Traffic Manual

TM Issue 83
Public Edition

Queensland Police Service

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Introduction

The Traffic Manual is issued pursuant to the provisions of s. 4.9: 'Commissioner's directions' of the *Police Service Administration Act*.

The aim of this Manual is to provide members with guidance and instruction for traffic related policing. It provides links to associated Service policies, Manuals, instructions and resources and requires local procedures to be developed at regional, district and station or establishment level.

Members are to comply with the contents of this Manual so that their duties are discharged lawfully, ethically and efficiently and failure to comply with the contents may constitute grounds for disciplinary action.

However, it is recognised in policing, many decisions must be made quickly having regard to diverse circumstances and it is not possible to instruct members on every possible scenario. Therefore, in accordance with the section titled 'Use of Manual' of this Manual, the general policies and procedures may, where justified, be adapted to circumstances as they arise.

The contents of this Manual will be continually reviewed and updated to ensure currency and consistency with the law and community expectations.

Members are to make themselves familiar with the contents of this Manual in order to carry out the Service's functions and deliver an effective level of policing to the community.

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ACTING COMMISSIONER

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Use of Manual

The Traffic Manual (TM) became effective on 1 January 1997 and contains Service policies in relation to operational matters of the Service and unless otherwise stated, the words and terms defined within the Service Manuals Definitions (SMD) apply to the contents this Manual.

Policy in this Manual that uses the terms:

(i) **are to**, **are not**, **is to** and **is not**, requires compliance with and **is not** to be departed from; and

(ii) **should**, is a term which outlines the Service attitude regarding a specific subject and **should** be complied with under ordinary circumstances but may be departed from if there is sufficient reason(s) for doing so. Members may be required to justify their decision to depart from the policy.

Where the term **ORDER** appears as a heading in this Manual, it is used to bring to a member's attention a specific **ORDER** requirement within that section.

The heading **ORDER** and the terms **are to, are not, is to** and **is not** require compliance with. Orders **are not** to be departed from, unless exceptional circumstances exist. Members will be required to explain and justify their decision to depart from such policy in subsequent investigations and/or court proceedings.

The TM has been designed as a Service wide document and as such does not generally prescribe instructions unless applicable in all areas of the Service. In order to recognise the needs of local communities and policing requirements, it will be necessary for officers in charge of regions, districts, and stations/establishments to develop regional, district and station/establishment instructions to give effect to the TM at a local level.

Regional, district and station/establishment instructions are ancillary to and are not to conflict with this Manual which will have precedence over any instructions developed at the local level.

Each chapter in this Manual has an individual table of contents. The contents of the Manual are to be read in conjunction with other Service Manuals and relevant legislation.

ORDER

All members are to be familiar with the contents of this Manual and any amendments made to it.

Common abbreviations

Common abbreviations that may be used in this Manual:

Legislation

CC means the Criminal Code

CP(OROPO)A means the *Child Protection (Offender Reporting and Offender Prohibition Order) Act*

DFVPA means the *Domestic and Family Violence Protection Act*

PPRA means the *Police Powers and Responsibilities Act*

PSAA means the *Police Service Administration Act*

TO(RUM)A means the *Transport Operations (Road Use Management) Act*

YJA means *Youth Justice Act*

Manuals

DERIE means the Digital Electronic Recording of Interviews and Evidence Manual

MSM means the Management Support Manual

OPM means the Operational Procedures Manual

SMCD means Service Manuals Contact Directory

SMD means Service Manual Definitions

TM means the Traffic Manual

Appointments

DDO means district duty officer

OIC means officer in charge

RCC means regional crime coordinator

RDO means regional duty officer

Command/Division names

ERCC means Emergency Response and Coordination Command

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ESC means Ethical Standards Command

OGC means General Counsel, Office of the General Counsel

OSD means State Discipline

RDC means Recruiting and Development Command

SCTFSC means Security, Counter-Terrorism and Forensic Services Command

Unit names

CIB means criminal investigation branch

CPIU means child protection and investigation unit

FCU means forensic crash unit

ODPP means Office of the Director of Public Prosecutions

PSRT means Public Safety Response Team

SERT means Special Emergency Response Team

Requesting changes to this Manual

The Service strongly values and recognises its members and actively seeks input relevant to any problems or suggested changes within this Manual's content. The Inspector, Operational Policy and Improvement (OPI) is responsible for the development and publication of Service Manuals. Advice relevant to its contents, perceived problems or suggested changes should be forwarded to the Inspector, OPI.

On receipt of a proposal to develop or amend a policy, OPI will research the proposal and, if viable, develop Service policy. In researching the matter, all major stakeholders are consulted to ensure the proposal is congruent with present Government and Service policy and relevant legislation.

The Manual is subject to regular update by OPI and the latest amendments will be highlighted throughout. It remains the responsibility of the member of the Service accessing the Manual via other means (e.g. local copies) to ensure currency when viewing.

Interpretation information for this Manual

New or amended content in this amendment issue is highlighted in grey.

When reading this Manual, members should be aware that some content is located in other Service holdings:

Contact Directory: Contact details for:

(i) external organisations and agencies are contained within the Service Manuals Contact Directory (SMCD).

(ii) units within the Service are contained within the Staff and Work Unit Contact System on the Service Intranet.

Definitions: Definitions are contained within the Service Manuals Definitions (SMD).

Delegations and Authorities: Service delegations and authorities are published in the Delegations and Authorities Library SharePoint page.

Forms: Unless otherwise specified within this Manual, Service forms are available on QPS Forms Select. Where a form is available in QPRIME, a back-up version of the form is available in QPS Forms Select.

QPRIME: Assistance and further information in relation to QPRIME is available from the QPRIME User Guide.

QPS internet: Reference to QPS internet means the Queensland Police Service Corporate Internet.

Service intranet: Reference to Service intranet means the QPS Corporate Intranet (Bulletin Board).

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1. Introduction to Traffic Legislation and Traffic Enforcement

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1.1 Introduction

This chapter is aimed at identifying legislation applicable to police in the discharge of the traffic law enforcement functions of the Service. Brief reference is made to sections of legislation which authorise or allow officers to efficiently and effectively discharge their duties and where appropriate commence prosecutions against offenders. Service policy in relation to road policing generally is also outlined in this chapter.

1.2 Superintendent of traffic

The Commissioner is the only member of the Service who is a superintendent of traffic for the purposes of the TO(RUM)A (see Sch 4 of the TO(RUM)A).

However, whilst the Commissioner is the only superintendent of traffic, they have delegated their functions, powers and duties as a superintendent of traffic under the TO(RUM)A to other members of the Service (see Delegation D 25.2).

For the purposes of this Manual, the term superintendent of traffic is also used to refer to officers and staff members delegated the functions, powers and duties of superintendent of traffic.

Sections 124(1)(pa) and (pc): 'Facilitation of proof' of the TO(RUM)A provide that a certificate by the Commissioner regarding the accuracy of a:

(i) radar speed detection device;

(ii) laser-based speed detection device;

(iii) induction loop speed detection device;

(iv) piezo strip speed detection device; and

(v) chassis dynamometer,

respectively is evidence of the accuracy of the devices. Assistant commissioners, commissioned officers, senior sergeants and OICs of stations who are of or above the rank of sergeant have been authorised to issue those certificates (see Delegation D 25.14).

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1.3 Police powers for traffic law enforcement

In order to ensure that the TO(RUM)A (including the various regulations made under that Act) is duly observed, officers should make themselves thoroughly conversant with the laws relating to road policing and should exercise tact and discretion in the performance of their functions.

