

Photo Identification Card Regulation 2019

Explanatory notes for SL 2019 No. 29

made under the

Acts Interpretation Act 1954

Photo Identification Card Act 2008

State Penalties Enforcement Act 1999

Transport Operations (Passenger Transport) Act 1994

Transport Operations (Road Use Management) Act 1995

Transport Planning and Coordination Act 1994

General Outline

Short title

Photo Identification Card Regulation 2019

Authorising laws

Section 17 of the *Acts Interpretation Act 1954*

Section 49 of the *Photo Identification Card Act 2008*

Section 165 of the *State Penalties Enforcement Act 1999*

Section 155 of the *Transport Operations (Passenger Transport) Act 1994*

Sections 150 and 171 of the *Transport Operations (Road Use Management) Act 1995*

Section 38 of the *Transport Planning and Coordination Act 1994*

Policy objectives and the reasons for them

The policy objectives of the *Photo Identification Card Regulation 2019* (the 2019 Regulation) are to provide administrative provisions to support the *Photo Identification Card Act 2008*, including provisions to—

- specify the procedures for notifying a change of personal particulars by the holder of a photo identification card;
- set the application fees for a photo identification card and replacement photo identification card; and
- allow for the waiver of photo identification card fees for individuals affected by certain events including natural disasters.

The 2019 Regulation remakes the *Photo Identification Card Regulation 2010* which, in accordance with Part 7 of the *Statutory Instruments Act 1992*, would automatically expire on 1 September 2020.

The 2019 Regulation also allows the fee for a class C learner licence to be reduced by \$40 when the person holds a photo identification card but has never held an Australian driver licence. The lower fee recognises that a person who obtains a photo identification card may hold this card for only a short period before applying for a learner licence. For example, a young person may have paid \$69.00 for a photo identification card while aged 15 and then shortly after, at age 16, be eligible to apply for a learner licence.

In addition, the 2019 Regulation will remove the time limit for a person to apply for a special hardship order if their open or provisional driver licence has been suspended for particular reasons. A special hardship order is a court order that authorises a person to continue to drive a motor vehicle under specific conditions, such as allowing the person to continue to drive to work. Currently, a 21-day limit applies to the application, which does not take into account changing circumstances in which a person may need to apply for an order. Removing the time limit will allow persons who genuinely require a special hardship order to apply, when their circumstances require it. The change will apply to persons who are currently suspended at the time of the amendment's commencement as well as to persons whose licence may be suspended in the future. The change only allows a person additional time to apply for a special hardship order, it does not change the strict criteria for who is eligible to apply for an order or when an order can be made. Granting of the special hardship order remains a decision for the court.

Achievement of policy objectives

Since 2010, people aged 18 years or older have been able to obtain an Adult Proof of Age Card as proof of their age and identity. Provisions regulating these cards were contained in the *Adult Proof of Age Card Act 2008* and the *Adult Proof of Age Card Regulation 2010*. The *Transport and Other Legislation Amendment Act 2017* (the Amendment Act) (Act No. 25 of 2017) extended eligibility to the cards to those aged 15 years or older and changed the name of the card to the Photo Identification Card. The governing legislation was similarly renamed to the *Photo Identification Card Act 2008* and the *Photo Identification Card Regulation 2010* (the 2010 Regulation). The 2010 Regulation will be remade as the 2019 Regulation and will achieve the policy objectives listed above by—

- continuing to regulate most matters currently addressed in the 2010 Regulation;
- removing an entry in the *State Penalties and Enforcement Regulation 2014* for a redundant offence provision;
- amending the *Transport Operations (Passenger Transport) Regulation 2018*, *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2018* and *Transport Planning and Coordination Regulation 2017* to reflect the change of name of the adult proof of age card and the legislation governing it; and
- inserting a new fee in the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* of \$131.90 for the grant of a class C learner licence where the applicant has never held an Australian driver licence but holds a photo identification card issued after the commencement of the *Photo Identification Card Regulation 2019*.

An outline of the 2019 Regulation is provided below.

Part 1: Preliminary

Part 1 provides that the 2019 Regulation may be cited as the *Photo Identification Card Regulation 2019* and that it commences immediately after the commencement of the *Transport and Other Legislation Amendment Act 2017*, part 14, division 1.

Part 2: Photo identification cards

Part 2 addresses the issue of a replacement photo identification card if a cardholder does not receive their card. It also deals with the procedures for change of name or a change to the cardholder's residential or postal address.

