

Transport and Other Legislation Amendment Bill 2017

Explanatory Notes

Short title

The short title of the Bill is the Transport and Other Legislation Amendment Bill 2017 (the Bill).

Policy objectives and the reasons for them

The Bill will amend a range of transport and non-transport Acts. The Acts amended by the Bill are the:

Adult Proof of Age Card Act 2008
Heavy Vehicle National Law Act 2012
Liquor Act 1992
Police Powers and Responsibilities Act 2000
Rail Safety National Law (Queensland) Act 2017
Tobacco and Other Smoking Products Act 1998
Transport Infrastructure Act 1994
Transport Operations (Marine Safety) Act 1994
Transport Operations (Passenger Transport) Act 1994
Transport Operations (Road Use Management) Act 1995
Transport Planning and Coordination Act 1994
Transport Security (Counter-Terrorism) Act 2008

The Bill also amends subordinate legislation as a consequence of changes to primary legislation.

The principal purposes of the Bill are to enhance regulatory and administrative efficiency and to continue to provide a positive experience for customers dealing with the Department of Transport and Main Roads. Key changes outlined in the Bill will:

- Enable people aged 15 to 17 years of age to obtain evidence of identity that will let them more easily engage with institutions such as banks; and
- Improve customer experience by ensuring that legislation is not a barrier to new technologies such as apps and online portals being adopted when applying for certain transport products and services.

The Bill also makes a number of minor and technical administrative amendments to ensure the proper operation of legislation and streamline processes.

Achievement of policy objectives

The Bill achieves these objectives by amendments to:

- the *Adult Proof of Age Card Act 2008* to change the age of eligibility for a card from 18 to 15. The Bill changes the name of the card from an ‘adult proof of age card’ to a ‘photo identification card’. The name of the Act is likewise being changed to the *Photo Identification Card Act 2008*. Consequential amendments to various other Acts and regulations are also being made to reflect the card’s change of name;
- the *Adult Proof of Age Card Act 2008* and the *Transport Operations (Road Use Management) Act 1995* to remove the requirement that certain applications and similar transactions be made only on approved forms or in writing. The Bill introduces flexibility into the process which will allow new technologies to be used in appropriate circumstances. A new part in each of these Acts regulates how certain applications and similar transactions are to be made. This new part provides that if there is an approved form for a particular transaction, that form may be used. The amendments will however allow the chief executive to approve alternative ways for a person to make certain applications and similar transactions. The chief executive must provide information about the alternative ways on the Department of Transport and Main Roads’ website;
- the *Transport Infrastructure Act 1994* and the *Transport Operations (Road Use Management) Act 1995* to put beyond doubt that the transportation of any quantity of infectious substances is regulated under those Acts. Amendments also preserve the existing exemption for the carriage of small quantities of specified dangerous goods;
- the *Transport Operations (Marine Safety) Act 1994* to preserve the effect of a transitional provision in the *Transport Operations (Marine Safety) Transitional Regulation 2016*. This is to ensure that all ships that are not regulated under the Commonwealth’s *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* continue to be appropriately regulated under Queensland legislation;
- the *Transport Security (Counter-Terrorism) Act 2008* to insert a section to ensure the Act is reviewed on a five yearly basis. The Bill also amends the confidentiality provisions of the *Transport Security (Counter-Terrorism) Act 2008* to increase the maximum penalty for a breach of confidentiality. This amendment is for legislative consistency, and is required to ensure mitigation against the risk of any misuse of secure information that is administered under the Act;
- section 3 of the *Rail Safety National Law (Queensland) Act 2017* to delete a redundant definition;
- the *Transport Operations (Passenger Transport) Act 1994* to clarify the circumstances in which a person will be automatically refused driver authorisation; limit the information about a transit officer required in a written report given to a detained person

for safety and security reasons; and clarify the powers of an authorised person to use reasonable force include within an area adjacent to the public transport infrastructure;

- the *Heavy Vehicle National Law Act 2012* by inserting new section 43A to clarify the head of power for the specification of fees payable for a matter under the Heavy Vehicle National Law (Queensland);
- the *Transport Planning and Coordination Act 1994* to provide a more effective process for working with local governments undertaking road works, enabling the Department of Transport and Main Roads to mitigate the impacts on scheduled passenger services;
- the *Transport Infrastructure Act 1994* to clarify how the Department of Transport and Main Roads will conduct consultation with a local government, railway manager or light rail manager prior to making a relevant declaration, revocation or designation or entering into a road franchise agreement; and
- the *Transport Planning and Coordination Act 1994* to remove the requirement to declare a prescribed transit node and clarify that the value of works does not affect the compensation payable for the resumption of land.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than through legislative amendment.

Estimated cost for government implementation

Implementation costs for government will be minimal and will be met from existing budget allocations.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below:

Adult Proof of Age Card Act 2008

Transport Operations (Road Use Management) Act 1995

Legislation should have sufficient regard to the rights and liberties of individuals

Legislative Standards Act 1992, section 4(2)(a)

Amendments in clauses 32 and 80 relate to removing the requirement for customers to apply on an approved form for certain transport products. The amendments are consistent with fundamental legislative principles as they require that information about any alternative ways to apply for certain transport products must be included on the Department of Transport and Main Roads' website. The website must describe the way that is approved for making the application and also state any requirements with which an applicant must comply for making

the application. Also, the amendments expressly provide that the chief executive cannot require information to be given other than that which is reasonably necessary for the application process.

