receive Q-Ride training; or
      - (ii) if the holder’s principal place of residence is outside a 100km radius from a Q-Ride training area—
        - (A) receive Q-Ride training; or
        - (B) take a practical driving test for the class RE or R licence; or
    - (b) for another class of motor vehicle—take a practical driving test in a corresponding class of motor vehicle.
  - (10) Despite section 11, a person who holds or has, within the last 5 years, held a non-Queensland driver licence, granted for a class of motor vehicle, is eligible for a learner licence for a corresponding class of motor vehicle.
  - (11) The following requirements do not apply to a person who is eligible for a learner licence under subsection (10)—
    - (a) the logbook requirements;
    - (b) the requirement to hold a class RE learner licence for the period under sections 13 and 15;
    - (c) the requirement to hold a class C learner licence for the period under sections 10E(1)(b), 14 and 16.
  - (12) If the holder is granted a learner licence for the corresponding class of motor vehicle, the holder is authorised to learn to drive the corresponding class of motor vehicle.
  - (13) In this section—

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*limited vehicle licence* means a foreign driver licence that authorises the holder to drive a motorbike or specially constructed vehicle only.

*resident visa* means a permanent visa, or a special category visa, under the *Migration Act 1958* (Cwlth).

## 129 Defence force licence

- (1) A valid defence force licence authorises the holder to drive, on a road, a class of defence force vehicle that the holder is authorised to drive under the licence in the performance of the holder's functions.
- (2) In this section—

*defence force vehicle* means a motor vehicle owned by, or appropriated to the use of, the Australian Defence Force.

# Part 16A Requirements for particular applications

## 129A Definitions for part

In this part—

*application* means—

- (a) an application required or permitted to be made under this regulation, other than an application mentioned in section 92(1), 97(1), 107(1) or 116(1); or
- (b) an application mentioned in section 154(1).

*decision-maker*, for an application, means the office holder (however described) whose function it is, under this regulation, to decide the application.

*information* includes a document.



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## **129B Chief executive may publish a notice about applications**

(1) The chief executive may, by publishing a notice on the department's website—

(a) approve a way in which a stated type of application may be made; or

*Examples of ways—*

orally, by electronic communication or by another form of communication

(b) require stated information to be given in or with a stated type of application.

(2) A notice under subsection (1)(a) may include requirements for making an application in the approved way.

(3) A notice under subsection (1)(b) may only require information that is reasonably necessary for—

(a) the purpose of enabling the decision-maker to decide the application; or

(b) another purpose related to the application or the thing being applied for.

*Example—*

Required information may not include—

(a) irrelevant personal information; or

(b) relevant personal information if the provision of the information would be excessively intrusive to personal privacy.

(4) Subsection (1) applies whether or not there is an approved form for making the application.

## **129C How applications must be made**

(1) An application must be made in any of the following ways—

(a) in the approved form for the application;

(b) in the way approved under section 129B(1)(a) for making the application;

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- (c) if there is no approved form and no approved way for making the application—in writing.
- (2) An application must include any information required under section 129B(1)(b).
- (3) Subsection (2) does not limit another provision of this regulation that requires an application to include, or be accompanied by, particular information.

### **129D Decision-maker may request further information**

- (1) The decision-maker for an application may give the applicant a written notice asking for further information that the decision-maker reasonably needs to decide the application.
- (2) The notice—
  - (a) must state—
    - (i) the information required; and
    - (ii) the time, no earlier than 28 days after the notice is given, by which the information is required to be given; and
    - (iii) that, if the applicant does not comply with the notice, the decision-maker may cancel the application; and
  - (b) may state a way in which the information is required to be given.
- (3) If the notice does not state a way in which the information is required to be given, the applicant must give the information in writing.
- (4) If the applicant does not comply with the notice, the decision-maker may give the applicant a further notice cancelling the application.
- (5) A notice cancelling the application has effect on the day it is given to the applicant or any later day stated in it.

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## **129E Electronic issuing of driver licence receipts**

- (1) This section applies if—
  - (a) an application is made, under this part, by electronic communication; and
  - (b) as a result of deciding the application, the decision-maker is required under this regulation to issue a driver licence receipt to the applicant.
- (2) The driver licence receipt must be electronically issued.

## **Part 17 Miscellaneous**

### **130 Retesting—medical fitness**

- (1) This section applies if the chief executive receives information from a health professional that indicates—
  - (a) the applicant for, or holder of, a Queensland driver licence has a mental or physical incapacity; and
  - (b) the incapacity is likely to adversely affect the person's ability to drive safely.

*Example—*

The chief executive may receive information from a person's doctor that the person has a physical incapacity that affects the person's balance, which the doctor considers may affect the person's ability to safely ride a motorbike.

- (2) The chief executive may give the person a written notice requiring the person to take a practical driving test in a class of vehicle that is authorised to be driven under the licence.
- (3) The notice must state—
  - (a) the reason why the person is required to take a practical driving test; and
  - (b) the class of vehicle for which the test is to be undertaken; and

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- (c) the day and time for the test, that is at least 7 days after the day of the notice; and
  - (d) the place where the test is to be taken.
- (4) No fee is payable for the test.
- (5) This section does not limit section 125 or 126.

### **131 Retesting—Act, s 128**

- (1) If, under section 128 of the Act, a person is required by a superintendent to take a practical driving test in a class of motor vehicle, the person is eligible for a learner licence for that class.
- (2) If the person is granted a learner licence for that class, the person is authorised to learn to drive the class of motor vehicle.

### **132 Reconsideration of decision by chief executive**

- (1) This section applies if the chief executive—
- (aa) has, under section 10BB(2), decided an applicant has not passed a road rules test, including a decision to—
    - (i) cancel an applicant’s enrolment in an online road rules test; or
    - (ii) disqualify a person from taking a road rules test or from enrolling to take an online road rules test; or
  - (a) has, under section 23, refused to grant a person—
    - (i) a Queensland driver licence; or
    - (ii) a particular class or type of Queensland driver licence; or
  - (b) has, under section 23, refused to renew a person’s licence; or
  - (ba) has, under section 25, imposed a condition on a Queensland driver licence; or

- 
- (c) has, under section 32, decided not to grant an application for approval of a young driver's completed logbook; or
  - (d) has, under section 33, decided not to grant any part of an application for credit for a number of hours of supervised driving in a car on a road by a young driver; or
  - (e) has, under section 34, decided not to grant a young driver an exemption from the logbook requirements; or
  - (f) has, under section 38, decided not to approve an application under that section; or
  - (g) has, under section 71, decided not to grant a certificate of exemption about a person driving a high-powered vehicle; or
  - (h) has, under section 71A, decided not to grant a certificate of exemption about a person, or the person's employees, driving high-powered vehicles; or
  - (i) has, under section 73, decided not to grant a certificate of exemption about a person driving a motor vehicle between the hours of 11p.m. on a day and 5a.m. on the next day; or
  - (j) has, under section 74C, amended, suspended or cancelled a person's certificate of exemption; or
  - (k) has, under section 125, amended, suspended or cancelled a person's licence; or
  - (l) has, under section 126, immediately amended or suspended a person's licence; or
  - (m) has, under section 128(4), immediately withdrawn a person's authority to drive in Queensland; or
  - (n) has, under section 130, required a person to take a practical driving test at a particular time and place.
- (2) The person may apply to the chief executive to reconsider the original decision.

*Note—*

See part 16A for requirements about the application.

- (3) The application must be made—
  - (a) for an original decision mentioned in subsection (1)(a) to (m)—within 28 days after—
    - (i) the day the notice of the decision is given to the person; or
    - (ii) if the applicant is given oral notice of the decision and asks for written notice—the day the written notice is given to the applicant; or
  - (b) for an original decision mentioned in subsection (1)(n)—within 7 days after the day the notice of the requirement is given to the person under section 130(2).
- (3A) If an application is made for reconsideration of the chief executive's decision to suspend or cancel a licence, other than a prescribed licence decision, the suspension or cancellation—
  - (a) is suspended pending the chief executive's reconsidered decision; and
  - (b) subject to the chief executive's reconsidered decision—
    - (i) for a suspension—takes effect from the date of the chief executive's reconsidered decision for the remainder of the period for which it was made; or
    - (ii) for a cancellation—takes effect from the date of the chief executive's reconsidered decision.
- (4) After reconsidering the original decision, the chief executive may—
  - (a) confirm the decision; or
  - (b) set aside the decision and substitute another decision.
- (5) The chief executive must give the person a notice stating—
  - (a) the reconsidered decision; and

- 
- (b) that the person may—
- (i) if the original decision is a decision mentioned in subsection (1)(a), (b), (ba), (k) or (l)—under section 131(4) of the Act, apply to QCAT—
    - (A) for a review of the reconsidered decision; and
    - (B) unless the original decision is a prescribed licence decision—for a stay of the reconsidered decision; or
  - (ii) if the original decision is a decision mentioned in subsection (1)(aa), (c) to (j), (m) or (n)—under section 65A of the Act, apply to QCAT—
    - (A) for a review of the reconsidered decision; and
    - (B) unless the original decision is a prescribed authority decision—for a stay of the reconsidered decision.
- (6) If the original decision is a decision mentioned in subsection (1)(aa), (c) to (j), (m) or (n), section 65A of the Act applies to the reconsidered decision as if it were a reviewed decision mentioned in that section.
- (7) Despite subsection (5), for an original decision mentioned in subsection (1)(ba), the chief executive may give an oral notice instead of a written notice unless the person asks for a written notice.
- (8) In this section—

***original decision*** means a decision mentioned in any of paragraphs (aa) to (n) of subsection (1).

***prescribed authority decision*** means a decision to withdraw a person's authority to drive on a Queensland road under a non-Queensland driver licence if the reason, or 1 of the reasons, for the decision is the person's mental or physical incapacity.