The majority of powers for enforcing transport legislation are contained in the PPRA. A small number of other powers are contained in the TO(RUM)A. The powers contained within the TO(RUM)A are affected by the PPRA.

Officers may exercise a power or perform a responsibility under the TO(RUM)A that the officer does not have under the PPRA (see ss. 11: 'Inconsistency' and 12: 'Relationship to other Acts' of the PPRA and s. 2.1.1: 'Use of Police Powers and Responsibilities Act' of the OPM).

Some transport Acts (see SMD) contain similar general powers to those in the PPRA and TO(RUM)A as well as specific powers which may be used by officers investigating offences under the particular Act. These powers should be seen as complementing the powers under the PPRA and TO(RUM)A.

Officers should:

(i) generally use the powers contained within the PPRA and TO(RUM)A when investigating offences under transport Acts wherever such powers are applicable; and

(ii) use the specific powers provided under the other transport Acts when a similar specific power is not provided in the PPRA or the TO(RUM)A.

1.3.1 Traffic enforcement related powers under the Police Powers and Responsibilities Act

Officers should make themselves conversant with the provisions of:

(i) Chapter 3: 'Powers relating to vehicles and traffic';

(ii) Chapter 4: 'Motor vehicle impounding powers and immobilising powers for prescribed offences and motorbike noise direction offences';

(iii) Chapter 5: 'Removal powers generally for vehicles or loads or things on roads';

(iv) Chapter 6: 'Powers relating to animals'; and

(v) Chapter 22: 'Provisions about type 1 vehicle related offences',

of the PPRA.

When investigating offences against transport Acts (see SMD), officers may, in accordance with:

(i) s. 40: 'Person may be required to state name and address' of the PPRA require a person to state the person's correct name and address and provide evidence of correctness of the stated name and address;

(ii) s. 58: 'Production of driver licence' of the PPRA require a person to produce the person's driver licence for inspection;

(iii) s. 59: 'Power for regulating vehicular and pedestrian traffic' of the PPRA give directions, signals or orders to drivers or pedestrians on or about to enter a road which the officer considers reasonably necessary for the safe and effective regulation of traffic;

(iv) s. 60: 'Stopping vehicles for prescribed purposes' of the PPRA require the person in control of a vehicle other than an aircraft or train or a vehicle being pulled by an animal, to stop the vehicle for a prescribed purpose;

(v) s. 63: 'Power to inspect vehicles' of the PPRA conduct an inspection or test of vehicles for compliance with a transport Act;

(vi) s. 64: 'Power to enter vehicles etc. other than for vehicle inspection' of the PPRA enter and search a vehicle, inspect, measure, test, photograph or film a vehicle or anything in or on it, take samples of a vehicle and anything in or on it, copy a document in a vehicle or move a vehicle's load for the purpose of enforcing a transport Act under defined circumstances;

(vii) s. 65: 'Power to require vehicle inspections' of the PPRA by written notice (F4890: 'Defect Notice' available from Supply Services), require the owner or the registered operator (see SMD) of the vehicle to have the vehicle inspected at a stated reasonable time and place (see s. 8.9: 'Defect notices' of this Manual);

(viii) s. 66: 'Power to prohibit use of vehicles' of the PPRA by written notice (F4890: 'Defect Notice' available from Supply Services), prohibit the use of a vehicle if it is reasonably suspected to be unsafe or defective;

(ix) s. 68: 'Power to enable effective and safe exercise of other powers' of the PPRA require persons in control of vehicles to give officers reasonable help or require persons in control of vehicles or who are in or have just left a vehicle to do or not do anything which the officer believes is reasonably necessary to enable the officer to effectively and safely exercise a power under a transport Act in relation to the vehicle;

(x) ss. 135: 'Stopping animals for prescribed purposes' and 136: 'Power to enable effective and safe exercise of other powers' of the PPRA require the person in control of an animal, whether or not the animal is pulling a vehicle, to stop the animal for a prescribed purpose; and

(xi) s. 196: 'Power to seize evidence generally' of the PPRA seize evidence,

subject to the limitations and requirements attached to those powers.

See also s. 1.3.4: 'Powers of arrest' of this Manual and ss. 2.4.12: 'Roadblocks' and 15.1: 'Safe Driving Policy' of the OPM.

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1.3.2 Traffic enforcement powers under the Transport Operations (Road Use Management) Act

When investigating offences against transport Acts (see SMD), officers may, in accordance with:

(i) ss. 36K to 39N of the TO(RUM)A, if the officer reasonably believes the person in control of a fatigue regulated heavy vehicle:

(a) has contravened a maximum work requirement;

(b) has contravened a minimum rest requirement;

(c) is impaired by fatigue; or

(d) does not produce their work diary or the work diary is unreliable,

by written notice (F3162: 'Prohibition Notice' available from the DTMR) require the person not to work (The use of this power should be restricted to circumstances outlined in s. 11.2.1: 'Work diary and fatigue offences' of this Manual);

(ii) s. 49: 'Power to require documents to be produced' of the TO(RUM)A require a person to produce for inspection a document issued or required to be kept under a transport Act or corresponding law; and

(iii) s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A require a person to supply a specimen of breath, saliva, blood or urine for analysis,

subject to the limitations and requirements attached to those powers.

1.3.3 Powers of entry

Section 19: 'General power to enter to make inquiries, investigations or serve documents' of the PPRA provides the general power for officers to enter places to make inquiries or investigate matters.

Additionally, there may be occasions when the powers of entry under s. 21: 'General power to enter to arrest or detain someone or to enforce warrant' of the PPRA may be used to provide entry to a place to arrest or detain a person (see s. 1.3.4: 'Powers of arrest' of this chapter and s. 2.8: 'Entry, Search and Seizure' of the OPM).

Section 57: 'Power of entry for ss 54–56' of the PPRA provides that an officer may enter and stay in a place for the time reasonably necessary to give effect to ss. 54: 'Power of inquiry into road use contraventions', 55: 'Power to require information about identity of drivers of vehicles etc.' or 56: 'Additional power of inquiry for relevant vehicle incidents' of the PPRA.

ORDER

Officers who enter any place to make an inquiry, investigation or serve a document under the provisions of any Act are to comply with Chapter 20: 'Other standard safeguards' of the PPRA and record any 'enforcement acts' in the relevant QPRIME occurrence.

Officers intending to enter to arrest or detain a person under s. 21 of the PPRA are to, if reasonably practicable, seek permission from and give the occupier reasonable opportunity to allow the entry before using force that may cause damage to a place to gain entry to the place (see s. 635 of the PPRA and s. 2.8: 'Entry, Search and Seizure' of the OPM).

Officers are only to use force to enter a place under the authority of s. 57 of the PPRA if the entry is authorised by an officer of at least the rank of inspector.

1.3.4 Powers of arrest

The powers of arrest applicable to traffic related offences are contained in s. 365: 'Arrest without warrant' of the PPRA.

Officers should be conversant with their powers and responsibilities relating to the arrest, and discontinuing the arrest, of a person under ss. 365, 376, 377 and 380 of the PPRA.

Officers are to consider alternatives for dealing with offences committed by a child (see s. 5.2.2: 'Alternatives for dealing with child offenders' of the OPM).

Officers are to comply with the provisions of s. 3.5.9: 'Justification for arrest' and s. 3.5.10: 'Notification of arrest to person arrested' of the OPM.

When an offender is arrested for an offence against the TO(RUM)A or associated regulations, proceedings for any other offence arising out of the same incident or circumstances should be instituted at or about the same time (see s. 3.5.2: 'Responsibility to prefer all charges' of the OPM).