Transport Operations (Passenger Transport) Act 1994

Legislation should have sufficient regard to the rights and liberties of individuals and be consistent with the principles of natural justice and provide for the compulsory acquisition of property only with fair compensation

Legislative Standards Act 1992, sections 4(2)(a) and 4(3)(b) and (i).

Clause 68 of the Bill clarifies the offence of attempted rape as a Category A driver disqualifying offence. Although the Bill will not cancel a person's driver authorisation who has been convicted of a category A driver disqualifying offence before the commencement, where the person currently holds driver authorisation, the person's driver authorisation continues only for the term of their current authorisation. The person will be ineligible for a renewal of their driver authorisation. Where a person who has been convicted of a category A driver disqualifying offence before the commencement of this section, has an entitlement to have driver authorisation granted or renewed under a decision of the chief executive or QCAT under a review of the decision of the chief executive, their entitlement for a grant or renewal is extinguished.

Excluding people with a conviction for attempted rape, regardless of the age of the victim, from driving vehicles providing public passenger services is considered justified on safety grounds due to the gravity and nature of this offence.

The policy is also consistent with the government's original intention and with the fundamental principle under the *Transport Operations (Passenger Transport) Act 1994* that children and other vulnerable members of the community must be protected. These proposed amendments simply restore the position prior to the 2011 amendments and are consistent with the original policy intent.

Transport Planning and Coordination Act 1994

Legislation should subject the exercise of delegated legislation to sufficient scrutiny by Parliament

Legislative Standards Act 1992, section 4(4)(b)

Clause 85 of the Bill amends section 8C of the *Transport Planning and Coordination Act 1994* to replace the Code for the Integrated Development Assessment System (the Code) with a road works guideline (guideline) as part of the government's planning reform agenda. The Code provided technical specifications towards elements of road construction such as lane widths, indents, speed bump heights and roundabouts.

The guideline will have two main purposes. Firstly, it will clarify the Department of Transport and Main Road's notification requirements in relation to proposed road works that will impact passenger services. Secondly, it will replace the Code with the guideline which will include references to the Department of Transport and Main Roads Technical Manuals. Also, the guideline will set out the routes to which section 8C applies for the purposes of requiring notification; as well as setting out the technical specifications.

The local councils will need to notify the Department of Transport and Main Roads in writing about the road works. The Department of Transport and Main Roads intends to work collaboratively with local councils in the development and finalisation of the guideline and in relation to proposed changes to the guidelines in future. These guidelines need to be flexible as they will be subject to change, for example, due to new routes or changes to existing routes. It is in the public interest to ensure that these guidelines maintain the required flexibility to respond to impacts on public passenger services to ensure minimal impact to continuity of services for the public.

The use of the guideline is the most appropriate tool for this. The guideline will need to be approved by a delegate of the chief executive and will be published on the Department of Transport and Main Roads' website.

Transport Security (Counter-Terrorism) Act 2008

Legislation should have sufficient regard to the rights and liberties of individuals

Legislative Standards Act 1992, section 4(2)(a)

Clause 96 of the Bill provides that the penalty for a breach of confidentiality under section 57 of the *Transport Security (Counter-Terrorism) Act 2008* will increase from the current maximum penalty of 60 penalty units, to a maximum penalty of 200 penalty units.

A review of confidentiality provisions in the *Transport Operations (Passenger Transport) Act 1994*, *Transport Operations (Road Use Management) Act 1995*, and *Transport Operations (Marine Safety) Act 1994* identified that all three Acts list 200 penalty units as the maximum penalty that can be applied to a breach of confidentiality. The scope around the confidentiality provisions in these three Acts is the same as the confidentiality provisions that are currently listed in the *Transport Security (Counter-Terrorism) Act 2008*.

An increase to the maximum penalty units from 60 to 200 units as per the proposed amendments to the *Transport Security (Counter-Terrorism) Act 2008* is justified as it ensures legislative consistency for like provisions, and protects the integrity of the legislative system.

The increase is also justified due to the secure nature of the information that is administered under the *Transport Security (Counter-Terrorism) Act 2008*. Since the *Transport Security (Counter-Terrorism) Act 2008* was introduced, the quantity and sensitivity of security information obtained and shared by the Department of Transport and Main Roads has increased, and the types of security information held by the Department of Transport and Main Roads continues to evolve.

The Department of Transport and Main Roads is working on developing a SharePoint website, designed to enhance information sharing and improve the timely provision of information with external stakeholders, which includes authorised Security-Identified Surface Transport Operations (SISTOs), Surface Transport Operators and mass passenger transport hub facility owners and operators.

The potential ramifications to the Department of Transport and Main Roads, SISTOs, and the State of Queensland that would result from any breaches of confidentiality require an increase to the penalty units. The amendment is necessary to ensure the risks associated with the misuse of any information are appropriately mitigated.

Transport Infrastructure Act 1994 and the Transport Operations (Road Use Management) Act 1995

Legislation should have sufficient regard to the institution of Parliament

Legislative Standards Act 1992, section 4(2)(b)

Clauses 58 and 79 allow a regulation to specify the small quantities of dangerous goods that are exempt from regulation under the *Transport Infrastructure Act 1994* and the *Transport Operations (Road Use Management) Act 1995*. This potentially raises the fundamental legislative principle that legislation should have sufficient regard to the institution of Parliament.