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***prescribed licence decision*** means a decision to suspend, cancel or immediately suspend a person’s licence if the reason, or 1 of the reasons, for the decision is the person’s mental or physical incapacity.

***reconsidered decision*** means the chief executive’s decision on the reconsideration of an original decision.

### **133 Change of name, address or postal address**

- (1) If the holder of a Queensland driver licence changes any of the following, the holder must notify the chief executive of the change within 14 days of the change—
  - (a) the holder’s name or address;
  - (b) if there is a current postal address for the holder—the postal address.

Maximum penalty—20 penalty units.

- (2) If the chief executive is satisfied the information given by the holder is correct, the chief executive must issue—
  - (a) for a change of name—a driver licence receipt stating the holder’s new name; or
  - (b) for a change of address—a change of address label.
- (3) On receipt of a change of address label under subsection (2)(b), the holder must promptly attach the label to the back of the licence, in the space provided for change of details labels.

Maximum penalty—20 penalty units.

### **134 Holder may apply for replacement licence if incorrect information on licence**

- (1) This section applies if the holder of a valid Queensland driver licence becomes aware or reasonably suspects the information stated on the licence is incorrect.
- (2) The holder may apply to the chief executive for the issue of a replacement licence.



*Note—*

See part 16A for requirements about the application.

- (3) Subject to section 129D(4) and (5), if the chief executive is satisfied the information given by the holder is correct, the chief executive must issue to the applicant a driver licence receipt stating the correct information.

### **135 Upgrading to smartcard driver licence**

- (1) This section applies to the holder of a valid Queensland driver licence that is not a smartcard driver licence.
- (2) The holder may apply to the chief executive to replace the licence with a smartcard driver licence.

*Note—*

See part 16A for requirements about the application.

- (3) The chief executive—
  - (a) may replace the licence with a smartcard driver licence for the same period as the unexpired period of the licence; and
  - (b) subject to section 129D(4) and (5), must issue to the holder a driver licence receipt.

### **136 Smartcard driver licence not received in post**

- (1) This section applies if—
  - (a) the chief executive issues a driver licence receipt to the holder of a Queensland driver licence; and
  - (b) the holder has not, within the time stated by the chief executive when the holder applied for the licence, received a smartcard driver licence in the post at—
    - (i) if there is a current postal address for the holder—the postal address; or
    - (ii) otherwise—the address stated in the application.

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- (2) The holder must promptly notify the chief executive that the holder has not received the smartcard driver licence.
- (3) If the chief executive is satisfied the holder has not received the smartcard driver licence because it has been lost or stolen, the chief executive may issue a new smartcard driver licence to the person.

### **137 Replacement licence if licence damaged, lost or stolen**

- (1) This section applies if the holder of a valid Queensland driver licence (the *original licence*) becomes aware, or reasonably suspects, the licence has been damaged, lost or stolen, other than a licence not received in the post under section 136.
- (2) The holder must promptly apply to the chief executive for a replacement licence.

Maximum penalty—20 penalty units.

*Note—*

See part 16A for requirements about the application.

- (3) Subject to section 129D(4) and (5), if the chief executive is satisfied the original licence has been damaged, lost or stolen, the chief executive must issue a driver licence receipt to the applicant.

### **138 Notifiable events under other Acts**

- (1) This section applies if the holder of a Queensland driver licence—
  - (a) has an obligation under the Act to notify the chief executive of a notifiable event; and
  - (b) has an obligation under a prescribed smartcard Act to notify the chief executive, or the general manager under the *Maritime Safety Queensland Act 2002*, of the same notifiable event; and
  - (c) complies with the obligation under the prescribed smartcard Act.

(2) The obligation under the Act to notify the chief executive of the notifiable event is taken to have been satisfied if any time allowed to make the notification under the Act has not expired.

(3) In this section—

***notifiable event***, for the holder of a Queensland driver licence, means any of the following—

- (a) a change of the holder's name;
- (b) a change of the holder's address;
- (c) if there is a current postal address for the holder—a change of the postal address.

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

- (a) the *Photo Identification Card Act 2008*;
- (b) the *Tow Truck Act 1973*;
- (c) the *Transport Operations (Marine Safety) Act 1994*;
- (d) the *Transport Operations (Passenger Transport) Act 1994*.

### 139 Replacement labels

(1) This section applies if the holder of a valid Queensland driver licence becomes aware, or reasonably suspects, a change of address label has been damaged, lost or stolen.

(2) The holder must promptly apply to the chief executive for a replacement label.

Maximum penalty—20 penalty units.

*Note*—

See part 16A for requirements about the application.

(3) Subject to section 129D(4) and (5), if the chief executive is satisfied the original label has been damaged, lost or stolen, the chief executive must issue a replacement label to the holder.

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- (4) On receipt of a replacement label, the holder must promptly attach the label to the back of the licence, in the space provided for change of details labels.

Maximum penalty—20 penalty units.

- (5) In this section—

*change of address label* means a label mentioned in section 133(2)(b).

#### **140 Replacement driver licence receipt**

- (1) This section applies if—

- (a) the chief executive issues a driver licence receipt (the *original receipt*) to a person; and
- (b) while the original receipt is in force, it is damaged, lost or stolen.

*Note—*

A driver licence receipt is superseded by the issue of a licence—see the Act, schedule 4 (Dictionary), definition *driver licence receipt*.

- (2) The person must promptly apply to the chief executive for a replacement driver licence receipt.

Maximum penalty—20 penalty units.

*Note—*

See part 16A for requirements about the application.

- (3) Subject to section 129D(4) and (5), if the chief executive is satisfied the original receipt has been damaged, lost or stolen, the chief executive must issue to the person a replacement driver licence receipt.

- (4) This section does not apply if section 137 applies.

#### **141 Damaging licences**

A person must not wilfully damage a Queensland driver licence.

Maximum penalty—20 penalty units.

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**143 Seizing licences**

- (1) This section applies if—
  - (a) a person produces an invalid Queensland driver licence to an authorised officer under section 49 of the Act; or
  - (b) an authorised officer finds an invalid Queensland driver licence.
- (2) The authorised officer may seize the licence.

**144 Codes on Queensland driver licences**

- (1) A licence type, class or condition may be stated on a Queensland driver licence by a code.
- (2) A code stated on a Queensland driver licence granted after 30 November 1999 indicates the corresponding driver licence type, class or condition mentioned in schedule 2, part 1.

**145 Deciding whether vehicle is a class HC vehicle—number of trailers**

To decide whether a vehicle is a class HC vehicle—

- (a) a converter dolly, and a semitrailer, when used together, are taken to be 1 trailer; and
- (b) a low loader and low loader dolly, when used together, are taken to be 1 trailer.

**146 Queensland driver licence may include information identifying holder of marine licence—Act, s 150A**

- (1) A person's Queensland driver licence may, by a marine licence indicator code, identify the person as a person to whom a marine licence has been granted.
- (2) A marine licence indicator code mentioned in schedule 2, part 2 stated on a person's Queensland driver licence identifies the person as a person to whom the corresponding marine licence mentioned in schedule 2, part 2 has been granted.

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- (3) A marine licence indicator condition code in schedule 2, part 2 stated on a person's Queensland driver licence indicates whether or not the person's marine licence is subject to a condition.

**148 Change of information on Queensland driver licence identifying holder of marine licence—change in conditions**

- (1) This section applies if—
  - (a) a person's Queensland driver licence has a marine licence indicator code mentioned in section 146(2) stated on it; and
  - (b) the person's marine licence is amended under the *Transport Operations (Marine Safety) Act 1994* to impose or remove a condition on the marine licence; and
  - (c) the person was required under the *Transport Operations (Marine Safety) Regulation 2016*, section 139 to return the person's marine licence indicator to the administering agency.
- (2) After receiving the person's Queensland driver licence, the chief executive must—
  - (a) amend the code on the driver licence; and
  - (b) give the person a driver licence receipt stating the conditions as amended.

**149 Removal of information on Queensland driver licence identifying holder of marine licence—marine licence cancelled**

- (1) This section applies if—
  - (a) a person's Queensland driver licence has a marine licence indicator code mentioned in section 146(2) stated on it; and
  - (b) the person's marine licence is cancelled under the *Transport Operations (Marine Safety) Act 1994*; and

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- (c) the person was required under a Marine Safety Act requirement to return the person's marine licence indicator to the chief executive.
  - (2) After receiving the person's Queensland driver licence, the chief executive must—
    - (a) remove the code from the driver licence; and
    - (b) give the person a driver licence receipt without the code on it.
  - (3) In this section—

***Marine Safety Act requirement*** means a requirement under—

    - (a) the *Transport Operations (Marine Safety) Act 1994*, section 202C; or
    - (b) the *Transport Operations (Marine Safety) Regulation 2016*, section 144.