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1.3.5 Police officer is an authorised officer

Officers are authorised officers under the following Acts:

(i) s. 20(1): 'Appointment of authorised officers' of the TO(RUM)A, subject to the limitations of s. 20(4); and

(ii) s. 111(1): 'Appointment of authorised persons generally' of the *Transport Operations (Passenger Transport) Act*.

Prior to exercising the powers of an authorised officer, officers are to ensure they are approved to exercise the powers under s. 14: 'Declaration of police officers as public officials' of the PPRA. Instruments of approval made under the PPRA are published in the Delegations and Authorities Library on the Service intranet.

1.4 Officers in charge to ensure attention to traffic law enforcement

OICs of stations and establishments should ensure that in appropriate cases traffic enforcement activities including ITAS taskings are included in operational shift plans for officers under their control (see s. 1.4.5: 'Responsibilities of officers in charge of stations or establishments' of the OPM).

1.5 Role of police in reducing number of traffic crashes

All officers, whether detailed for road policing duty or otherwise, should do everything within their power to reduce the cost to the community of traffic crashes. To this end, each officer should ensure that the traffic laws are properly observed, and be constantly on the alert to detect and take appropriate action against persons committing breaches of the TO(RUM)A and various regulations made under that Act.

Additionally, officers can also assist with reducing traffic crashes by ensuring relevant ITAS taskings are attended to whenever practicable.

Life endangering offences

Particular attention should be given to life endangering offences (see Appendix 1.1: 'Life endangering offences' of this chapter) to reduce the risk of traffic crashes occurring. Officers should commence enforcement action when a life endangering offence is detected.

1.6 Signals for traffic regulation by police

Section 59: 'Power for regulating vehicular and pedestrian traffic' of the PPRA provides the authority for officers to give to a driver of a vehicle or animal or to a pedestrian on or about to enter a road, or to a passenger in a vehicle, any direction, signal or order the officer considers necessary for the safe and effective regulation of traffic on the road.

Section 26: 'Directing vehicular and pedestrian traffic' of the PPRR describes how an officer may give a direction to the driver of a vehicle or to a pedestrian under s. 59 of the PPRA. Schedule 4: 'Signals for directing traffic' of the PPRR illustrates ways that an officer may give a direction to a driver or pedestrian by hand signals.

Officers performing duty which involves regulating traffic should:

(i) give definite signals, directions, or orders to drivers in such a way as to eliminate any misunderstanding;

(ii) as far as practicable, stand in the centre of any intersection and see that vehicles, etc., proceed in their turn in a proper manner at a reasonable rate of speed;

(iii) ensure that traffic control light signals at any intersection where it is necessary for police to regulate traffic are turned off or are turned to flashing amber; and

(iv) ensure that any signals, directions or orders given to drivers do not create a dangerous situation for the officer or other road users.

1.7 General prosecution policy for traffic related matters

All offences against the TO(RUM)A and the various regulations made under that Act may be prosecuted summarily under the Justices Act, on the complaint of any police officer or of any other person authorised by the Minister.

Proceedings for all offences under the TO(RUM)A and the various regulations made under that Act against a person may be commenced by way of notice to appear, complaint and summons or, where justified, arrest (see s. 3.5: 'The institution of proceedings' of the OPM).

In accordance with s. 56(2)(a) to (c): 'Service of summonses' of the *Justices Act*, where a prosecution of a transport Act offence is commenced, a notice to appear may be sent by registered mail to the defendant's address as recorded on the:

(i) defendant's driver licence; or

(ii) involved vehicle's certificate of registration.

Officers are to consider alternatives to proceedings against a child (see s. 5.2.2: 'Alternatives for dealing with child offenders' of the OPM).

The provisions of s. 3.4: 'General prosecution policy' of the OPM applies in respect to offences under the TO(RUM)A and other traffic related legislation contained in this Manual.

ORDER

Prosecutions should only be commenced by complaint and summons where the use of a notice to appear would not be effective.

Court brief required for traffic prosecutions

Officers commencing or continuing a proceeding against an offender by way of notice to appear, complaint and summons or, where justified, arrest for traffic offences are to ensure that a court brief (QP9) is prepared (see s. 3.7.2: 'Documentation at first appearance' of the OPM).

1.8 Police officer to supply officer's particulars

Members of the community, upon request, will be provided with particulars of officers who attend to complaints or otherwise have dealings with them.

Particulars include supplying an officer's station, name, rank, and registered number.

ORDER

Where appropriate, officers are to comply with s. 637: 'Supplying police officer's details' of the PPRA.

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1.9 Traffic enforcement duty in uniform

Unless special circumstances apply, all traffic enforcement duty, including speed detection operations and random breath testing, should be performed by officers in uniform. The existence of special circumstances which justify the wearing of plain clothes, e.g. special targeting of particular groups or classes of offenders is to be determined by a commissioned officer.

Officers performing enforcement duty including the stopping or diverting of vehicles and pedestrians at a road block or static or mobile interception sites are to establish a safe method for performing interceptions of vehicular and pedestrian traffic (see ss. 3.2.1: ‘Establishing a static interception site’, 3.2.6: ‘Responsibilities of officers at a static interception site’ and 3.2.7: ‘Combined operations’ of this Manual).

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Appendix 1.1 Life endangering offences

(s. 1.5)

Transport Operations (Road Use Management) Act

Driving of vehicles and animals

Section	Short Title
79	Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood or breath
83	Careless driving of motor vehicles
84	Dangerous driving of vehicles (other than motor vehicles) etc.
85	Racing and speed trials on roads

Transport Operations (Road Use Management–Road Rules) Regulation

Speed limits

Section	Short Title
20+21	Exceed Speed Limit in speed zone
20+22	Exceed Speed Limit in speed limited area
20+23	Exceed Speed Limit in school zone
20+24	Exceed Speed Limit in shared zone
20+24A(2)(a)	Tractor with sugar cane trailer exceed 50 km/h
20+24A(2)(b)	Oversize vehicle requiring escort exceed 80 km/h
20+24A(2)(c)	Road train exceed 90 km/h
20+24A(2)(d)	Bus with GVM > 5 t or vehicle with GVM > 12 t exceed 100 km/h
20+25(2)(a)	Exceed 50 km/h (lower default speed limit BUA)
20+25(2)(b)	Exceed 100 km/h (default speed limit)

U-turns

Section	Short Title
38	Fail to give way when making U-turns

Traffic lights and twin red lights

Section	Short Title
56(1)	Fail to stop at red traffic light
56(2)	Fail to stop at red traffic arrow
57(1)	Fail to stop at yellow traffic light

Giving way

Section	Short Title
68(2)	Fail to stop at 'STOP' sign at a place
68(3)	Fail to give way to vehicle at 'stop' sign at a place
68(3)	Fail to give way to pedestrian at 'stop' sign at a place
69(2)	Fail to give way to vehicle at 'GIVE WAY' sign at intersection not roundabout
69(2A)	Fail to give way when turning left using slip lane to vehicle on a road or turning right that driver is entering or vehicle or pedestrian on slip lane
69(3)	Fail to give way to pedestrian when turning at 'GIVE WAY' sign at intersection not roundabout
69A	Fail to give way to driver if two or more drivers face a mixture of various signs or lines at an intersection
70	Fail to give way at 'GIVE WAY' sign on narrow road
70	Fail to give way at 'GIVE WAY' sign on bridge
71(1)	Fail to give way at 'GIVE WAY' sign at a place