Specifying the amount of dangerous goods that is exempt from the legislation is considered to be administrative in nature and therefore an appropriate matter for subordinate legislation. Further, the amendment preserves the existing way of specifying the detail of the exemption in a regulation.

Consultation

No specific community or industry consultation was undertaken on the amendments proposed in this Bill.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland and is not uniform or complementary to legislation of the Commonwealth or another state or territory, except for the amendments related to the transport of dangerous goods by road and rail.

Notes on provisions

Part 1 Preliminary

Clause 1 states that this Act may be cited as the Transport and Other Legislation Amendment Act 2017.

Clause 2 provides for commencement arrangements. Commencement arrangements are that the following provisions commence on day to be fixed by proclamation—

- (a) parts 2, 4, 5 and 7;
- (b) sections 85 to 87, 92, 93, 122 and 130; and
- (c) part 14, divisions 1 to 4, 6, 8, 10 and 11.

The remaining provisions commence on assent.

Part 2 Amendment of Adult Proof of Age Card Act 2008

Clause 3 provides that this part amends the *Adult Proof of Age Card Act 2008*.

Clause 4 amends the long title of the Act to reflect that a photo identification card can be given to a person of at least 15 years. This is a change from the existing eligibility requirement for an adult proof of age card of 18 years.

Clause 5 changes the short title of the Act from *Adult Proof of Age Card Act 2008* to *Photo Identification Card Act 2008*.

Clause 6 amends section 3 to reflect the change of name from adult proof of age card to photo identification card.

Clause 7 changes the heading of part 2 to reflect the change of name from adult proof of age card to photo identification card.

Clause 8 replaces section 5 to provide that a photo identification card is a card issued under the Act which states that a person is at least 15 years of age. This is different from adult proof of age cards which indicate that a person is at least 18 years.

Clause 9 amends section 6 to reflect the change of name from adult proof of age card to photo identification card.

Clause 10 inserts a new section 7 dealing with eligibility for a card. It provides that a person is eligible to apply for a photo identification card if the person ordinarily resides in Queensland and is at least 15 years.

Clause 10 also replaces section 8 and reflects the change of name from adult proof of age card to photo identification card. It also removes the requirement that an application under section 8 be made only by completing an approved form. Instead, the new part 5 will apply to the

application. This part introduces some flexibility into the application process by allowing the Department of Transport and Main Roads to make available alternative ways of applying in appropriate circumstances.

Clause 11 omits sections 9 and 10. This is because the matters dealt with in these sections will now be dealt with under the new Part 5.

Clause 12 updates cross references in section 11(1) as new section 34 now contains the power for the chief executive to request further information in relation to applications. Previously this was contained in section 10. This clause also omits subsection (3) as this subsection dealt with matters under section 9 of the Act and this section is being deleted by the Bill.

Clause 13 amends section 12(1) to reflect the change of name from adult proof of age card to photo identification card. The clause also deletes subsections (2) and (3) as these subsections were only relevant in relation to adult proof of age cards. They are not relevant to photo identification cards which can only be applied for by applicants who are at least 15 years.

Clause 14 amends section 13 to reflect the change of name from adult proof of age card to photo identification card.

Clause 15 amends section 14 to reflect the change of name from adult proof of age card to photo identification card.

Clause 16 amends section 15 to reflect the change of name from adult proof of age card to photo identification card.

Clause 17 amends section 16 to reflect the change of name from adult proof of age card to photo identification card. It also removes the requirement that the person can surrender the card only by giving written notice. Instead, new part 5 of the Act will apply to the process which will enable the Department of Transport and Main Roads to allow an alternative way to give notice in appropriate circumstances.

Clause 18 amends section 17 to reflect the change of name from adult proof of age card to photo identification card.

Clause 19 replaces section 18 and reflects the change of name from adult proof of age card to photo identification card. The clause also removes the requirement that a person may only apply to the chief executive for a replacement card only by using an approved form. Instead, new part 5 of the Act will apply to the application which will enable the Department of Transport and Main Roads to allow an alternative way for a person to make an application for a replacement card in appropriate circumstances.

Clause 20 amends section 19(1) to reflect the change of name from adult proof of age card to photo identification card. The clause also amends section 19(2) to remove the legislative requirement that the holder must give notice of damage, loss or theft of a photo identification card in writing. Instead, new part 5 of the Act will apply to the process which will enable the Department of Transport and Main Roads to allow an alternative way for a person to notify the department of the damage, loss or theft in appropriate circumstances.

Clause 21 amends section 21 to reflect the change of name from adult proof of age card to photo identification card.

Clause 22 amends section 23 to reflect the change of name from adult proof of age card to photo identification card.

Clause 23 amends section 24 to reflect the change of name from adult proof of age card to photo identification card.

Clause 24 amends section 25 to reflect the change of name from adult proof of age card to photo identification card.

Clause 25 changes the heading to part 4 from APA register to Photo identification register.

Clause 26 amends section 26 to reflect the change of name from adult proof of age card to photo identification card. It also changes the name of the register from APA register to photo identification register.

Clause 27 amends section 27 to change the name of the register from APA register to photo identification register.

Clause 28 replaces section 28. The new section contains reference to the photo identification register in place of the APA register.