**150 Removal of information on Queensland driver licence identifying holder of marine licence—marine licence surrendered**

- (1) This section applies if—
  - (a) a person's Queensland driver licence has a code mentioned in section 146(2) stated on it; and
  - (b) the person's marine licence is surrendered under the *Transport Operations (Marine Safety) Act 1994*.
- (2) The person must return the person's Queensland driver licence to the chief executive for the removal of the code from the driver licence.

Maximum penalty—20 penalty units.
- (3) After receiving the person's Queensland driver licence, the chief executive must—
  - (a) remove the code from the driver licence; and
  - (b) give the person a driver licence receipt without the code on it.

**151 Licence labels**

A label issued by the chief executive for attachment to a Queensland driver licence forms part of the licence for which it was issued when it is attached to the licence.

**152 Application for restricted licence—Act, s 81**

An application under section 81(7) of the Act must be in the approved form.

**153 Particular licences can not be held simultaneously**

- (1) To remove any doubt, it is declared that a person who holds a Queensland driver licence of a particular type is not eligible to be granted a Queensland driver licence of a different type.
- (2) Subsection (1) does not apply to a learner licence.

**154 Issue of restricted licences—Act, s 87**

- (1) An application by a person as mentioned in section 87(3A)(b) of the Act to a superintendent must be made as required under part 16A.
- (2) If a court has made an order under section 87 of the Act directing that the person be issued with a restricted licence, the superintendent must issue—
  - (a) if the person held a P provisional licence or open licence immediately before the disqualification that led to the order—a P restricted licence; or
  - (b) if the person held a P1 provisional licence immediately before the disqualification that led to the order—a P1 restricted licence; or
  - (c) if the person held a P2 provisional licence immediately before the disqualification that led to the order—a P2 restricted licence.
- (3) In this section—



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*disqualification* means a disqualification of the type mentioned in section 87(1) of the Act.

**155 Issue of P2 restricted licences**

- (1) This section applies to a person who—
  - (a) holds a P1 restricted licence; and
  - (b) has held a P1 type licence for at least 1 year; and
  - (c) applies, under section 87(3A)(b) of the Act, to a superintendent for a P2 restricted licence.
- (2) The superintendent must issue to the person a P2 restricted licence.

**156 Declaration for provisions that are not unlawful discrimination**

The following are declared not unlawful discrimination on the basis of age for the *Anti-Discrimination Act 1991*—

- (a) sections 8, 9, 10BA, 10E, 13, 14, 15, 16, 27 to 35, 41, 42, 61, 62 and 67 to 74;
- (b) provisions of the schedules relating to any of the sections mentioned in paragraph (a).

**157 Effect of suspension if licence must be held for a period**

If a person is required to hold a class or type of driver licence, other than a restricted licence, for a period, and the person's licence is suspended under the Act or another Act, the period is extended by the length of the period for which the licence is suspended.

**158 Disqualification from holding Queensland driver licence because of conviction under s 51**

- (1) This section applies if—

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- (a) an offender is convicted of an offence under section 51; and
  - (b) the court that convicts the offender is satisfied, having regard to the circumstances in which the offence was committed, the offender should, in the interests of justice, be disqualified from holding or obtaining a Queensland driver licence.
- (2) The court may, in addition to any penalty that may be imposed, order that the offender is, from the time of the conviction, disqualified absolutely, or for the period ordered by the court, from holding or obtaining a Queensland driver licence.

## **159 Fees**

The fees payable under the Act are stated in schedule 1.

## **160 Exemption from payment of particular fees**

- (1) The following persons are exempt from the payment of the fees mentioned in schedule 1, items 1 to 5 that are otherwise payable under this regulation—
- (a) the head of a consulate;
  - (b) a career officer of a consulate;
  - (c) the head of TECO in Brisbane;
  - (d) an officer of TECO in Brisbane;
  - (e) an immediate family member of a person mentioned in any of paragraphs (a) to (d).
- (2) A person is exempted from the payment of the fee mentioned in schedule 1, item 1 for a road rules test under section 10B(1), that is otherwise payable under this regulation, if—
- (a) the person is an applicant for a class RE licence; and
  - (b) the test is conducted using an online system; and

- (c) the person does not pass the test.
- (3) A person is exempt from the payment of the fees mentioned in schedule 1, items 12 and 13 for the release of information under section 77(1)(a) of the Act, that are otherwise payable under this regulation, if the information is—
  - (a) released using an online system; and
  - (b) for the fee mentioned in schedule 1, item 13—
    - (i) the current number of demerit points recorded on a person’s traffic history; and
    - (ii) the particulars of each demerit points offence or interstate offence for which the demerit points were recorded.
- (4) Also, a government entity of the State is exempt from the payment of the fees mentioned in schedule 1, items 12 and 13 for the release of information under section 77(1)(a) of the Act, that are otherwise payable under this regulation.
- (5) In this section—

***immediate family member***, of a person, means—

  - (a) the person’s spouse; or
  - (b) a child or stepchild of the person, if the child or stepchild is—
    - (i) under 21 years; or
    - (ii) at least 21 years but under 25 years and in full-time study.

***TECO*** means the Taipei Economic and Cultural Office under the *Taipei Economic and Cultural Office (Privileges and Immunities) Regulations 1998* (Cwlth).

## 161 Partial refund of fees

- (1) This section applies if—
  - (a) the holder of a valid Queensland driver licence has a mental or physical incapacity that is likely to adversely

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affect the holder's ability to drive safely and, before the licence expires—

- (i) the holder surrenders the licence under section 123; or
  - (ii) the chief executive cancels the licence under section 125; or
- (b) the holder of a valid Queensland driver licence dies before the licence expires.
- (2) The person who was the holder of the licence or, if subsection (1)(b) applies, the deceased's legal personal representative, may apply to the chief executive for a partial refund of the fee paid for the driver licence.

*Note—*

See part 16A for requirements about the application.

- (3) Subject to section 129D(4) and (5), if the chief executive is satisfied the information given by the applicant is correct, the chief executive must make the partial refund to the applicant.
- (4) The partial refund is to be worked out using the formula—

$$\text{refund} = \frac{LF \times WM}{LP}$$

where—

*LF* means the licence fee paid for the licence.

*LP* means the total period of the licence in months.

*WM* means the unexpired period of the licence in whole months.

- (5) The chief executive may deduct from the partial refund an amount decided by the chief executive to cover reasonable administrative costs.
- (6) Subsection (3) does not apply if the reasonable administrative costs are greater than the amount of the partial refund.

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**161A Waiving payment of particular fees for person affected by natural disaster**

- (1) This section applies if a person is required to pay a fee—
  - (a) for making a logbook available as mentioned in schedule 1, item 6; or
  - (b) for the issuing of a replacement licence under section 137.
- (2) The chief executive may waive the payment of the fee if satisfied the person applying for a logbook or replacement licence needs it because the previous licence or logbook was lost or damaged due to a natural disaster.

**161B Waiving payment of application fee for exemption from logbook requirement**

- (1) This section applies if a young driver is required to pay a fee for an application for an exemption from the logbook requirements under section 34(2).
- (2) The chief executive may waive the payment of the fee if the young driver lives in a community visited by a service, provided by the department, that assists persons in obtaining a driver licence.

*Example of a service—*

the Indigenous Driver Licensing Unit

**162 Licence granted to interstate licence holder—term and fees**

- (1) This section applies if an applicant for a Queensland driver licence is the holder of a valid interstate licence, other than a defence force licence.
- (2) If the chief executive decides to grant the Queensland driver licence, the chief executive may, at the choice of the applicant, grant the Queensland driver licence—
  - (a) for the same period as the unexpired period of the interstate licence; or

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- (b) for another period that includes the unexpired period.
- (3) Despite section 159 and schedule 1—
  - (a) if the licence is granted only for the same period as the unexpired period, no fee is payable for the licence; and
  - (b) if the licence is granted for another period that includes the unexpired period, no fee is payable for the licence to the extent the licence is for the unexpired period.

### **162A Reduced fee for grant of particular class C learner licences**

- (1) This section applies in relation to an applicant for a class C learner licence if the applicant—
  - (a) is, after the commencement, issued a photo identification card; and
  - (b) has never held an Australian driver licence.
- (2) If the chief executive decides to grant the class C learner licence, the fee payable for the licence is the fee stated in schedule 1, item 4(a)(i).
- (3) In this section—

*photo identification card* means a photo identification card issued under the *Photo Identification Card Act 2008*.

## **Part 18 Repeal**

### **163 Repeal**

The *Transport Operations (Road Use Management—Driver Licensing) Regulation 1999*, SL No. 301 is repealed.

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## **Part 19**                      **Transitional provisions**

### **Division 1**                      **Transitional provisions for Transport Operations (Road Use Management—Driver Licensing) Regulation 2010**

#### **164**      **Licence codes M and V**

- (1) A medical certificate under the repealed regulation, schedule 2, part 1, entry for licence code M as in force immediately before the commencement of this section is taken to be in the approved form for schedule 2, part 1, entry for licence code M.
- (2) A vehicle modification notice under the repealed regulation, schedule 2, part 1, entry for licence code V as in force immediately before the commencement of this section is taken to be a notice mentioned in schedule 2, part 1, entry for licence code V.

#### **165**      **References to repealed regulation**

In an Act or other document, a reference to the *Transport Operations (Road Use Management—Driver Licensing) Regulation 1999* may, if the context permits, be taken to be a reference to this regulation.