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Section	Short Title
72(1)	Fail to give way at an intersection (not T-intersection or roundabout) as required
73(1)	Fail to give way at T-intersections as required
79(1)	Fail to give way to police/emergency vehicle
79A(1)	Fail to give way to oversize vehicle under escort
80(2)(a)	Fail to stop at a children's crossing when STOP sign displayed
80(2)(b)	Fail to stop at children's crossing while pedestrian on crossing
80(3)	Proceed contrary to 'STOP' sign at children's crossing
80(4)	Proceed while pedestrian is on or entering children's crossing
81(2)	Fail to give way to pedestrian on pedestrian crossing
82	Overtake vehicle stopped at a children's crossing/pedestrian crossing

Traffic signs and road markings

Section	Short Title
101(1)	Fail to stop at hand-held 'STOP' banner
101(2)	Proceed contrary to hand-held 'STOP' banner

Roundabouts

Section	Short Title
114(1)(a)	Fail to give way to vehicle when entering roundabout

Level crossings

Section	Short Title
121(a)	Fail to stop at 'STOP' sign at level crossing
123(a)	Enter level crossing while warning lights or bells operating
123(d)	Enter level crossing while train approaching crossing and collision likely

Keeping left, overtaking and other driving rules

Section	Short Title
129	Fail to keep left side of road (not multi-lane road)
132(1)	Fail to keep left of the centre
132(2)	Fail to keep left of centre dividing line
133(3)	Fail to keep left of double continuous dividing lines
138(1)	Cross continuous line (s) beside painted island
140	Overtake when not safe to do so
152(1)+(2)	Disobey overhead lane control—red diagonal cross
152(1)+(3)	Disobey overhead lane control—flashing red diagonal cross

Rules for pedestrians

Section	Short Title
238(1)	Pedestrian fail to use footpath
238(2)(a)	Pedestrian fail to keep to side of road
238(2)(b)	Pedestrian on road travelling not more than 2 abreast

Rules for persons travelling in or on vehicles

Section	Short Title
264(1)	Driver fail to wear seat belt
265(1)+(2)	Passenger 16 years old or older occupy position without seat belt when one available
265(1)+(3)	Passenger 16 years or older fail to wear seat belt
265(1)+(4)	Passenger 16 years old or older if in front seat when no seat belt fitted and other seating available

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Section	Short Title
266(1)+(2)	Drive motor vehicle while < 1 year old unrestrained
266(1)+(3)	Drive motor vehicle while passenger 1 < 16 years old unrestrained
266(1)+(4)	Drive taxi not fitted with child restraint whilst passenger < 1 year old in front seat
270(1)(a)	Motor bike rider fail to wear helmet
270(1)(b)	Ride motor bike with passenger not wearing helmet
270(2)	Passenger on motor bike fail to wear helmet

Transport Operations (Road Use Management–Driver Licensing) Regulation

Section	Short Title
228(2)	Driver holding class C learner licence (under 25 years) granted or renewed after 30 June 2007 use mobile phone when vehicle moving or stationary not parked
228(2)	Driver holding class C P1 provisional licence (under 25 years) use mobile phone when vehicle moving or stationary not parked
228(2)	Driver holding class C P1 probationary licence (young driver disq. offence) use mobile phone when vehicle moving or stationary not parked
228(2)	Driver holding class C P1 restricted licence (young driver disq. offence) use mobile phone when vehicle moving or stationary not parked
229(2)	Passenger not to use mobile phone in loudspeaker mode in a car (moving or stationary not parked) driven by person holding class C learner licence (under 25 years)
229(2)	Passenger not to use mobile phone in loudspeaker mode in a car (moving or stationary not parked) driven by person holding class P1 provisional licence (under 25 years)
229(2)	Passenger not to use mobile phone in loudspeaker mode in a car (moving or stationary not parked) driven by person holding class P1 probationary licence (young driver disq. offence)
229(2)	Passenger not to use mobile phone in loudspeaker mode in a car (moving or stationary not parked) driven by person holding class P1 restricted licence (young driver disq. offence)
230(2)	Driver holding P1 provisional licence (under 25 years) drive high powered vehicle without current certificate of exemption or non-compliance with certificate
230(2)	Driver holding P2 provisional licence (under 25 years) drive high powered vehicle without current certificate of exemption or non-compliance with certificate
230(2)	Driver holding P1 probationary licence (young driver disq. offence) drive high powered vehicle without current certificate of exemption or non-compliance with certificate
230(2)	Driver holding P2 probationary licence (young driver disq. offence) drive high powered vehicle without current certificate of exemption or non-compliance with certificate
230(2)	Driver holding P1 restricted licence (young driver disq. offence) drive high powered vehicle without current certificate of exemption or non-compliance with certificate
230(2)	Driver holding P2 restricted licence (young driver disq. offence) drive high powered vehicle without current certificate of exemption or non-compliance with certificate
243	Person who satisfies s. 72(1) unless exempted by s. 72(2) drive a motor vehicle between 11pm and 5am for 1 year without current certificate of exemption or non-compliance with certificate
248(2)	Driver holding class C P1 provisional licence (under 25 years) between 11pm and 5am carry more than 1 passenger under 21 not person who is in their immediate family
248(2)	Driver holding class C P1 probationary licence between 11pm and 5am carry more than 1 passenger under 21 not person who is in their immediate family (young driver disq. offence)

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Section	Short Title
248(2)	Driver holding class C P1 restricted licence between 11pm and 5am carry more than 1 passenger under 21 not person who is in their immediate family (young driver disq. offence)

Transport Operations (Road Use Management–Vehicle Standards and Safety) Regulation

Vehicle standards

Section	Short Title
8(1)	Drive or park or permit drive/park a vehicle not fitted with equipment required by the vehicle standards
8(1)	Drive or park or permit drive/park a vehicle if equipment does not comply with the vehicle standards
8(1)	Drive or park or permit drive/park a vehicle if not constructed or loaded to comply with the vehicle standards
8(1)	Drive or park or permit drive/park a vehicle if its parts or equipment are not in safe condition
8(1)	Drive or park or permit drive/park a vehicle fitted with optional equipment which does not comply with the vehicle standards
8(1)	Drive or park or permit drive/park a vehicle with stationary noise level of less than 10 dB(A) of the vehicle standards
8(1)	Drive or park or permit drive/park a vehicle with stationary noise level 10 or more dB(A) of the vehicle standards
8(1)	Drive or park or permit drive/park a defective vehicle

Criminal Code

Section	Short Title
328A	Dangerous operation of a vehicle

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2. Deleted

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3. Interception by Police

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3.1 Introduction

This chapter provides information to allow officers to perform static interceptions of motor vehicles and pedestrians in a safe manner.

The Service's policy in relation to:

(i) the use of roadblocks; and

(ii) mobile interception of motor vehicles,

is contained in ss. 2.4.12: 'Roadblocks' and 15.4: 'Vehicle interceptions' of the OPM.

3.2 Static interception

A static interception site may be established where:

(i) officers exercise a statutory power, for example:

(a) s. 26: 'Roadblocks' of the PPRA;

(b) s. 59: 'Power for regulating vehicular and pedestrian traffic' of the PPRA;

(c) s. 80(2): 'Request for specimen of breath' of the TO(RUM)A; or

(d) s. 80(2AA): 'Request for specimen of saliva' of the TO(RUM)A;

(ii) the protection and safety of the public is required e.g. the prevention of access to areas due to an emergency situation being declared pursuant to the *Public Safety Preservation Act*;

(iii) it is necessary for the safety of the public e.g. at traffic crashes where a portion of roadway is unsafe for traffic use, or if a portion of a roadway is blocked;

(iv) officers conduct planned operations or perform tasks as provided by ITAS; and

(v) in any other circumstance it is necessary for police to intercept vehicles in the course of their duties.

Officers at a static interception site are to comply with directions issued by the officer in command.

Proper management surrounding the establishment and operations at static interception sites should be designed to ensure that safe, effective and efficient policing is achieved.