Clause 29 amends section 29 to change the name of the register from the APA register to the photo identification register. It also reflects the change of name from adult proof of age card to photo identification card.

Clause 30 amends section 30 to change the name of the register from the APA register to the photo identification register. It also changes the name of the adult proof of age card to the photo identification card. The clause also removes the requirement that a person may apply to the chief executive for release of information only by using an approved form. Instead, new part 5 of the Act will apply to the application which will enable the Department of Transport and Main Roads to allow an alternative way for a person to make an application for the release of information in appropriate circumstances. Subsection (4) is also being removed as the ability for a person to apply electronically will be dealt with under the new part 5.

Clause 31 amends section 30A to change the name of the APA register to the photo identification register.

Clause 32 inserts a new part 5 into the Act which contains the requirements for applications and notices under the Act. The part contains new sections 31 to 34.

Section 31 contains definitions for the new part.

Section 32(1)(a) provides that the chief executive may, by publishing a notice on the department's website, approve a way in which an application or notification may be made. Examples of such ways include making the application or giving notice orally, by electronic communication or another form of communication.

Section 32(1)(b) provides that the chief executive may, by publishing a notice on the department's website, require that stated information must be given in or with a stated type of application or notification. Supporting information could, for example, include evidence of identity.

Section 32(2) provides that a notice under subsection (1)(a) may include requirements for making an application or giving a notification in the approved way.

Section 32(3) provides that the chief executive may only require information to be given in or with an application or notification that is reasonably necessary for the purpose of enabling the chief executive to decide the application or consider the notification, or for another purpose related to the application, the thing being applied for or the notification. This reflects the safeguard contained in section 48A of the *Acts Interpretation Act 1954* regarding the type of information that may be required to be given in an approved form. The section gives examples of the sorts of information that cannot be requested, such as irrelevant personal information or information that would be excessively intrusive to personal privacy.

Section 33 provides that an application or notification must be made in any of the following ways:

- If there is an approved form – in that form; or
- If an alternative way has been made available by the chief executive under section 32 – in that way; or
- If there is no approved form or alternative way – in writing.

This new section introduces flexibility into administrative processes.

Section 34 provides that the chief executive may give an applicant a written notice asking for further information that the chief executive reasonably needs to decide an application. This reflects what was previously provided for in section 10 of the Act.

Clause 33 amends section 39 to reflect the change of name from adult proof of age card to photo identification card.

Clause 34 amends section 42 to change the name of the register from the APA register to the photo identification register. It also reflects the change of name from adult proof of age card to photo identification card.

Clause 35 amends section 49 to reflect the change of name from adult proof of age card to photo identification card.

Clause 36 replaces the heading of part 9 to reflect the additional transitional provisions required as a result of the Bill.

Clause 37 inserts a new heading for the existing transitional provisions currently in the *Adult Proof of Age Card Act 2008*.

Clause 38 inserts a series of transitional provisions to cater for the change from adult proof of age cards to photo identification cards. Included in the list of transitional provisions is section

52 which provides that each adult proof of age card in force immediately before the commencement of the amendments continues in force as a photo identification card.

Clause 39 makes amendments to the Dictionary.

Part 3 Amendment of Heavy Vehicle National Law Act 2012

Clause 40 provides that this part amends the *Heavy Vehicle National Law Act 2012*.

Clause 41 inserts a new head of power which specifically deals with fees payable for a matter under the Heavy Vehicle National Law (Queensland). It applies if a provision of that Law refers to a fee that is or may be payable under a law of Queensland for the matter. New section 43A provides that the fee payable for the matter, if any, is the amount prescribed under a regulation for the matter.

This new provision is to clarify the regulation making power for fees. Currently the fees may be set under the generic regulation making power in section 43.

Part 4 Amendment of Liquor Act 1992

Clause 42 provides that this part amends the *Liquor Act 1992*.

Clause 43 amends section 6 to reflect the change of name from adult proof of age card to photo identification card and the name of the Act under which the card is issued from *Adult Proof of Age Card Act 2008* to *Photo Identification Card Act 2008*.

Part 5 Amendment of Police Powers and Responsibilities Act 2000

Clause 44 provides that this part amends the *Police Powers and Responsibilities Act 2000*.

Clause 45 amends the definitions in section 195A, to reflect the change of name of the Act from *Adult Proof of Age Card Act 2008* to *Photo Identification Card Act 2008*.

Part 6 Amendment of Rail Safety National Law (Queensland) Act 2017

Clause 46 provides that this part amends the *Rail Safety National Law (Queensland) Act 2017*.

Clause 47 removes the definition of *local regulation*, which is not used in the *Rail Safety National Law (Queensland) Act 2017*. The definition is redundant and this technical amendment simply observes current drafting practices.

Part 7 Amendment of Tobacco and Other Smoking Products Act 1998

Clause 48 provides that this part amends the *Tobacco and Other Smoking Products Act 1998*.

Clause 49 amends the definition of proof of age card to update the cross reference to section 6(1)(a)(i) or (ii) of the *Liquor Act 1992*. That Act is being amended by the Bill to reflect the change of name from adult proof of age card to photo identification card and the name of the Act under which the card is issued from *Adult Proof of Age Card Act 2008* to *Photo Identification Card Act 2008*.

Part 8 Amendment of Transport Infrastructure Act 1994

Clause 50 provides that this part amends the *Transport Infrastructure Act 1994*.