### **Division 2**                      **Transitional provisions for Transport Operations (Road Use Management—Driver Licensing) Amendment Regulation (No. 1) 2012**

#### **166**      **Definition for div 2**

In this division—

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*commencement* means the day on which this section commences.

### **167 Continuous 1-year period under s 79A**

Section 79A applies to a person if—

- (a) the first day of the continuous 1-year period mentioned in section 79A(1)(a)(ii), 79A(1)(b)(ii), 79A(1)(c)(ii) or 79A(1)(d)(ii) is before, on or after the commencement; and
- (b) the last day of the period is on or after the commencement.

### **168 Application of s 79A to particular persons to whom demerit points allocated during good behaviour period**

(1) This section applies if—

- (a) the requirements of section 79(1)(a) or (b) are satisfied for a person before the commencement; and
- (b) before, on or after the commencement, a notice to choose is given to the person; and
- (c) the person notified the chief executive on or before the choice day that the person chooses for section 79(3)(b) to apply; and
- (d) the period of 1 year starting on the sanction day (the *good behaviour period*) ends on or after the commencement; and
- (e) during the good behaviour period, 2 or more demerit points are allocated to the person's traffic history.

(2) Section 79A does not apply to the person in relation to the demerit points allocated to the person's traffic history during the good behaviour period.



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**169 Application of s 79A to particular persons to whom demerit points allocated before commencement**

- (1) Subsection (2) applies if—
  - (a) before the commencement, 4 or more demerit points were allocated to a person’s traffic history in a continuous 1-year period; and
  - (b) the person either—
    - (i) did not hold a driver licence during the period; or
    - (ii) held a class C learner licence or driver licence granted outside Queensland that corresponds to a class C learner licence but did not hold an O type licence, for part of the period or for the entire period; and
  - (c) on or after the commencement—
    - (i) the demerit points are recorded on the person’s traffic history; and
    - (ii) the person holds a Queensland driver licence.
- (2) Section 79A does not apply to the person in relation to the demerit points mentioned in subsection (1)(a).
- (3) Subsection (4) applies if—
  - (a) for the notice to choose given in relation to the demerit points mentioned in subsection (1)(a), the person chooses for section 79(3)(b) to apply; and
  - (b) during the period of 1 year starting on the sanction day 2 or more demerit points are allocated to the person’s traffic history.
- (4) Section 79A does not apply to the person in relation to the demerit points mentioned in subsection (3)(b).

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### **Division 3                      Transitional provision for Transport and Other Legislation Amendment Regulation (No. 1) 2013**

#### **170      Existing medical certificates**

- (1) This section applies to a person who, immediately before the commencement of this section, held an existing medical certificate.
- (2) The existing medical certificate is taken to be a valid medical certificate for section 66 until the end of the expiry date stated in the certificate.
- (3) In this section—

*existing medical certificate* means a medical certificate mentioned in section 66(1)(a), as in force immediately before the commencement of this section.

### **Division 4                      Transitional provisions for Transport and Other Legislation Amendment Regulation (No. 3) 2013**

#### **171      Definitions for pt 19, div 4**

In this division—

*commencement* means commencement of this section.

*former*, for a provision, means the provision as in force immediately before the commencement.

#### **172      Continuation of current class UD licences issued before commencement**

- (1) This section applies to a person who—
  - (a) immediately before the commencement held a class UD licence; or

- 
- (b) in the 5 years before the commencement held a class UD licence.
- (2) After the commencement—
- (a) for a person who held a class UD licence immediately before the commencement, the person continues to hold the licence and may apply to renew the licence; or
- (b) otherwise, the person may apply for a new class UD licence.
- (3) For an application under subsection (2) and a decision about the application, part 3 (and any relevant definitions) continue to apply as if the amendment regulation had not been made.
- (4) A valid class UD licence authorises the person to—
- (a) drive a class UD vehicle under the licence until the day that is 2 years after the commencement; and
- (b) drive a class UD vehicle, other than a mobile crane, under the licence from the day after the day mentioned in paragraph (a).
- (5) In this section—

*amendment regulation* means the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*.

*class UD vehicle* means a vehicle—

- (a) that is a specially constructed vehicle, with or without a trailer; but
- (b) is not a motorbike.

*mobile crane* means a mobile crane of more than 4.5t GVM.

*specially constructed vehicle* means a specially constructed vehicle under former schedule 9.

### 173 Continuation of former section 9 for particular current licence holders

- (1) This section applies to a person who, in the 5 years before the commencement, held—

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- (a) a P type licence; or
  - (b) a P1 type licence; or
  - (c) a P2 type licence; or
  - (d) an open licence.
- (2) Former section 9 continues to apply to the person.

**174 Person may take practical driving test for class RE or R licence if booked before commencement**

- (1) This section applies if—
- (a) before the commencement, a person had made an appointment to take a practical driving test for a class RE or R licence on a day that is after the commencement; and
  - (b) the person lives within a 100km radius of a Q-Ride training facility.
- (2) The person—
- (a) may take the practical driving test; and
  - (b) if the person passes the practical driving test—is taken to have complied with the requirement to obtain a competency declaration under section 10D.
- (3) Also, despite section 128(3), if the person holds a valid non-Queensland driver licence granted for a class of motor vehicle for which a class RE or R licence is required, the person is authorised to take the practical driving test.

**175 Applying for P2 time credit if eligible person passed hazard perception test before commencement**

- (1) This section applies to an eligible person under former section 16A who passed a hazard perception test before the commencement.
- (2) Former section 16A continues to apply to the eligible person.

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**176 Continuation of late night driving restriction before commencement**

- (1) This section applies to a person who—
  - (a) committed an offence before 1 January 2014; and
  - (b) because the person committed the offence one of the following happened, whether or not it happened on or after 1 January 2014—
    - (i) the person was given a notice to choose;
    - (ii) the person’s licence was suspended under section 79(5) or (9) or 86;
    - (iii) the person’s licence was disqualified; and
  - (c) satisfied the requirements under either former section 72(1)(a) or (b).
- (2) Former section 72 continues to apply to the person during the period of 1 year beginning on the relevant day.
- (3) In this section—

*relevant day* means the relevant day that applied to the person under former section 72.

**Division 5 Transitional provision for Transport and Other Legislation Amendment Regulation (No. 1) 2015**

**177 Mobile phone offences to which s 78A applies**

To remove any doubt, it is declared that section 78A applies to a mobile phone offence under that section only if the offence was committed on or after 1 September 2015.

## **Division 6**                      **Transitional provision for Transport and Other Legislation Amendment Regulation (No. 1) 2016**

### **178 Existing class RE licence holders**

- (1) This section applies to a person who, immediately before the commencement, held a class RE learner, provisional, probationary or open licence.
- (2) The following sections, as in force before the commencement, continue to apply to the person—
  - section 4(3);
  - section 13;
  - section 15;
  - section 18;
  - sections 41 to 44;
  - sections 46 to 49.

## **Division 7**                      **Transitional provision for Transport Legislation Amendment Regulation (No. 1) 2017**

### **179 Grounds for amending, suspending or cancelling particular licences**

- (1) This section applies if—
  - (a) a person holds a Queensland driver licence renewed under repealed part 7; and
  - (b) the person was not eligible for the renewal of the licence under repealed part 7.
- (2) The person's ineligibility for renewal of the licence under repealed part 7 is a ground for amending, suspending or cancelling the licence under part 15.

(3) In this section—

*repealed part 7* means part 7 as it was in force from time to time before the commencement.

## **Division 8                      Transitional provisions for Transport and Other Legislation Amendment Regulation (No. 2) 2019**

### **180      Application of s 120 to particular persons allocated demerit points before, on or after commencement**

(1) This section applies if—

(a) the requirements of section 120(1)(a) to (d), as in force immediately before the commencement, are satisfied for a person before the commencement; and

(b) either—

(i) before the commencement, demerit points were recorded on the person's traffic history; or

(ii) on or after the commencement, demerit points are recorded on the person's traffic history.

(2) Section 120, as in force immediately before the commencement, continues to apply in relation to the person.

### **181      Application of s 121 to particular persons allocated demerit points before, on or after commencement**

(1) This section applies if—

(a) the requirements of section 121(1)(a) and (b), as in force immediately before the commencement, are satisfied for a person before the commencement; and

(b) either—

(i) before the commencement, demerit points were recorded on the person's traffic history; or

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- (ii) on or after the commencement, demerit points are recorded on the person's traffic history.
- (2) Section 121, as in force immediately before the commencement, continues to apply in relation to the person.

**182 Application of ss 120 and 121 as amended by Transport and Other Legislation Amendment Regulation (No. 2) 2019**

Sections 120 and 121 as amended by the *Transport and Other Legislation Amendment Regulation (No. 2) 2019* apply in relation to a person to whom a special hardship order, made on or after 1 July 2019, applies.