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3.2.1 Establishing a static interception site

Prior to selecting a static interception site the officer in command should consider the:

(i) traffic density on the particular road;

(ii) nature and class of the road at the location;

(iii) physical construction of the road, with particular reference to the road surface, number of traffic lanes, width of road shoulders, and whether any foreign substance (oil, etc.) is evident on the road;

(iv) existence of a dust hazard, in particular to road surface and soft edges and the types of vehicles using the road. (Note: Semi trailer vehicles can collect dust on wheels and may spread a dust cloud when stopping or starting);

(v) existence of fog, smoke or rain;

(vi) available distance for motorists to bring their vehicles to a stop;

(vii) parking of all vehicles, including intercepted vehicles, should:

(a) be in a way that does not unreasonably interfere with normal traffic flow;

(b) comply with the TO(RUM)A and TO(RUM–RR)R unless special circumstances exist, in which case, the officer in command should be able to justify the reason for such selection; and

(c) wherever practicable, provide an area of safety for persons at the site;

(viii) applicable provisions of the *Work Health and Safety Act*;

(ix) need to ensure that a clear and uninterrupted view exists between the site and the oncoming traffic consistent with the usual speed of vehicles and the distance required to stop or slow down;

(x) need to turn off traffic control light signals at the site or switch them to flashing amber;

(xi) safety of officers and members of the public at or near the static interception site; and

(xii) rights of property owners/occupants in the locality and in particular that:

(a) interceptions should not be made on private property without the prior consent of the owner/occupier; and

(b) the level of noise likely to be created at the site.

Officers in command who identify a potentially suitable static interception site should prepare a QP 0537: 'Site Safety Plan' (available from Supply Services) prior to commencing operations at the site (see s. 3.2.2: 'Site safety planning' of this chapter).

3.2.2 Site safety planning

Site safety planning, as outlined in this chapter, is intended for use in road policing. This process is not intended to be strictly applied to tactically dangerous on-road situations as outlined in s. 17.3.9: 'Tactically dangerous situations' of the OPM (e.g. roadblocks to apprehend armed offenders). In such cases, officers in command should consider both the tactical aspects of the situation and the site safety principles outlined in this chapter to develop plans which provide maximum safety for officers and the community.

Site safety planning is a process designed to ensure that officers and other road users are protected to the greatest extent possible from hazards associated with police operations at static interception sites. Achieving this goal should be given priority over other considerations such as maximising the number of persons intercepted.

Static interception sites which are required to be established without an opportunity for planning, e.g. traffic diversion at the scene of a traffic crash, need not be the subject of a site safety plan. However, the principles of site safety planning should be applied to such static interception sites as far as possible having regard to the location of the site and the equipment reasonably available to officers at the site.

The site safety planning process need not be applied to static interception sites which deal only with pedestrian traffic although officers establishing such sites should consider the safety aspects applicable to the operation at that site.

Site safety planning should be carried out as close as practicable to the time of commencing operations at a static interception site to ensure the currency and accuracy of the information used in the process. Preliminary inspections of proposed static interception sites or perusal of previously prepared site safety plans for a particular site should be conducted prior to commencing site safety planning to ensure that suitable equipment and personnel are available to establish a static interception site at the proposed site.

ORDER

Site safety plans are to be prepared for all static interception sites which are established as part of a pre-planned activity (planned static interception sites).

Officers in command establishing static interception sites should:

(i) assess the proposed site for its suitability for the activity to be performed (see s. 3.2.1: 'Establishing a static interception site' of this chapter);

(ii) commence the preparation of a QP 0537: 'Site Safety Plan' (available from Supply Services);

(iii) assess the proposed site for the level of risk posed to officers and members of the public by the activity to be performed at the site by completing the site safety matrix on the QP 0537. When completing a site safety matrix officers may take into consideration the presence of artificial light sources when considering the rating to be assigned to the 'time of day' factor, e.g. a proposed interception site under bright street lighting or with bright artificial light provided by floodlighting may be considered as a 'day' level of risk rather than night or dawn/dusk;

(iv) cross reference the suggested control strategy obtained from the site safety matrix with the control strategy implementation table on the QP 0537. The suggested control strategies, listed in order of stringency, and associated control options are:

(a) Eliminate—cancel the activity if possible, or implement detours, stop all traffic or create a 'safety zone' in which to work if the activity cannot be avoided;

(b) Separate—create a 'safety zone' in which to work or use available environmental features such as side streets or enforcement bays to work in;

(c) Standard—use personal protective equipment and comply with the safety provisions for officers outlined in s. 3.2.6: 'Responsibilities of officers at a static interception site' of this chapter;

(v) select an appropriate control option from the control strategy implementation table from the options listed under the strategy which corresponds to the control strategy obtained from the site safety matrix. Officers in command should be able to justify their reasons for not adopting a higher ranked option in favour of the option actually selected (e.g. why option 3 was chosen in preference to options 1 or 2). Intelligence, Tactical and Analysis System (ITAS) taskings and similar deployment instructions should not be considered as justifications for adopting lower ranked control options at sites which should, in accordance with the suggested control strategy, be subject to the 'eliminate' strategy. However, officers in command may select any control option which is listed under a control strategy which is more stringent than the control strategy obtained from the site safety matrix (e.g. any

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option from the 'eliminate' strategy may be chosen if the appropriate strategy, according to the site safety matrix is 'separate');

(vi) identify the specific hazards created by the proposed activity at the site to officers and members of the public;

(vii) having regard to the selected control option, determine the specific measures to control the specific hazards presented by the site and the proposed activity. These should be recorded on the QP 0537: 'Site safety plan', which should also include:

(a) a diagram (not to scale) of the static interception site and the desired placement of personnel and traffic control measures. Where suitable the site diagrams contained in Appendix 3.1 to 3.4 of this chapter may be adopted in place of developing a unique site diagram for the particular site; and

(b) a listing of personnel deployed at the site and their functions;

(viii) brief personnel working at the site on the site safety plan and their particular roles;

(ix) deploy personnel and equipment in accordance with the site safety plan;

(x) at the conclusion of operations at a static interception site, debrief the personnel employed at the site and note on the QP 0537: 'Site safety plan' a brief comment about the effectiveness of the control option adopted and the specific risk control measures taken at the site; and

(xi) upon completion of the shift, file the QP 0537: 'Site safety plan' at the officer's station or establishment unless local instructions provide for other filing requirements. Site safety plans should be retained for a period of one year unless an incident involving injury to any person or damage to any property occurred as a result of operations at the site. In such cases the site safety plan should be attached to the relevant file on the incident.

3.2.3 Safety planning distances

Safety planning distances have been developed by the Forensic Crash Unit, Brisbane to ensure that officers intercepting vehicles are adequately informed of the distances which are required to bring vehicles travelling at various speeds to a stop safely.

The safety planning distances have been developed to account for vehicles travelling on good roads in dry conditions. Consequently extra stopping distances should be allowed where conditions are wet or the road surface is otherwise loose or slippery. It may be the case that stopping distances are increased so significantly by wet weather or slippery road conditions that attempting to stop vehicles may be too dangerous to allow a planned static interception site to be established. Officers in command are to consider the appropriateness of the safety planning distances to the particular situation which applies at a static interception site and increase the distances allowed at the site for stopping vehicles. Officers in command are not to reduce safety planning distances.

When developing Site Safety Plans, and while operating static interception sites, officers should use the safety planning distances shown on the QP 0537: 'Site Safety Plan'.