Clause 51 amends section 25 to clarify that the Minister must be satisfied that the consultation process has been undertaken with each local government, and is not required to personally carry it out.

Clause 52 amends section 26(2) to clarify that the Minister must be satisfied that the consultation process has been undertaken with the railway manager, and is not required to personally carry it out.

Clause 53 amends section 27(3) to clarify that the Minister must be satisfied that the consultation process has been undertaken with each local government, and is not required to personally carry it out.

Clause 54 amends section 84B(2) to clarify that the Minister must be satisfied that the consultation process has been undertaken with the railway manager, and is not required to personally carry it out.

Clause 55 amends section 85A(1) to clarify that the Minister must be satisfied that the consultation process has been undertaken with the railway manager, and is not required to personally carry it out.

Clause 56 amends section 105I(2) to clarify that the Minister must be satisfied that the consultation process has been undertaken with the railway manager, and is not required to personally carry it out.

Clause 57 amends section 360(3) to clarify that the Minister must be satisfied that consultation has been undertaken with the light rail manager, and is not required to personally carry it out.

Clause 58 makes an amendment to section 440 to clarify the head of power for the exemption that applies to the carriage of small quantities of dangerous goods on a rail vehicle. It does this by expressly stating that the exemption does not apply to dangerous goods that are classified as infectious substances according to the United Nations classification system for dangerous goods. The amendment also updates the head of power for the exemption so that it aligns with the latest version of the Australian Dangerous Goods Code. As the code no longer specifies the

small exempt quantities by reference to when ‘inner package’ marking is required, these words have been removed by this clause. The amendment however does not alter the substance of the exemption.

Part 9 Amendment of Transport Operations (Marine Safety) Act 1994

Clause 59 provides that this part amends the *Transport Operations (Marine Safety) Act 1994*.

Clause 60 replaces the definition of *Queensland regulated ship* in section 10A. A *Queensland regulated ship* is a *recreational ship* or an *other Queensland regulated ship*. This amendment simply reflects that the definition of *other Queensland regulated ship* has been changed and inserted into a new section 10C.

Clause 61 inserts a new section 10C that contains the meaning of an *other Queensland regulated ship*. The clause changes the existing definition in section 10A(b) to ensure that all ships that are not regulated under the Commonwealth’s *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* continue to be appropriately regulated under Queensland legislation. This amendment preserves the effect of a transitional provision in the *Transport Operations (Marine Safety) Transitional Regulation 2016*. The amendment does this by specifying that any ship that is not a recreational ship or a domestic commercial vessel is an *other Queensland regulated ship*. The definition also includes a tender to a ship that is not a recreational ship or a domestic commercial vessel.

Clause 62 amends the dictionary to identify that the definition of *other Queensland regulated ship* is now in section 10C.

Part 10 Amendment of Transport Operations (Passenger Transport) Act 1994

Clause 63 provides that this part amends the *Transport Operations (Passenger Transport) Act 1994*.

Clause 64 makes a minor amendment to section 112 relating to identity cards issued to authorised persons to include that an identity card must contain a unique identification number for the authorised person. This amendment is in support of the minor amendment required to section 129I.

Clause 65 makes a minor amendment to section 129I relating to the requirements for a written report that is required to be provided when a person is detained by a transit officer. The amendment restricts the information about the transit officer in the written report that is provided to the detained person under section 129F. The written report will no longer be required to include the transit officer’s name or the address of the place the transit officer received instructions from or reported to on the day the detention happened. However, the written report will require the transit officer’s unique identification number for identification purposes.

Clause 66 makes a minor amendment to section 143AHA relating to the power to require a person to leave public transport infrastructure if the person is committing particular offences. Currently, subsection (2) provides that where a person does not obey the direction, the authorised person may use force that is reasonable to get the person to leave. A new subsection (2A) clarifies that an authorised person may exercise this power in an area adjacent to the public transport infrastructure. If the authorised person was to cease using force immediately upon leaving the public transport infrastructure (for example on a bus or a light rail platform), this may leave the alleged offender being released to an unsafe location. This amendment makes it clear that the power of the authorised persons extends beyond the public transport infrastructure to an area adjacent to the public transport infrastructure.

Clause 67 makes a minor amendment to section 143AHB relating to the power to require person to leave or not enter public transport infrastructure if the person is contravening a civil banning order or exclusion order, for consistency with the amendment to section 143AHA in clause 66.

Clause 68 inserts a chapter 13, part 19 to provide transitional provisions.

New section 217 covers transitional provisions for the treatment of category A driver disqualifying offence. If the person has been convicted of a new category A driver disqualifying offence before the commencement of this section and if the person has applied for the grant or renewal of driver authorisation before the commencement that has not been finalised, then the application is terminated on the commencement. If the person has applied for an internal or external review of a decision of the chief executive relating to a refusal to grant or renew driver authorisation under section 28B because of the conviction and the review has not been decided on the commencement, then the application for review is taken to have been withdrawn on the commencement. If the person has been convicted of a new category A driver disqualifying offence before the commencement of this section and if immediately before the commencement the person has an entitlement to have driver authorisation granted or renewed under a decision of the chief executive or QCAT under a review of the decision of the chief executive, then the entitlement is extinguished on commencement of this section. If the person has been convicted of a new category A driver disqualifying offence before the commencement of this section and the person holds driver authorisation on the commencement of this section, the driver authorisation continues for the term of the current authorisation. For the avoidance of any doubt, if the person has been convicted of a new category A driver disqualifying offence before the commencement, the person is not eligible to apply for a driver authorisation or a renewal of a driver authorisation after the commencement of this section.