**Division 9 Transitional provisions for Transport Operations (Road Use Management—Driver Licensing) (Hazard Perception Test) Amendment Regulation 2021**

**183 Obligation for hazard perception test for class C and class RE learner licence holders**

- (1) Subsection (2) applies to a person who, immediately before the commencement—
  - (a) was the holder of a class C learner licence; and
  - (b) has completed a practical driving test.
- (2) The person must pass a hazard perception test for a class C vehicle before the person applies for—
  - (a) a class C P1 type licence; or
  - (b) a class C P2 type licence; or
  - (c) a class C open licence.
- (3) Subsection (4) applies to a person who, immediately before the commencement—



- (a) was the holder of a class RE learner licence; and
  - (b) has obtained a competency declaration, or passed a practical driving test for a class RE or class R motorbike.
- (4) The person must pass a hazard perception test for a motorbike before the person applies for—
- (a) a class RE licence; or
  - (b) a class R licence.

#### **184 Continuing obligation for hazard perception test for particular persons**

- (1) This section applies to a person if—
- (a) immediately before the commencement, the person was the holder of a class C P1 type licence; or
  - (b) both of the following apply in relation to the person—
    - (i) the person was the holder of a class C P1 type licence that stopped being valid before the commencement;
    - (ii) the person has not held, since the licence stopped being valid, an interstate licence or foreign driver licence that corresponds to a class C P1 type licence; or
  - (c) both of the following apply in relation to the person—
    - (i) the person is a returning driver whose last valid licence was a class C P1 type licence that stopped being valid before the commencement;
    - (ii) on or after the commencement, the person is granted a class C P1 type licence.
- (2) Sections 10E and 155, as in force immediately before the commencement, continue to apply to the person.
- (3) However, if the person applies for a class RE learner licence, section 10E(3) and (4) applies to the person.

**Division 10**                      **Transitional provision for Transport  
Legislation Amendment Regulation  
2021**

**185**    **Former approved interlocks**

- (1) This section applies if, before the commencement, a person satisfied section 91N(1)(a) of the Act for a period because the person had a nominated vehicle fitted with a former approved interlock.
- (2) The period continues to be a period for which the person has satisfied section 91N(1)(a) of the Act.
- (3) In this section—

*former approved interlock* means an interlock that was an approved interlock before the commencement but is not an approved interlock on the commencement.

## Schedule 1 Fees

section 159

	\$
1 Road rules test under section 10B(1)	25.75
2 Practical driving test under section 10C(1) or 10D(1)(b)(ii) or (2)(b)(ii)	60.25
3 Hazard perception test under section 10E	37.05
4 Grant of a learner licence under section 23—	
(a) for each 3 year period—	
(i) if section 162A applies	137.30
(ii) otherwise	178.95
(b) additional fee for grant of licence with licence code I	325.35
4A Renewal of a learner licence under section 23 for each 3 year period that starts—	
(i) on or before 30 June 2021	178.95
(ii) on or after 1 July 2021	182.00
5 Grant of a probationary licence, provisional licence, open licence or restricted licence under section 23—	
(a) for a 1 year licence	82.15
(b) for a 2 year licence	114.55
(c) for a 3 year licence	141.70
(d) for a 4 year licence	163.95
(e) for a 5 year licence	183.95
(f) additional fee for grant of licence with licence code I	325.35

## Schedule 1

	\$
5A Renewal of a probationary licence, provisional licence, open licence or restricted licence under section 23—	
(a) for a period that starts on or before 30 June 2021—	
(i) for a 1 year licence	82.15
(ii) for a 2 year licence	114.55
(iii) for a 3 year licence	141.70
(iv) for a 4 year licence	163.95
(v) for a 5 year licence	183.95
(b) for a period that starts on or after 1 July 2021—	
(i) for a 1 year licence	83.55
(ii) for a 2 year licence	116.50
(iii) for a 3 year licence	144.10
(iv) for a 4 year licence	166.75
(v) for a 5 year licence	187.10
6 Making a logbook available under section 30(3)	22.45
7 Application under section 34 for an exemption from the logbook requirements	44.65
8 Application under section 71 or 71A for a certificate of exemption relating to a high-powered vehicle	44.65
9 Application under section 73 for a certificate of exemption relating to late night driving	44.65
10 Issue of a replacement licence under section 114	78.75
11 Issue of a replacement Queensland driver licence under section 135 or 137	78.75
12 Release of information under section 77(1) of the Act about a person's Queensland driver licence	25.05

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13 Release of information under section 77(1) of the Act about a person's traffic history	25.05
14 Issue of a replacement licence under section 79F of the Act	78.75
15 Application under section 91P of the Act for an interlock exemption	43.15

## **Schedule 2      Licence codes**

sections 144(2) and 146(2) and (3)

### **Part 1                      Licence codes, other than marine licence indicator codes and indicator condition codes**

<b>Code</b>	<b>Type</b>
L	learner licence
P1	P1 provisional licence, P1 probationary licence or P1 restricted licence
P2	P2 provisional licence, P2 probationary licence or P2 restricted licence
P	P provisional licence, P probationary licence or P restricted licence
O	open licence
D	replacement licence

<b>Code</b>	<b>Class</b>
RE	a learner approved motorbike that is a moped a learner approved motorbike, other than a moped, with or without a trailer
R	a class RE vehicle a motorbike, with or without a trailer
C	a moped

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<b>Code</b>	<b>Class</b>
	a motor vehicle, other than a motorbike, of not more than 4.5t GVM, built or fitted to carry no more than 12 adults, including the driver, with or without a trailer
	a specially constructed vehicle, with or without a trailer
LR	a class C vehicle
	a bus of not more than 8t GVM, with or without a trailer of not more than 9t GVM
	a truck, including a prime mover and a mobile crane, of not more than 8t GVM, with or without a trailer of not more than 9t GVM
MR	a class LR vehicle
	a bus of more than 8t GVM with not more than 2 axles, with or without a trailer of not more than 9t GVM
	a truck, including a prime mover and a mobile crane, of more than 8t GVM, with not more than 2 axles, with or without a trailer of not more than 9t GVM
HR	a class MR vehicle
	a bus, of more than 8t GVM, with more than 2 axles, with or without a trailer of not more than 9t GVM
	an articulated bus
	a truck, including a prime mover and a mobile crane, of more than 8t GVM, with more than 2 axles, with or without a trailer of not more than 9t GVM
HC	a class HR vehicle
	a truck, including a prime mover and a mobile crane, of more than 8t GVM, with a trailer of more than 9t GVM
MC	a class HC vehicle
	a B-double

Schedule 2

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**Code**      **Class**

a road train

**Code**      **Condition**

- A      licensee may only drive vehicle with automatic transmission
- B      licensee may only drive vehicle with synchromesh gearbox
- I      licensee may only drive a nominated vehicle fitted with a prescribed interlock, or while carrying, and in accordance with, an exemption certificate given under section 91R(3) of the Act
- M      licensee may only drive while carrying, and in accordance with, a current medical certificate in the approved form
- RD      licensee may learn to drive a class of vehicle stated in the returning driver certificate issued to the licensee while carrying the certificate
- S      licensee may only drive while wearing corrective lenses
- V      licensee may only drive a vehicle fitted with the driver aids, or equipped or adapted, in the way stated in a written notice given to the licensee by the chief executive, and only while carrying the notice
- X1      licensee may only drive while carrying, and in accordance with, an order under section 87 or 88 of the Act
- X3      licensee may only drive while carrying, and in accordance with, a special hardship order and any special hardship variation order
- X4      licensee may only drive while carrying, and in accordance with, a section 79E order and any section 79E variation order



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## **Part 2**                      **Marine licence indicator codes and indicator condition codes**

**Code**            **Marine licence**

RMDL            recreational marine driver licence

PWCL            personal watercraft licence

**Code**            **Condition**

N                marine licence is not subject to a condition

Y                marine licence is subject to a condition

## **Schedule 3      Demerit points**

section 75

### **Part 1                      8 demerit point offences**

#### **1            Speeding—more than 40km/h over the speed limit**

The number of points for a contravention of the Queensland Road Rules, section 20 by driving more than 40km/h over the speed limit is 8.

### **Part 2                      6 demerit point offences**

#### **2            Speeding—30–40km/h over the speed limit**

The number of points for a contravention of the Queensland Road Rules, section 20 by driving more than 30km/h, but not more than 40km/h, over the speed limit is 6.

### **Part 3                      4 demerit point offences**

#### **3            Speeding—20–30km/h over the speed limit**

The number of points for a contravention of the Queensland Road Rules, section 20 by driving more than 20km/h, but not more than 30km/h, over the speed limit is 4.

#### **3A          Disobeying clearance sign or low clearance sign**

The number of points for a contravention of the Queensland Road Rules, section 102(1) is 4.

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**3AB Driver must not damage rail infrastructure or obstruct level crossing**

The number of points for a contravention of the Queensland Road Rules, section 300D(1) or (2) is 4.

**3B Learner driving while not under direction of licensed driver**

The number of points for a contravention of section 4(7) or 5(11) of this regulation is 4.

**3C Failing to comply with maximum work and minimum rest requirements—critical risk breach**

The number of points for a contravention, that is a critical risk breach, of the following provisions of the *Heavy Vehicle National Law (Queensland)* is 4—

- section 250(1)
- section 251(1)
- section 254(1)
- section 256(1)
- section 258(1)
- section 260(1).

**3D Particular licence holders using mobile phones**

The number of points for a contravention of section 68(2) of this regulation is 4.

**3E Using mobile phones**

The number of points for a contravention of the Queensland Road Rules, section 300(1) is 4.