The appropriate safety planning distance to use at a site is to be determined by the officer in command. Generally, the safety planning distance to be adopted should correspond with the speed limit of the road on which the static interception site is situated. However, if the average speed of traffic approaching the site is generally higher or lower than the prescribed speed limit then the average speed of traffic should be used to determine the safety planning distance.

Officers in command of static interception sites may take into account environmental factors which cause vehicles to slow their speed when determining the appropriate safety planning distances to use at a static interception site. In such cases there is no restriction on the use of different safety planning distances for vehicles which have been subject to the slowing effect of the environmental feature and those which have not.

Example

A static interception site is to be established on Smith Street which is a 60 km/h speed zone. Vehicles travelling along the Smith Street are travelling at an average speed of 60 km/h. Generally the appropriate planning distance for vehicles travelling along Smith Street should be 140 metres.

Brown Street intersects with Smith Street at a T intersection. Brown Street is the terminating road. Vehicles turning into Smith Street from Brown Street are travelling at an average speed of less than 40 km/h. The appropriate safety panning distance with respect to these vehicles is 80 metres.

A static interception site could be established on Smith Street using 140 metres as the safety planning distance for vehicles travelling along Smith Street and 80 metres as the safety planning distance for vehicles turning into Smith Street from Brown Street.

Officers in command of static interception sites should use the safety planning distances to determine the location of static interception sites and the placement of traffic control measures.

Examples

A static interception site is to be established in a 60 km/h speed zone. The officer in command of the site should ensure that the site is visible to vehicles being intercepted for a minimum distance of 140 metres.

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A static interception site is to be established at the scene of a traffic accident in a 100 km/h speed zone. The site is only visible to approaching vehicles within 50 metres because it is situated on a blind bend. The safety planning distance applicable to a 100 km/h speed zone is 330 metres. The officer in command of the site should ensure that traffic control measures such as traffic cones or police vehicles are placed between the approaching traffic and the actual traffic accident scene so as to be visible to approaching traffic at a distance of at least 330 metres.

A planned static interception site to be established in a 60km/h speed zone is only visible to approaching traffic for a distance of 50 metres due to the presence of the crest of a hill. The safety planning distance applicable to a 60km/h speed zone is 140 metres. The static interception site is not to be established at this location.

ORDER

Where the safety planning distances cannot be implemented at a proposed planned static interception site the interception site is not to be established at that location.

3.2.4 Static interception site design principles

Static interception sites should be designed to incorporate the relevant principles set out in:

(i) 'Lighting at static interception sites';

(ii) 'Creating safety zones';

(iii) 'Using environmental features';

(iv) 'Placement of personnel at static interception sites'; and

(v) 'Traffic build up at static interception sites',

of this section.

Lighting at static interception sites

Officers establishing static interception sites during the hours of darkness should ensure:

(i) where street lighting does not exist some other form of artificial light is used to illuminate the site;

(ii) police vehicles being used to create a 'safety zone' at the scene have appropriate emergency lights activated;

(iii) strobe lights are used, where available, to mark the commencement of traffic cone lines; and

(iv) traffic cones or bollards with reflective bands are used to mark 'safety zones'.

Officers establishing static interception sites during daylight hours should ensure that police vehicles being used to create a 'safety zone' at the scene have appropriate emergency lights activated.

Creating safety zones

Safety zones are a major part of the Service's control strategies to reduce the risk of injury or damage as a result of operations at static interception sites.

A safety zone may be created by blocking a portion of a road (and nearby area if necessary or desirable) with police vehicles, or other suitable emergency vehicles where appropriate, traffic cones and traffic signs. The portion of the road which is blocked should be of sufficient size to allow officers and intercepted motorists and their vehicles to remain in safety while still allowing traffic which is not being intercepted to continue safely.

Examples of 'safety zones' are illustrated in:

(i) Appendix 3.1: 'Static interception site—three lane operation';

(ii) Appendix 3.2: 'Static interception site—three lane operation (alternate)';

(iii) Appendix 3.3: 'Static interception site—four lane operation'; and

(iv) Appendix 3.4: 'Static interception site—four lane operation (alternate)',

of this chapter.

Officers in command who are creating a safety zone should:

(i) ensure that the safety zone is visible to approaching traffic for at least the relevant safety planning distance;

(ii) use a police vehicle, with activated emergency lights, to block the appropriate portion of the road before directing officers to enter upon a road to place traffic cones or signs;

(iii) ensure that any safety zone into which it is intended to direct vehicles is:

(a) of sufficient size to allow safe parking of the number of vehicles expected to be intercepted at any one time;

(b) located so that vehicles which are to be left at the site after the static interception site is dismantled (e.g. vehicles belonging to arrested motorists) are left in a legally parked position; and

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(c) designed to allow vehicles to leave the safety zone safely.

(iv) ensure that the safety zone is of sufficient size, and sufficiently well delineated, to ensure that passing vehicles do not come into close proximity with officers, other persons or vehicles in the safety zone;

(v) ensure that the approaches to the safety zone are sufficiently well delineated and suitable traffic control measures, such as signs or manual direction, are in place to ensure that vehicles only enter the safety zone under police direction; and

(vi) if practicable, ensure that suitable signs are erected to face the drivers of vehicles approaching the static interception site to warn those persons of the presence of the site and the possibility that they may be required to stop.

Using environmental features

The use of suitable environmental features present at an interception site is an acceptable practice to ensure the separation of personnel and stationary vehicles from moving traffic.

Suitable environmental features include purpose built enforcement bays, extended road shoulders and side streets (see SMD).

Where suitable environmental features are present at an interception site the use of such features in preference to establishing a safety zone is permitted.

Generally, an environmental feature, other than a side street, may be considered as a suitable alternative to creating a safety zone if the feature:

(i) is not part of a road upon which vehicles normally travel e.g. an enforcement bay or extended road shoulder;

(ii) allows at least 1 metre separation between persons and vehicles within the feature and passing traffic;

(iii) is of sufficient size to allow safe parking of the number of vehicles expected to be intercepted at any one time;

(iv) located so that vehicles which are to be left at the site after the static interception site is dismantled (e.g. vehicles belonging to arrested motorists) are left in a legally parked position;

(v) of suitable construction to allow vehicles to safely enter and leave the feature, e.g. heavy vehicles should not be directed onto a soft road shoulder; and

(vi) is of sufficient size, and sufficiently well delineated, to ensure that passing vehicles do not come into close proximity with officers, other persons or vehicles in the environmental feature.

Side streets

A side street may be used to separate personnel and stationary vehicles at a static interception site from moving traffic. The side street may be incorporated into the static interception site by having the intercepting officer direct vehicles to be intercepted into the side street where interviewing officers can then deal with the driver of the vehicle.

A side street may be used if:

(i) the side street is immediately adjacent to the road upon which the static interception site is established;

(ii) sufficient parking spaces are available in the side street to accommodate the number of vehicles likely to be intercepted at any particular time during operations at the site;

(iii) the configuration of the side street permits intercepted motorists to return to the road from which they were directed; and

(iv) a site safety assessment is conducted on the side street and the appropriate strategy to control the risks on that ‘side street’ is determined to be ‘Standard’.

Personnel working in a side street are to use personal protective equipment and comply with the safety provisions for officers outlined in s. 3.2.6: ‘Responsibilities of officers at a static interception site’ of this chapter particularly subsections ‘Intercepting officers’ and ‘Interviewing officers’.

Placement of personnel at static interception sites

Officers, other than intercepting officers, at a static interception site should be positioned off the road or within a safety zone.

The safety officer should be positioned so as to have a clear view of the site, officers at the site and persons or vehicles entering the site.