Clause 69 amends schedule 1A (Driver disqualification offences), in particular part 1, division 1, item 14 from ‘section 350 (Attempt to commit rape), if the offence was committed against a child to just “section 350 (Attempt to commit rape). This results in removing the unintended qualification that the offence needed to be committed against a child in order for it to be considered a category A driver disqualifying offence. It is intended for the offence of attempt to commit rape to be a Category A driver disqualifying offence regardless of who the offence was committed against in the interests of the safety of the public.

Clause 70 amends schedule 3 (Dictionary) definition *relevant offence* paragraph (b) from referring to ‘section 143AHA(3)’ to ‘section 143AHA(5)’. This is as a result of renumbering of the sections in the amendments to section 143AHA.

Part 11 Amendment of Transport Operations (Road Use Management) Act 1995

Clause 71 provides that this part amends the *Transport Operations (Road Use Management) Act 1995*.

Clause 72 amends section 77 to remove the requirement that a person may apply to the chief executive for release of information only by using an approved form. Instead, new chapter 5B of the Act will apply to the application which will enable the Department of Transport and Main Roads to allow an alternative way for a person to make an application for the release of information in appropriate circumstances. Subsection (6) is also being removed as the ability for a person to apply electronically will be dealt with under the new chapter 5B.

Clause 73 amends section 77A to remove the requirement that an entity may apply to the chief executive for release of information for research purposes only by using an approved form. Instead, new chapter 5B of the Act will apply to the application which will enable the Department of Transport and Main Roads to allow an alternative way for a person to make an application for the release of information in appropriate circumstances. Subsection (2) is also being removed as the ability for application to be made electronically will be dealt with under the new chapter 5B.

Clause 74 amends section 79F to remove the requirement that a person can apply for a replacement licence only by using an approved form. Instead, new chapter 5B will apply to the application which will enable the Department of Transport and Main Roads to allow an alternative way for a person to make an application for a replacement licence in appropriate circumstances.

Clause 75 amends section 91L to remove the requirement that a person can nominate a vehicle only by using an approved form. Instead, new chapter 5B will apply to the nomination which will enable the Department of Transport and Main Roads to allow an alternative way for a person to make a nomination in appropriate circumstances.

Clause 76 amends section 91P to remove the requirement that a person can apply for an interlock exemption only by using an approved form. Instead, new chapter 5B will apply to the application which will enable the Department of Transport and Main Roads to allow an alternative way for a person to apply for an interlock exemption in appropriate circumstances.

Clause 77 amends section 91Q to update cross references necessary because of the insertion of the new chapter 5B which applies to an application for an interlock exemption. The amendment inserts references to various subsections in new section 163B which is contained in new chapter 5B.

Section 163B(1) allows the chief executive to give an applicant written notice asking for further information that the chief executive reasonably needs to decide the application. Subsection (4) provides that if the applicant does not comply with the notice, the chief executive may give the applicant a further notice cancelling the application. Subsection (5) contains information about when the notice takes effect. These subsections will replace subsections 91Q(4) to (6) which are therefore being omitted.

Clause 78 amends section 124 to make consequential amendments necessary due to the removal of the requirement that an application or nomination be made only using an approved form and due to the insertion of new sections 163A and 163B in new chapter 5B.

Clause 79 makes an amendment to section 151 to clarify the head of power for the exemption that applies to the carriage of small quantities of dangerous goods on a vehicle. It does this by expressly stating that the exemption does not apply to dangerous goods that are classified as infectious substances according to the United Nations classification system for dangerous goods. The amendment also updates the head of power for the exemption so that it aligns with the latest version of the Australian Dangerous Goods Code. As the code no longer specifies the small exempt quantities by reference to when 'inner package' marking is required, these words have been removed by this clause. The amendment however does not alter the substance of the exemption.

Clause 80 inserts new chapter 5B which applies to applications and a nomination under the Act. The part contains new sections 162 to 163B.

Section 162 contains definitions for the new part.

Section 163(1)(a) provides that the chief executive may, by publishing a notice on the department's website approve a way in which an application or nomination may be made. Examples of such ways include making the application or providing the nomination orally, by electronic communication or another form of communication.

Section 163(1)(b) provides that the chief executive may, by publishing a notice on the department's website require that stated information must be given in or with a stated type of application or nomination. Supporting information could, for example, include evidence of identity.

Section 163(2) provides that a notice under subsection (1)(a) may include requirements for making an application or giving a nomination in the approved way.

Section 163(3) provides that the chief executive may only require information to be given in or with an application or nomination that is reasonably necessary for the purpose of enabling the chief executive to decide the application or consider the nomination, or for another purpose related to the application, the thing being applied for or the nomination. This reflects the safeguard contained in section 48A of the *Acts Interpretation Act 1954* regarding the type of information that may be required to be given in an approved form. The section gives examples of the sorts of information that cannot be requested such as irrelevant personal information or information that would be excessively intrusive to personal privacy.