## **Part 4** **3 demerit point offences**

### **4 Careless driving**

The number of points for a contravention of each of the following provisions is 3—

- section 83 of the Act
- section 80(1) of the Queensland Road Rules
- section 81(1) of the Queensland Road Rules
- section 162(1) of the Queensland Road Rules.

### **6 Contravening high-powered vehicle restriction**

The number of points for a contravention of section 70(2) of this regulation is 3.

### **7 Contravening late night driving restriction**

The number of points for a contravention of section 72(3) of this regulation is 3.

### **8 Contravening peer passenger restriction**

The number of points for a contravention of section 74(2) of this regulation is 3.

### **10 Disobeying emergency traffic sign installed under Act, s 71(1)**

The number of points for a contravention of section 74(1) of the Act relating to an indication given by a sign installed under section 71(1) of the Act is 3.

**11 Disobeying particular red or yellow traffic lights, T lights or arrows**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 56(1) or (2)
- section 57(1) or (2)
- section 59(1)
- section 60
- section 61(2)
- section 66(1) or (4)
- section 123(a)
- section 152(1), so far as it relates to section 152(2) or (3)
- section 274
- section 275
- section 277
- section 279(2)
- section 281
- section 284.

**12 Disobeying stop or give way sign and other particular traffic control devices**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 39(1) or (2)
- section 41
- section 63(2)
- section 67(2), (3) or (4)
- section 68(2) or (3)
- section 69(2), (2A) or (3)

Schedule 3

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- section 69A
- section 70
- section 71(1)
- section 80(2)(a) or (3)
- section 88(1) or (2)
- section 89(1) or (2)
- section 90
- section 91(1) or (2)
- section 92(1)
- section 93(1)(a) or (b)
- section 94
- section 96(1)
- section 97(1)
- section 98(1)
- section 99(1) or (2)
- section 100
- section 101(1) or (2)
- section 103(1) or (2)
- section 104(1), (2) or (3)
- section 105
- section 106(1), (2) or (3)
- section 107
- section 108(1)
- section 114(1)
- section 121
- section 122
- section 123(b)
- section 152(1), so far as it relates to section 152(4)

- section 155A(1)
- section 282
- section 286(2).

**13 Disobeying traffic lane arrows in roundabout**

The number of points for a contravention of the Queensland Road Rules, section 116 is 3.

**14 Driver failing to ensure passenger complies with particular requirement about wearing seat belt or occupying seating position**

The number of points for a contravention of the Queensland Road Rules, section 265(3) is 3.

**15 Driving on safety ramp or arrester bed when not permitted**

The number of points for a contravention of the Queensland Road Rules, section 101A(1) is 3.

**17 Driving vehicle exceeding carrying capacity**

The number of points for a contravention of each of the following provisions of the *Traffic Regulation 1962* is 3—

- section 76(1) or (2)
- section 77(1).

**18 Driving with person in or on trailer or prohibited part of vehicle**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 268(4A)
- section 268(4B)
- section 298.

**19 Driving with television receiver or visual display unit visible or likely to distract**

The number of points for a contravention of the Queensland Road Rules, section 299(1)(a) or (b) is 3.

**20 Entering level crossing when train or tram approaching**

The number of points for a contravention of the Queensland Road Rules, section 123(c), (d) or (e) is 3.

**23 Failing to give way, other than by disobeying a traffic sign**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 38
- section 62(1)(a), (aa), (b) or (c)
- section 63(3)
- section 64(a), (b), (ba) or (c)
- section 65(2)
- section 72(1)
- section 73(1)
- section 74(1)
- section 75(1)
- section 77(1)
- section 79(1)
- section 80(2)(b) or (4)
- section 81(2)
- section 83
- section 84(1)
- section 85
- section 86(1)
- section 87(1) or (3)



- section 114(2)
- section 148(1) or (2)
- section 148A
- section 149
- section 288(4)
- section 289(2).

**23A Failing to keep a safe lateral distance when passing bicycle rider**

The number of points for a contravention of the Queensland Road Rules, section 144A(1) is 3.

**24 Failing to keep clear of police and emergency vehicles**

The number of points for a contravention of the Queensland Road Rules, section 78(1) or (2) is 3.

**25 Failing to keep left or keep off painted island**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 132(2) or (3)
- section 138(1).

**25A Unlawful lane filtering**

The number of points for a contravention of the Queensland Road Rules, section 151A(2) is 3.

**25B Unlawful edge filtering**

The number of points for a contravention of the Queensland Road Rules, section 151B(2) is 3.

**26 Failing to wear helmet, seat belt or restraint**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 264(1)
- section 265(1)
- section 266(1)
- section 270(1)(a)
- section 270(1)(b)
- section 270(2).

**28 Improper turns**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 3—

- section 29(1)
- section 33(1) for a contravention of section 33(2) of the Queensland Road Rules
- section 42
- section 132(2A).

**30 Speeding—13–20km/h over the speed limit**

The number of points for a contravention of the Queensland Road Rules, section 20 by driving at least 13km/h, but not more than 20km/h, over the speed limit is 3.

**32 Using vehicle not in safe condition**

The number of points for a contravention of the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*, section 5(1)(a)(iv) is 3.

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**33 Vehicle entering bicycle storage area before traffic lights showing a red traffic light**

The number of points for a contravention of the Queensland Road Rules, section 60A(1) or (2) is 3.

**34 Driving fatigue-regulated heavy vehicle while impaired by fatigue**

The number of points for a contravention of the *Heavy Vehicle National Law (Queensland)*, section 228(1) is 3.

**35 Failing to comply with maximum work and minimum rest requirements—severe risk breach**

The number of points for a contravention, that is a severe risk breach, of the following provisions of the *Heavy Vehicle National Law (Queensland)* is 3—

- section 250(1)
- section 251(1)
- section 254(1)
- section 256(1)
- section 258(1)
- section 260(1).

**35A Using defective heavy vehicles contrary to vehicle defect notice—major defect notice**

The number of points for a contravention, by the driver of a heavy vehicle, of the *Heavy Vehicle National Law (Queensland)*, section 529 if a major defect notice is contravened is 3.



- section 130(2)
- section 135(1)
- section 136.

#### **41 Failing to use slip lane**

The number of points for a contravention of the Queensland Road Rules, section 28(1A) is 2.

#### **42 Improper overtaking, passing or driving to the right of centre of road**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 2—

- section 131(1)
- section 132(1)
- section 140
- section 141(1)
- section 142(1)
- section 143(1) or (2)
- section 144.

#### **43 Improper passing or overtaking of trams**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 2—

- section 160(2) or (3)
- section 161(2) or (3)
- section 163(2), (3) or (4)
- section 164(2), (3) or (4)
- section 164AA(2) or (3).

**44 Improper turn, other than U-turn**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 2—

- section 27(1)
- section 28(1)
- section 31(1)
- section 32(1)
- section 37
- section 40
- section 111(1).

**45 Increasing speed when being overtaken**

The number of points for a contravention of the Queensland Road Rules, section 145 is 2.

**46 Injurious matter on roads**

The number of points for a contravention of section 137(1) of the Act is 2.

**47 Unnecessary noise or smoke from vehicle**

The number of points for a contravention of the Queensland Road Rules, section 291(1)(b) is 2.

**Part 6 1 demerit point offences**

**48 Dazzling road users**

The number of points for a contravention of the Queensland Road Rules, section 219 is 1.

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**49 Failing to comply with condition stated on Queensland driver licence**

The number of points for a contravention of section 25(2) of this regulation is 1.

**50 Failing to comply with condition of non-Queensland driver licence**

The number of points for a contravention of section 128(2) of this regulation is 1.

**51 Failing to dip headlights**

The number of points for a contravention of the Queensland Road Rules, section 218(1)(a) or (b) is 1.

**52 Failing to have lights lit**

The number of points for a contravention of the Queensland Road Rules, section 215(1) is 1.

**53 Failing to produce certificate of exemption for driving high-powered vehicle**

The number of points for a contravention of section 70(4) of this regulation is 1.

**54 Failing to produce certificate of exemption for late night driving**

The number of points for a contravention of section 72(5) of this regulation is 1.

**55 Following too closely**

The number of points for a contravention of each of the following provisions of the Queensland Road Rules is 1—

- section 126

- section 127(1).

**56 Improper vehicle equipment, construction or loading**

The number of points for a contravention of the following sections of the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010* is 1—

- section 5(1)(a)(i), (ii), (iii), (v) or (vi) or (b)
- section 10(1)(d) or 11.

**57 Speeding—less than 13km/h over the speed limit**

The number of points for a contravention of the Queensland Road Rules, section 20 by driving less than 13km/h over the speed limit is 1.

**58 Using defective heavy vehicles contrary to vehicle defect notice—minor defect notice**

The number of points for a contravention, by the driver of a heavy vehicle, of the *Heavy Vehicle National Law (Queensland)*, section 529 if a minor defect notice is contravened is 1.