Intercepting officers should be positioned off the road or within a safety zone in a position which:

(i) allows the intercepting officer to enter onto the road as required to intercept vehicles;

(ii) allows a clear view of approaching traffic for at least the relevant safety planning distance;

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(iii) provides maximum visibility of the intercepting officer to approaching traffic once the officer enters onto the road; and

(iv) provides a clear avenue of retreat from the road or position if necessary.

The relevant responsibilities of officers are outlined in s. 3.2.6: 'Responsibilities of officers at a static interception site' of this chapter. These responsibilities include instructions for the movement of officers in and around a static interception site.

Traffic build-up at static interception sites

Officers in command at static interception sites should be aware of the extent to which the design of the static interception site causes a traffic build-up on the approaches to the site.

Where the design or operation of a static interception site causes a build-up of stationary or slow-moving traffic on a road (other than within a safety zone) officers in command are to ensure that:

(i) the last stationary or slow-moving vehicle in a group of vehicles approaching the site is visible to following traffic for the safety planning distance relevant to the speed zone any following vehicles are in; and

(ii) where the location does not permit such a level of visibility to be maintained;

(a) a traffic build-up is not permitted to occur; or

(b) measures are taken to control traffic joining the group of stationary or slow-moving traffic.

3.2.5 Officer safety at static interception sites

Officer safety at static interception sites is paramount. The OIC of a static interception site is to ensure that officers use Service-approved safety equipment (both personal and station/establishment issue) whilst performing duties at a static interception site.

High visibility and reflectorised safety vests

ORDER

Officers wearing, or not wearing, an integrated load bearing vest (ILBV) at static interception sites **are to** wear Service-issued reflectorised safety vests in or adjacent to traffic, including work sites, in quarries or on construction haul roads and whilst performing routine traffic intercepts at any time of day.

Officers are not to wear damaged or unserviceable vests or jackets (see s. 12.10: 'High visibility and reflectorised safety vests' of the MSM).

Warning signs

OICs of static interception sites should ensure that where appropriate warning signs are available, such signs are used at static interception sites. Signs should be placed to warn motorists or pedestrians that they may be required to stop at a particular site.

Safety equipment

Safety equipment includes:

(i) reflectorised safety vests for officers wearing or not wearing, an ILBV;

(ii) traffic wands;

(iii) traffic cones/bollards with reflectorised tape;

(iv) handheld reflectorised 'STOP POLICE' signs;

(v) reflectorised signs together with stands and hazard light systems with an independent power source;

(vi) strobe lights; and

(vii) warning signs.

OICs of regions and commands are responsible for the supply and replacement of safety equipment on a high priority basis for use within their region or command.

All officers are to be supplied with such safety equipment as is necessary to enable them to perform their duties in all environmental and weather conditions (e.g. night-time, wet weather). Sufficient safety equipment should be supplied to ensure that officers can be provided with suitable safety equipment for the duties performed.

OICs of stations and establishments are to ensure:

(i) safety equipment suitable for the duties performed by officers under their control is supplied and is available for use; and

(ii) sunscreen lotion or cream is made available to officers performing duty outdoors during daylight hours.

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Officers in charge of stations and establishments

The OIC of a station or establishment issued with Service safety equipment is to ensure:

(i) officers under their control are provided with appropriate safety equipment to carry out their duties;

(ii) officers under their control receive adequate training in the use of safety equipment;

(iii) the equipment is regularly checked for completeness and is maintained in a good order and condition; and

(iv) new or replacement safety equipment is purchased as required.

Additional safety equipment

Officers may use safety equipment provided by other government departments or instrumentalities whilst performing duty at static interception site.

3.2.6 Responsibilities of officers at a static interception site

Within any static interception site there will be identifiable functions and responsibilities to be performed. This section outlines, in general terms the functions within a static interception site. It will be necessary to refer to other more specific sections of this Manual (e.g. Chapter 6: 'Speed Detection') when dealing with those duties.

Depending on the particular situation, more than one of the duties and responsibilities contained herein may be undertaken by any particular officer provided that the performance of more than one function does not detract from the officer's ability to perform another assigned function.

OICs of regions may establish minimum and maximum staffing levels for particular operations at static interception sites.

Officer in command

At any incident that calls for action by police and at which officers are present, the officer in command has responsibility for the establishment of any required static interception site. (See s. 2.4.12: 'Roadblocks' of the OPM with respect to the operation of a roadblock site.)

The officer in command at a static interception site is responsible for:

(i) preparing a Site Safety Plan for the static interception site (see s. 3.2.2: 'Site safety planning' of this chapter);

(ii) the interception and stopping of vehicles and or pedestrians in a safe manner. Officers in command are to ensure that only one intercepting officer is intercepting vehicles at any particular time;

(iii) subject to minimum and maximum staffing levels established by an OIC of a region, the determination of the number of officers required to adequately perform all duties associated with the specific task for which the static interception site was established;

(iv) supervising the operation of the interception site once created by directing and controlling officers at the static interception site;

(v) as circumstances dictate directing the cessation of the interception site; and

(vi) ensuring the workplace health and safety of persons entering, leaving or at the static interception site (see *Work Health and Safety Act* ss. 20(1) and 30).

In establishing a static interception site, in addition to other provisions of this Manual, considerations by the officer in command should include whether:

(i) authority exists;

(ii) the location intended affords safety consistent with the provisions of s. 3.2.1: 'Establishing a static interception site' of this chapter; and

(iii) appropriate safety equipment is available for use.

The officer in command at a static interception site should ensure that:

(i) the establishment of the static interception site complies with the requirements of this Manual;

(ii) all officers at the interception site are briefed prior to the commencement and allocation of duties, and where appropriate, a debriefing is held prior to the completion of duty;

(iii) suitable officers are selected to perform identified duties;

(iv) conflicts between officers and members of the public are dealt with;

(v) unless special circumstances exist, officers wear the uniform of the day;

(vi) whenever considered appropriate, any Service vehicle being used at the static interception site which has a revolving or flashing light or a light bar should have such light or light bar lit or activated;

(vii) activities of officers at the site are monitored to ensure that safety is maintained;

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(viii) the ratio of vehicles intercepted to officers at the site is maintained at manageable levels and delays to traffic are not unreasonable;

(ix) the site is left clean and tidy;

(x) weather, light and traffic conditions are monitored and if appropriate consideration is given to terminating the operation. Static interception sites should not be operated during the first and last 45 minutes of daylight unless an artificial light source is also used at the site;

(xi) inexperienced officers are assisted in the performance of their duties; and

(xii) all statistical information is compiled and recorded on ITAS at the termination of the operation.

ORDER

Officers in command are to ensure that officers at static interception sites wear reflectorised safety vests in compliance with s. 3.2.5: 'Officer safety at static interception sites' of this chapter.

Intercepting officers

An intercepting officer present at a static interception site is responsible for the interception and or diversion of vehicular and pedestrian traffic.

The number of officers performing the duties of intercepting officer at a site should be kept to a minimum although more than one intercepting officer may be designated.

First Year Constables and officers inexperienced in traffic duties should not be designated as intercepting officers except on roads where the speed limit is less than 80 km/h.