Section 163A provides that an application or nomination must be made in any of the following ways:

- If there is an approved form – in that form; or
- If an alternative way has been made available by the chief executive – in that way; or
- If there is no approved form, or alternative way – in writing.

This new section introduces flexibility into administrative processes.

Section 163B provides that the chief executive may give an applicant a written notice asking for further information that the chief executive reasonably needs to decide an application.

Clause 81 inserts a transitional provision. New section 229 has been inserted due to the new process that may apply in relation to applications and the nomination under the Act.

Clause 82 amends cross references in schedule 3. This is due to the renumbering of section 91Q(7) to become 91Q(4) and the insertion of new section 163B(4) which now contains the power for the chief executive to cancel an application for an interlock exemption. The chief executive can do this if the applicant does not comply with a notice to provide further information reasonably required to decide the application.

Clause 83 inserts additional definitions into the dictionary necessary due to the new chapter 5B which sets out generic provisions that apply to applications and a nomination under the Act.

Part 12 Amendment of Transport Planning and Coordination Act 1994

Clause 84 provides that this part amends the *Transport Planning and Coordination Act 1994*.

Clause 85 amends section 8C to replace the requirement for a person to comply with the Code with a requirement for a person to comply with the road works guideline (guideline) made under section 8E. This minor amendment will also require the chief executive to identify the routes to which the section applies in the guideline made under section 8E. Additionally, it will introduce a requirement for the local government to notify the Department of Transport and Main Roads in writing 21 days before the works start, if they intend to undertake road works in circumstances where the road works will restrict or limit access to a public passenger service or public passenger transport infrastructure while the road works are undertaken.

Clause 86 amends section 8D to limit its application only to circumstances where a change in management of a local government road would have a significant adverse impact on the provision of scheduled passenger services. The clause also clarifies the examples that are considered to be a significant adverse impact.

Clause 87 amends section 8E to require the chief executive must publish the road works guideline on the department's website.

Clause 88 amends section 28 as a consequence of omitting section 28AA by the clause below. The amendment clarifies that in deciding the amount of compensation payable to a person for land resumed under Part 4 of the Act, the compensation payable is not affected by the value of works carried out on the land after a notice of intention to resume has been sent or an agreement to acquire has been reached.

Clause 89 omits section 28AA as the process to declare an area to be a prescribed transit node is no longer required or used.

Clause 90 amends section 28A to omit the definition of *construction contract*.

Clause 91 amends section 28C to insert a definition of *construction contract*.

Clause 92 amends section 36F to change the name of the *Adult Proof of Age Card Act 2008*, to the *Photo Identification Card Act 2008*.

Clause 93 inserts new part 7, division 3. These are transitional provisions.

New section 43 provides a definition of pre-amended Act for clarity.

New section 44 provides that where existing roadworks on local government road have started but not yet finished then the pre-amended Act continues to apply. This allows for the current provisions to continue to apply to existing road works and also allow time to notify councils and to work with councils collaboratively on the road works guideline.

New section 45 provides that where an existing application for approval of a change of management of a local government road has been made but not decided then the pre-amended Act continues to apply.

Clause 94 amends the dictionary for certain terms used in the Act.

Part 13 Amendment of Transport Security (Counter-Terrorism) Act 2008

Clause 95 provides that this part amends the *Transport Security (Counter-Terrorism) Act 2008*.

Clause 96 amends section 57 confidentiality provisions to increase the current maximum penalty for a breach of confidentiality from 60 penalty units, to 200 penalty units. This amendment will align the maximum penalty for a breach of confidentiality in the Act with the confidentiality provisions provided in section 148C(1) of the *Transport Operations (Passenger Transport) Act 1994*, section 143(1) of the *Transport Operations (Road Use Management) Act 1995*, and section 205AC(1) of the *Transport Operations (Marine Safety) Act 1994*.

The Department of Transport and Main Roads recognises that since the Act was introduced, the security environment has evolved and the security information obtained by the Department of Transport and Main Roads has changed. The security information deals with the security threat to the vulnerabilities of Queensland's Security-Identified-Surface Transport Operations (SISTOs). The potential risk of a breach of confidentiality could result in vulnerabilities being exploited by those threats, which could lead to serious harm to property and life. The Department of Transport and Main Roads has the responsibility to protect the sensitive information provided by SISTOs, and therefore the risks associated with the misuse of information need to be recognised with a suitable penalty.

Clause 97 replaces section 61 (Review of Act) and inserts a new section that provides for the review of the Act on a five yearly basis. The Act was introduced with a five year review clause provided for in section 61, with the intent that the review be used to determine whether the provisions in the Act remained appropriate. In 2013, the Department of Transport and Main Roads engaged PricewaterhouseCoopers Australia (PwC) to conduct a review of the Act and prepare a report of the review's outcome as per the requirements outlined in section 61.

The PwC report proved valuable as it provided the Department of Transport and Main Roads with nine recommendations to improve the efficiency and effectiveness of the Act. Other transport legislation includes sunset provisions to ensure that the legislation is periodically reviewed for its relevancy. Therefore, for legislative consistency and to preserve the status quo, this proposed insertion will provide for the periodic review of the Act, with the next scheduled review due in 2018. The review period is imperative due to the heightened security environment, and the continually emerging threat environment.

Part 14 Amendment of subordinate legislation

Division 1 Amendment of Adult Proof of Age Card Regulation 2010

Clause 98 provides that this division amends the *Adult Proof of Age Card Regulation 2010*.