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## **Schedule 5      Remote area**

section 21(6)(b)

Aramac  
Aurukun  
Balonne  
Barcaldine  
Barcoo  
Bauhinia  
Belyando  
Bendemere  
Blackall  
Booringa  
Boulia  
Bowen  
Broadsound  
Bulloo  
Bungil  
Burke  
Carpentaria  
Cloncurry  
Cook  
Croydon  
Dalrymple  
Diamantina  
Doomadgee  
Duarina

Schedule 5

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Emerald  
Etheridge  
Flinders  
Herberton  
Hope Vale  
Ilfracombe  
Injinoo  
Isisford  
Jericho  
Kowanyama  
Lockhart River  
Longreach  
Mapoon  
Mareeba  
McKinlay  
Mornington  
Mount Isa  
Murilla  
Murweh  
Napranum  
Nebo  
New Mapoon  
Paroo  
Peak Downs  
Pormpuraaw  
Quilpie  
Richmond  
Tambo

Tara

Taroom

Umagico

Waggamba

Warroo

Winton

Woorabinda

Wujal Wujal

## **Schedule 6      Exempted high-powered vehicles**

schedule 9, definition *high-powered vehicle*

<b>Model</b>	<b>Engine capacity</b>	<b>Year of model</b>
Daihatsu Copen L880 2D Convertible Turbo	659cc	2003 or later
Smart Fortwo Coupe 2D Turbo 3	698cc	2000 or later
Smart Fortwo Cabriolet Turbo 3 2D	698cc	2000 or later
Smart Roadster Turbo 3 2D	698cc	2000 or later
Suzuki Cappuccino 2D Cabriolet Turbo	657 or 658cc	1992 to 1997

## **Schedule 7      Prescribed motorbikes**

schedule 9, definition *prescribed motorbike*

Aprilia RS250

Honda NSR250

Kawasaki KR250 (KR-1 and KR1s models)

Suzuki RGV250

Yamaha TZR250

## Schedule 9 Dictionary

### section 3

**1 year licence**, in relation to the payment of a fee for a licence, means a licence issued or renewed for a period of not more than a year.

**2 year licence**, in relation to the payment of a fee for a licence, means a licence issued or renewed for a period of more than 1 year but not more than 2 years.

**3 year licence**, in relation to the payment of a fee for a licence, means a licence issued or renewed for a period of more than 2 years but not more than 3 years.

**4 year licence**, in relation to the payment of a fee for a licence, means a licence issued or renewed for a period of more than 3 years but not more than 4 years.

**5 year licence**, in relation to the payment of a fee for a licence, means a licence issued or renewed for a period of more than 4 years but not more than 5 years.

**application**, for part 16A, see section 129A.

**approved carer**, of a person, means—

- (a) if the person is a child—a person who is an approved foster carer or approved kinship carer for the child; or
- (b) if the person is an adult—a person who was an approved foster carer or approved kinship carer for the adult when the adult was a child, and with whom the adult lives.

**approved foster carer**, for a child, means an approved foster carer under the *Child Protection Act 1999*, schedule 3, in whose care the child is placed under section 82 of that Act.

**approved kinship carer**, for a child, has the meaning given by the *Child Protection Act 1999*, schedule 3.

**choice day** means the last day on which a person is able to make a choice under a notice to choose.

**class**, of vehicle, means a vehicle that is authorised to be driven under a class of licence.

*Example—*

A class C vehicle is a moped, or a car with or without a trailer.

**competency declaration** means a valid competency declaration under the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*, other than a competency declaration (learner).

**competency declaration (learner)** means a valid competency declaration under the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015* that declares the person named in the declaration has attained the competencies required under the Q-Ride training curriculum to learn to ride a class RE motorbike.

**converter dolly** means a trailer with a fifth wheel coupling designed to support a semitrailer for hauling purposes.

**corresponding WHS law** see the *Work Health and Safety Act 2011*, schedule 5.

**critical risk breach**, for a contravention of a provision of the *Heavy Vehicle National Law (Queensland)*, means a contravention of the provision declared in that Law to be a critical risk breach.

**current postal address**, for a person, means a postal address—

- (a) given by the person to the department for use by the department (whether or not it was given for the purpose of this regulation); and
- (b) for which no written or oral notice from the person, requiring the department to discontinue use of the postal address, has been received by the department.

**damaged—**

- 1 **Damaged**, in relation to a document other than a smartcard driver licence, includes—
  - (a) destroyed; or

- (b) defaced; or
  - (c) damaged to the extent that any information, including a photo, on the licence is unrecognisable.
- 2 *Damaged*, in relation to a smartcard driver licence—
- (a) means—
    - (i) the licence is damaged to an extent that—
      - (A) any information on the licence is impossible or difficult to read with or without the use of technology; or
      - (B) a digital photo or a digitised signature on the licence is impossible or difficult to recognise with or without the use of technology; or
    - (ii) any information stored electronically on the licence is no longer accessible by using the holder's PIN; and
  - (b) includes destroyed.

***decision-maker***, for part 16A, see section 129A.

***defence force licence*** means a driver licence granted by the Australian Defence Force.

***defence force member*** means—

- (a) a person on full-time permanent service with the Australian Defence Force; or
- (b) a person on full-time duty with the Australian Defence Force Reserve.

***demerit points offence*** means an offence, other than an offence committed by a person while riding a bicycle, against a provision mentioned in schedule 3.

***destroy***, a driver licence, includes damage the licence so that any information, including a photo, on the licence is unrecognisable.

***driver trainer*** means a person accredited as a driver trainer under the *Transport Operations (Road Use*



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*Management—Accreditation and Other Provisions*)  
*Regulation 2015.*

***driving session*** means a single occasion of supervised driving in a car on a road.

***earthmoving equipment*** means—

- (a) a dozer; or
- (b) a road roller with an engine capacity over 2L; or
- (c) a skid steer loader with an engine capacity over 2L; or
- (d) a scraper; or
- (e) an excavator with an engine capacity over 2L; or
- (f) a front end loader with an engine capacity over 2L; or
- (g) a front end loader or backhoe with an engine capacity over 2L; or
- (h) a grader.

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

***eligible family member***, of a defence force member, means a person who—

- (a) resides with the defence force member; and
- (b) is entitled to be transferred with the defence force member at the expense of the Australian Defence Force.

***emergency service worker*** means—

- (a) a fire officer under the *Fire and Emergency Services Act 1990*; or
- (b) a service officer under the *Ambulance Service Act 1991*.

***exempted police driver*** means any of the following—

- (a) a police officer;
- (b) a watch-house officer within the meaning of the *Police Service Administration Act 1990*;
- (c) a special constable within the meaning of the *Police Service Administration Act 1990*;

- (d) a community police officer within the meaning of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*;
- (e) a person appointed by the commissioner under the *Public Service Act 2008*, chapter 5, part 5, as a police liaison officer;
- (f) a member of a police service of another State;
- (g) a police recruit within the meaning of the *Police Service Administration Act 1990* who is driving while accompanied by a police officer.

***experienced driver recognition country*** see section 3A.

***fifth wheel coupling*** means a device, other than the upper rotating element and the kingpin (that are parts of a semitrailer), used with a prime mover, semitrailer or a converter dolly to permit quick coupling and uncoupling and to provide for articulation.

***green P plate*** means a plate or sign with an area, measuring at least 146mm by 146mm, that shows only a green upper case letter ‘P’ clearly marked on a white background.

***guardian***, of a person, means—

- (a) if the person is a child—a person in whose favour a parenting order is in force under the *Family Law Act 1975* (Cwlth); or
- (b) if the person is an adult—a guardian appointed for the person under the *Guardianship and Administration Act 2000*.

***hazard perception test*** means a test—

- (a) designed to measure the ability of a driver to recognise and respond appropriately to driving situations that are potentially dangerous; and
- (b) published on the Queensland government’s website.

***health professional*** see section 142(3) of the Act.

***high-powered vehicle*** means a car, other than a car mentioned in schedule 6—

- 
- (a) that was manufactured before 1 January 2010 and that has at least 1 of the following—
    - (i) 8 or more cylinders;
    - (ii) a turbocharged engine that is not diesel powered;
    - (iii) a supercharged engine that is not diesel powered;
    - (iv) an engine that has a power output of more than 210kW under the manufacturer's specifications for the car;
    - (v) a rotary engine that has an engine capacity of more than 1,146 cc under the manufacturer's specifications for the car; or
  - (b) that was manufactured on or after 1 January 2010 and has a power-to-weight ratio of more than 130kW/t; or
  - (c) that has a modification to the engine of a type that must be approved under the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*, section 13.

**information**, for part 16A, see section 129A.

**interstate offence** means an offence under a corresponding law that corresponds to a demerit points offence.

**kerb weight**, of a vehicle, means the kerb weight—

- (a) under the manufacturer's specifications for the vehicle; or
- (b) stated in a specification information test report for the vehicle.

**learner approved motorbike** see the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8.

**learner licence**, for part 5, division 3, see section 39.

**logbook**—

- (a) means a document, in the approved form, for use under this regulation to record the driving experience of a young driver; and

- (b) includes a document, in the approved form, for which details can be wholly or partly recorded and verified, as required under section 31(1), by using an electronic system.

**logbook requirements** means the requirements mentioned in section 29.

**low loader** means a gooseneck semitrailer with a loading deck 1m or less above the ground.

**low loader dolly** means a trailer that—

- (a) is of the type usually coupled between a prime mover and a low loader; and
- (b) consists of a gooseneck rigid frame; and
- (c) does not carry any load directly on itself; and
- (d) is equipped with 1 or more axles, a kingpin and a fifth wheel coupling.

**L plate** means a plate or sign with an area, measuring at least 146mm by 146mm, that shows only a black upper case letter ‘L’ clearly marked on a yellow background.