Part 3: Fees

Part 3 provides that the fees payable under the Act are specified in Schedule 1. It also authorises the issue of a photo identification card to a cardholder without charge if the person's card was damaged or lost because of a natural disaster. This part also allows the chief executive to waive the fee for a photo identification card where the person obtains the card because their driver licence has been surrendered, or the licence has been cancelled on medical or psychological fitness to drive grounds.

Part 4: Repeal

Part 4 repeals the *Photo Identification Card Regulation 2010*.

Part 5: Amendment of *State Penalties Enforcement Regulation 2014*

Part 5 omits the entry for the *Photo Identification Card Regulation 2010* in the *State Penalties Enforcement Regulation 2014*. This entry related to an offence for failing to destroy a superseded adult proof of age card. This offence has been removed from the 2019 Regulation as people may now retain superseded cards.

Part 6: Amendment of *Transport Operations (Passenger Transport) Regulation 2018*

Part 6 updates a reference to the *Adult Proof of Age Card Act 2008* with a reference to the retitled Act—the *Photo Identification Card Act 2008*.

Part 7: Amendment of *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2018*

Part 7 updates a reference to the *Adult Proof of Age Card Act 2008* with a reference to the retitled Act—the *Photo Identification Card Act 2008*.

Part 8: Amendment of *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*

Part 8 inserts a new section 162A in the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* which provides that someone who holds a photo identification card issued after the commencement of the *Photo Identification Card Regulation 2019* will be entitled to a lower fee for the grant of a class C learner licence if they have never held an Australian driver licence. It also amends the fee schedule of that regulation to insert a new fee of \$131.90 where the reduced fee applies.

Part 8 also removes section 107(2)(a) in the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* to remove the 21-day time limit for applying for a special hardship order.

Part 9: Amendment of *Transport Planning and Coordination Regulation 2017*

Part 9 updates references to the adult proof of age card and *Adult Proof of Age Card Act 2008* with references to the photo identification card and the *Photo Identification Card Act 2008*, respectively.

Consistency with policy objectives of authorising law

The 2019 Regulation is consistent with the main objective of the *Photo Identification Card Act 2008* to allow for the issuing of a card that identifies a person's age.

The 2019 Regulation is also consistent with the policy objectives of section 3 of the *Transport Operations (Road Use Management) Act 1995* which include improving road safety, providing for the effective and efficient management of road use in the State and promoting the effective and efficient movement of people, goods and services.

Inconsistency with policy objectives of other legislation

The 2019 Regulation is not inconsistent with the policy objectives of other Queensland legislation.

Benefits and costs of implementation

The 2019 Regulation will maintain a consistent approach with the change of address procedures for the accreditations, authorisations and licences for which smartcards are issued. It is also consistent with other legislation that allows for the waiving of statutory fees for those affected by natural disasters.

The 2019 Regulation retains a waiver of the fee for a photo identification card where the applicant has surrendered their driver licence, or it has been cancelled on medical or psychological capacity grounds. This provides a person with an alternative identity document free of charge to ensure that the cost of the card is not a disincentive to a person surrendering their licence when it may no longer be safe for them to drive.

First time drivers, many of whom will not be in the workforce, will benefit from a reduced learner licence fee where they have already paid for a photo identification card.

Drivers whose licences have been suspended for particular reasons and have a genuine need for a special hardship order which allows them to continue to drive a motor vehicle under specific conditions, will benefit from the removal of the time limit for applying for a special hardship order.

The costs of implementing the 2019 Regulation will be minimal.

Consistency with fundamental legislative principles

The 2019 Regulation is consistent with the fundamental legislative principles.

Consultation

No specific community or industry consultation due to the limited scope and machinery nature of the regulation.

In relation to the remaking of the *Photo Identification Card Regulation 2019* the Queensland Productivity Commission considers the department has satisfactorily met the objectives for sunset reviews as set out in the *Queensland Government Guide to Better Regulation* (the guidelines), as it has demonstrated a need for continued regulatory action and evaluated that the regulation continues to satisfy its objectives.

The Queensland Productivity Commission considers the following proposed amendments are excluded from further regulatory impact analysis under the guidelines (Category k—Regulatory proposals designed to reduce the burden of regulation, or that clearly do not add to the burden, and it is reasonably clear there are no significant adverse impacts):

- to provide for a reduced learner licence fee where the person already holds a photo identification card;
- to remove the 21-day time limit for applying for a special hardship order.