Clauses 99 to 109 contain a number of consequential amendments to reflect that the Bill changes the name of the *Adult Proof of Age Card Act 2008* to the *Photo Identification Card Act 2008* and changes the name of the card from adult proof of age card to photo identification card.

Division 2 Amendment of Civil Partnerships Regulation 2012

Clause 110 provides that this division amends the *Civil Partnerships Regulation 2012*.

Clause 111 makes consequential amendments to reflect that the Bill changes the name of the card from adult proof of age card to photo identification card.

Division 3 Amendment of State Penalties Enforcement Regulation 2014

Clause 112 provides that this division amends the *State Penalties Enforcement Regulation 2014*.

Clause 113 makes consequential amendments to reflect that the Bill changes the name of the *Adult Proof of Age Card Act 2008* to the *Photo Identification Card Act 2008*.

Division 4 Amendment of Tow Truck Regulation 2009

Clause 114 provides that this division amends the *Tow Truck Regulation 2009*.

Clause 115 makes consequential amendments to reflect that the Bill changes the name of the *Adult Proof of Age Card Act 2008* to the *Photo Identification Card Act 2008*.

Division 5 Amendment of Transport Infrastructure (Dangerous Goods by Rail) Regulation 2008

Clause 116 states that the division amends the *Transport Infrastructure (Dangerous Goods by Rail) Regulation 2008*.

Clause 117 omits section 4. This section is not required because the amendment being made by clause 118 now deals with the exemption relating to small quantities of dangerous goods.

Clause 118 inserts a new subsection in section 5 which prescribes the quantity of dangerous goods that are exempt from regulation. It does this by reference to the latest version of the Australian Dangerous Goods Code. This amendment does not change the quantities in relation to which an exemption applies.

Division 6 Amendment of Transport Operations (Marine Safety) Regulation 2016

Clause 119 provides that this division amends the *Transport Operations (Marine Safety) Regulation 2016*.

Clause 120 makes consequential amendments to reflect that the Bill changes the name of the *Adult Proof of Age Card Act 2008* to the *Photo Identification Card Act 2008*.

Division 7 Amendment of Transport Operations (Passenger Transport) Regulation 2005

Clause 121 provides that this division amends the *Transport Operations (Passenger Transport) Regulation 2005*.

Clause 122 amends section 43F to reflect that the Bill changes the name of the *Adult Proof of Age Card Act 2008* to the *Photo Identification Card Act 2008*.

Clause 123 amends section 133P(3) and is a consequential amendment to reflect the change in section numbering of section 143AHA of the *Transport Operations (Passenger Transport) Act 1994* (the Passenger Transport Act) from section 143AHA(3) to section 143AHA(5) due to amendments to section 143AHA of the Passenger Transport Act. Amendments to section 133P(3) are necessary to ensure there is the correct reference to section 143AHA(5) of the Passenger Transport Act within section 133P(3).

Clause 124 amends section 134B and is a consequential amendment to reflect the change in section numbering in section 143AHA of the Passenger Transport Act. Section 134B(1)(vii) refers to section 143AHB(1) and (3) and needs to be amended to reflect the changes in section 143AHB to show in section 134B(1)(vii), section 143AHB(1) and (4). Further consequential amendment is required to section 134B(3)(c) to reflect the change in section numbering in section 143AHA from section 143AHA(3)(c) to section 143AHA(5).

Division 8 Amendment of Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015

Clause 125 provides that this division amends the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*.

Clause 126 makes consequential amendments to reflect that the Bill changes the name of the *Adult Proof of Age Card Act 2008* to the *Photo Identification Card Act 2008*.

Division 9 Amendment of Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008

Clause 127 provides that the division amends the *Transport Operations (Road Use Management—Dangerous Good) Regulation 2008*.

Clause 128 omits section 5. This section is not required because the amendment being made by clause 129 now deals with the exemption relating to small quantities of dangerous goods.

Clause 129 inserts a new subsection in section 6 which prescribes the quantity of dangerous goods that are exempt from regulation. It does this by reference to the latest version of the Australian Dangerous Goods Code. This amendment does not change the quantities in relation to which an exemption applies.

Clause 130 contains a consequential amendment to reflect that the Bill changes the name of the *Adult Proof of Age Card Act 2008* to the *Photo Identification Card Act 2008*.

Division 10 Amendment of Transport Operations (Road Use Management—Driver Licensing) Regulation 2010

Clause 131 provides that the division amends the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010*.

Clause 132 contains a consequential amendment to reflect that the Bill changes the name of the *Adult Proof of Age Card Act 2008* to the *Photo Identification Card Act 2008*.

Division 11 Amendment of Working with Children (Risk Management and Screening) Regulation 2011

Clause 133 provides that this division amends the *Working with Children (Risk Management and Screening) Regulation 2011*.

Clause 134 contains a consequential amendment to reflect that the Bill changes the name of the *Adult Proof of Age Card Act 2008* to the *Photo Identification Card Act 2008* and changes the name of the card from adult proof of age card to photo identification card.

Part 15 Repeal

Clause 135 repeals the *Transport Operations (Marine Safety) Transitional Regulation 2016* No 155. In light of the new definition of other Queensland regulated ship inserted as section 10C of the *Transport Operations (Marine Safety) Act 1994* (see clause 61), this transitional regulation is no longer required.