**major defect notice** see the *Heavy Vehicle National Law (Queensland)*, section 526(2)(a).

**marine licence** see the *Transport Operations (Marine Safety) Act 1994*, schedule 1.

**maximum engine power**, of a vehicle, means the maximum engine power—

- (a) under the manufacturer’s specifications for the vehicle; or
- (b) stated in a specification information test report for the vehicle.

**minor defect notice** see the *Heavy Vehicle National Law (Queensland)*, section 526(2)(b).

**mobile phone** does not include a CB radio or any other two-way radio.

**moped** means a motorbike—

- 
- (a) that either—
    - (i) is fitted with an electric motor; or
    - (ii) has an internal-combustion engine with an engine capacity of not more than 50mL; and
  - (b) that has a manufacturer's top rated speed of not more than 50km/h; and
  - (c) that is not a bicycle.

**night** means the period between sunset on a day and sunrise on the next day.

**notice to choose** see section 79(3).

**old licence** see section 16B(a).

**online road rules test** means a road rules test that is conducted using an online system.

**order period**, for a person in relation to whom a special hardship order applies, means the order period stated, under section 112(1)(a)(ii), in the order.

**O type licence** includes a driver licence granted outside Queensland that corresponds to an open licence.

**P probationary licence** means a probationary licence other than a P1 probationary licence or P2 probationary licence.

**P provisional licence** means a provisional licence other than a P1 provisional licence or P2 provisional licence.

**P restricted licence** means a restricted licence other than a P1 restricted licence or P2 restricted licence.

**P type licence** means a P provisional licence, P probationary licence or P restricted licence.

**P1 probationary licence** means a probationary licence that has the code P1 stated on the licence.

**P1 provisional licence** means a provisional licence that has the code P1 stated on the licence.

**P1 restricted licence** means a restricted licence that has the code P1 stated on the licence.

***P1 type licence*** means a P1 provisional licence, P1 probationary licence or P1 restricted licence.

***P2 probationary licence*** means a probationary licence that has the code P2 stated on the licence.

***P2 provisional licence*** means a provisional licence that has the code P2 stated on the licence.

***P2 restricted licence*** means a restricted licence that has the code P2 stated on the licence.

***P2 type licence*** means a P2 provisional licence, P2 probationary licence or P2 restricted licence.

***passenger***, on a motorbike, means a passenger—

- (a) on the pillion; or
- (b) in a sidecar attached to the motorbike.

***power-to-weight ratio***, of a vehicle, means the ratio (expressed in kilowatts per tonne) calculated by—

- (a) for a vehicle manufactured before 1 January 2010—
  - (i) dividing the vehicle's maximum engine power in kilowatts by the kerb weight in kilograms; and
  - (ii) multiplying the product of the division by 1,000; or

*Example—*

The power-to-weight ratio of a vehicle that has a maximum engine power of 195kW and a kerb weight of 1,667kg is calculated by dividing 195kW by 1,667kg and multiplying the product of the division by 1,000. In this example, the power-to-weight ratio is 117kW/t.

- (b) for a vehicle manufactured on or after 1 January 2010—
  - (i) dividing the vehicle's maximum engine power in kilowatts by the tare mass in kilograms; and
  - (ii) multiplying the product of the division by 1,000.

***practical driving test*** means a test of an applicant's practical ability to drive a vehicle.

*Example—*

An applicant doing a practical driving test may be required to do any of the following—

- (a) to drive the vehicle in a forward and reverse direction;
- (b) to drive the vehicle into or through a restricted space in a forward and reverse direction;
- (c) to stop the vehicle (with the engine running and the gears disengaged) during the ascent of a steep hill and restart the vehicle in a forward direction;
- (d) to drive the vehicle while the vehicle is carrying a load.

***prescribed motorbike*** means a motorbike mentioned in schedule 7.

***Q-Ride training*** has the meaning given by the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*.

***Q-Ride training area*** means a place where a registered service provider conducts Q-Ride training.

*Note—*

A registered service provider is required to notify the department of the place where it will conduct the Q-Ride training and to apply for approval to change that place under the Q-Ride Registered Service Provider Standards made under the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*, section 93.

A list of training locations and the Q-Ride Registered Service Provider Standards are published on the department's website [www.tmr.qld.gov.au](http://www.tmr.qld.gov.au).

***recognised country*** see section 3A.

***record***, in relation to a document that is a logbook and for which details can be wholly or partly recorded and verified, as required under section 31(1), by using an electronic system, includes record electronically by using the electronic system.

***red P plate*** means a plate or sign with an area, measuring at least 146mm by 146mm, that shows only a red upper case letter 'P' clearly marked on a white background.

***registered service provider*** see the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*, schedule 7.

***relevant charge***, for part 13, see section 90.

***relevant order*** means—

- (a) a section 79E order; or
- (b) a special hardship order under part 14.

**relevant provision**, for part 14, see section 104.

**repealed regulation** means the repealed *Transport Operations (Road Use Management—Driver Licensing) Regulation 1999*.

**requisite suspension period**, for the imposition of a sanction because of the allocation of demerit points, means—

- (a) for a sanction imposed because of section 79(1)(c), 80(1), 81(1) or 82(1)(c)—
  - (i) if the sanction is imposed because of the allocation of at least 20 demerit points—5 months; or
  - (ii) if the sanction is imposed because of the allocation of at least 16 but not more than 19 demerit points—4 months; or
  - (iii) if the sanction is imposed because of the allocation of not more than 15 demerit points—3 months; or
- (b) otherwise—3 months.

**returning driver** see section 16B.

**returning driver certificate** see section 16D(2)(b).

**road in Australia** includes a road in an external Territory.

**road rules test**, for an application for a class of Queensland driver licence, means a test designed to measure the applicant's knowledge of matters and appropriate behaviour that are—

- (a) relevant to the class of licence applied for; and
- (b) published on the Queensland government's website.

**sanction day** of a licence stated in a notice to choose means—

- (a) if the person notifies the chief executive of the person's choice on or before the choice day—
  - (i) the choice day; or



- (ii) an earlier day, not before the day on which the person gives the notice to the chief executive, chosen by the person; or
- (b) if the person fails to notify the chief executive of the person's choice on or before the choice day—the day after the choice day; or
- (c) if the licence expires or is surrendered between the day the notice to choose is issued and the choice day—the day after the choice day.

**section 79E variation order** see section 96.

**severe hardship** means severe hardship suffered by—

- (a) the applicant; or
- (b) the applicant's family because the applicant has taken on a role of special responsibility in relation to the applicant's family.

**severe risk breach**, for a contravention of a provision of the *Heavy Vehicle National Law (Queensland)*, means a contravention of the provision declared in that Law to be a severe risk breach.

**show cause notice** see section 125(1).

**smartcard driver licence** means a Queensland driver licence in the form of a card, or something similar, that is approved by the chief executive and on which information may be stored electronically.

**special hardship variation order** see section 115(2).

**specially constructed vehicle**—

- (a) means—
  - (i) an agricultural machine, including a tractor, within the meaning of the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8; or
  - (ii) a crane, other than a mobile crane of more than 4.5t GVM, or a hoist or load shifting equipment; or
  - (iii) earthmoving equipment; or

- (iv) any other motor vehicle that is not constructed to carry passengers or a load, except things used in performing the vehicle's function; but
- (b) does not include—
  - (i) a motor vehicle with a chassis that is substantially the same as a truck chassis; or
  - (ii) a motorbike.

***special need for a class RE or R licence*** see section 38.

***specification information***, for a vehicle, means its kerb weight, maximum engine power and tare mass.

***specification information test report***, for a vehicle, means documentation—

- (a) showing the results of a test conducted on the vehicle by an entity to work out the specification information; and
- (b) containing the following information—
  - (i) the name and address of the entity that conducted the test;

*Example of an entity for subparagraph (i)—*

an entity that operates a vehicle testing facility or a weighbridge

- (ii) the date of the test;
- (iii) the specification information;
- (iv) details about the measuring system used to conduct the test.

*Example of a measuring system for subparagraph (iv)—*

an entity that operates a vehicle testing facility or a weighbridge

*Example of specification information test report—*

a printout of the results of a test from a vehicle testing facility and a printout of the results of a test by a weighbridge

***supervised driving*** means driving under the direction of a supervisor.

***supervisor*** means a person who—

- 
- (a) directs the driving of a vehicle by another person; and
  - (b) if the vehicle the other person is driving has passenger seating capacity—sits next to the other person while directing the driving; and
  - (c) holds an O type licence for a class C vehicle; and
  - (d) has held the licence for at least 1 year.

**suspended licence**, for part 13, see section 90.

**suspended open or provisional licence**, for part 14, see section 104.

**tare mass**, of a vehicle, means the tare mass—

- (a) under the manufacturer's specifications for the vehicle;  
or
- (b) stated in a specification information test report for the vehicle.

**valid**, in relation to a driver licence, means—

- (a) the licence has not expired; and
- (b) the licence has not been cancelled or suspended; and
- (c) the licensee is not disqualified, by order of an Australian court, from holding or obtaining a driver licence.

**ward**, of a person, means an adult or child for whom the person is a guardian.

**young driver** see section 28(1).

**young driver disqualification offence**, in relation to a person, means an offence committed when the person was under 25 years that led to a disqualification, under the Act, another Act or an order made by an Australian court, from holding or obtaining a driver licence.