Intercepting officers should:

(i) unless otherwise directed by the officer in command, wear the uniform of the day;

(ii) wear a Service issue reflectorised safety vest, see s. 3.2.5: 'Officer safety at static interception sites' of this chapter;

(iii) during the hours of darkness, use a traffic wand and/or a strobe light;

(iv) use a reflectorised 'STOP POLICE' sign during hours of darkness. The use of the sign during daylight hours is to be at the discretion of the officer in command of the site. Where adverse weather conditions exist, such as strong winds, or conditions exist which render the use of such sign dangerous, e.g. heavy vehicles causing strong wind gusts when passing, the officer in command of the site may decide that the use of the sign is impractical;

(v) when standing on a road, keep approaching vehicles under constant observation;

(vi) when directing traffic, use definite and distinct hand signals;

(vii) where necessary, assist motorists to re-enter the traffic flow after being intercepted;

(viii) stop all traffic where necessary to allow Service vehicles to safely enter a road;

(ix) not stand between intercepted vehicles and any other vehicle parked either in front of or behind the intercepted vehicle;

(x) maintain visual and or radio contact with the officer in command and other officers;

(xi) be mindful of the possibility that a motorist may not be able to see persons standing on roadways due to reflection, sunlight, poor visibility or other reasons. Intercepting officers should also be mindful that safety at the static interception site is more important than the apprehension of motorists; and

(xii) while intercepting vehicles:

(a) wherever practicable, enter on to the road and commence giving any required directions no closer to the vehicle to be intercepted than the safety planning distance appropriate to the speed of the vehicle;

(b) not remain directly in the path of a vehicle when it is apparent that the driver of the vehicle cannot or will not stop before reaching the officer; and

(c) not move about on the road in such a manner as to require drivers of vehicles to brake suddenly or take sudden evasive action to avoid the officer.

Interviewing officers

Interviewing officers are responsible for conducting interviews and conversations with motorists or pedestrians who are intercepted. Interviewing officers may also be responsible for performing other duties such as conducting roadside breath tests, issuing traffic infringement notices, inspecting motor vehicles, etc.

Interviewing officers should:

(i) conduct interviews/conversations with persons whilst on the footpath, the shoulder of the road furthest from moving traffic or another area well clear of any moving traffic (e.g. a 'safety zone');

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(ii) wear a Service issue reflectorised safety vest, see s. 3.2.5: 'Officer safety at static interception sites' of this chapter;

(iii) make relevant notes of interviews/conversations and events as soon as practicable after an incident;

(iv) be conversant and follow the safety procedures and precautions outlined in this Manual;

(v) maintain visual and or radio contact with the officer in command and other officers;

(vi) be mindful of the possibility that a motorist may not be able to see persons standing on roadways due to reflection, sunlight or poor visibility, and remain on the roadway for the shortest possible time;

(vii) if standing on a roadway, maintain continuous observation of any approaching traffic travelling in the lane closest to the officer; and

(viii) not stand between intercepted vehicles and any other vehicle nor directly in front of or directly behind an intercepted vehicle.

Pursuit vehicle driver

A pursuit vehicle driver is responsible for giving pursuit, where appropriate and justified, to drivers of vehicles who have failed to stop after being directed to do so. (See Chapter 15: 'Driving of Service vehicles' of the OPM)

Safety officer

The safety officer should assist the officer in command with the selection of the site, monitor the safety of the site and take appropriate action to remedy any unsafe practices to minimise any risk to officers or members of the public at the site.

The safety officer is responsible for:

(i) allocation and management of equipment utilised;

(ii) the collection and recording of statistical data and the completion of summary sheets;

(iii) the security of the interception site including the random breath test special operations vehicle;

(iv) the provision of sufficient lighting at the site;

(v) the placement and maintenance of reflectorised warning signs and directional signs when necessary;

(vi) the placement and maintenance of the traffic cones with reflectorised tape when necessary; and

(vii) assisting the officer in command to ensure that all officers perform their duties in a safe manner.

3.2.7 Combined operations

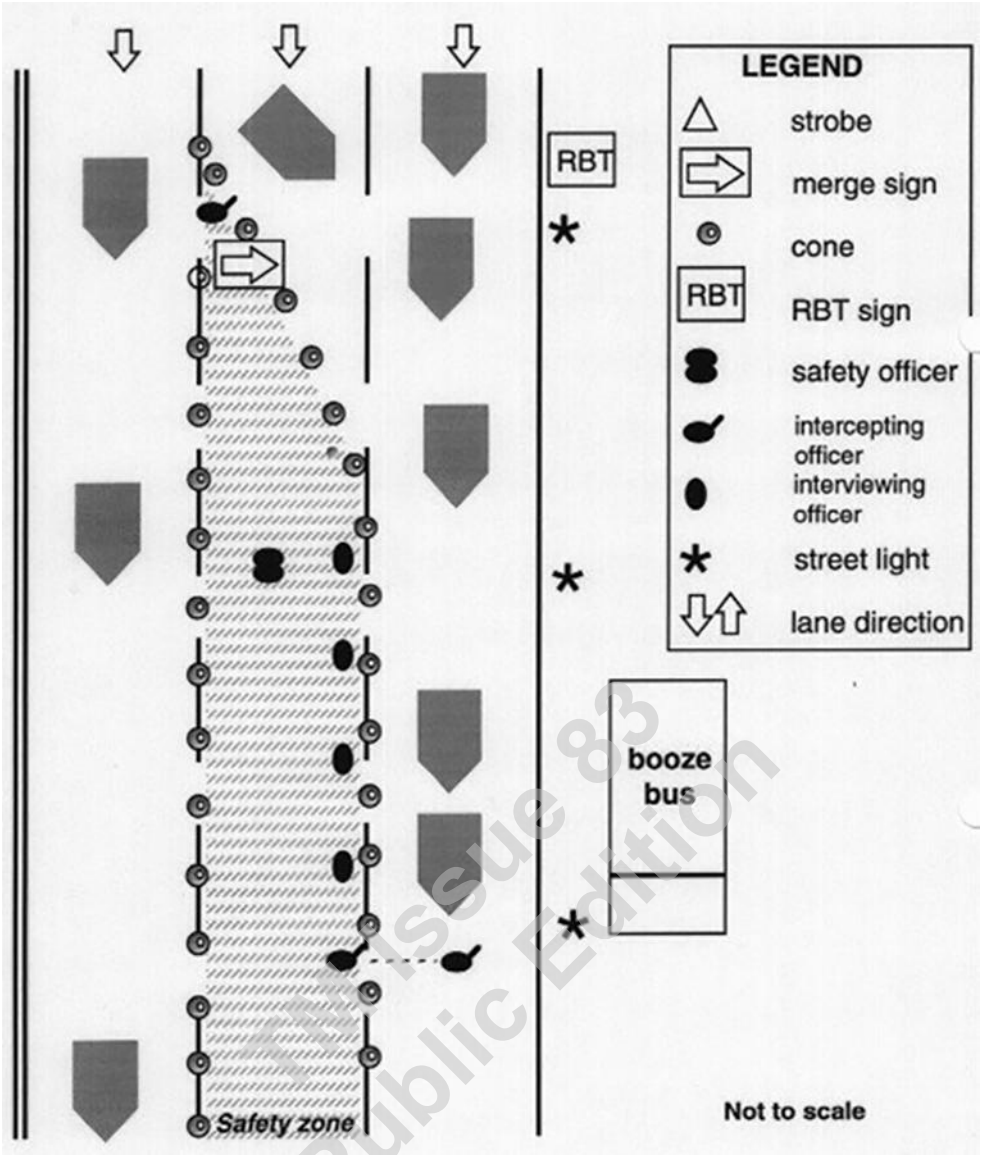
Combined operations are conducted with officers from other government departments such as the DTMR. The provisions of this chapter relating to static interception sites apply with respect to any combined operations. Where the site safety requirements of this chapter have not been complied with at the relevant static interception site, officers should negotiate with the officers from the other agency to reconfigure the site or relocate the operation to comply with site safety planning requirements. Where it is not possible to negotiate the reconfiguration or relocation of the static interception site, officers should not perform static interception duties at that site.

3.3 Deleted

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Appendix 3.1 Static interception site set-up—Three lane operation

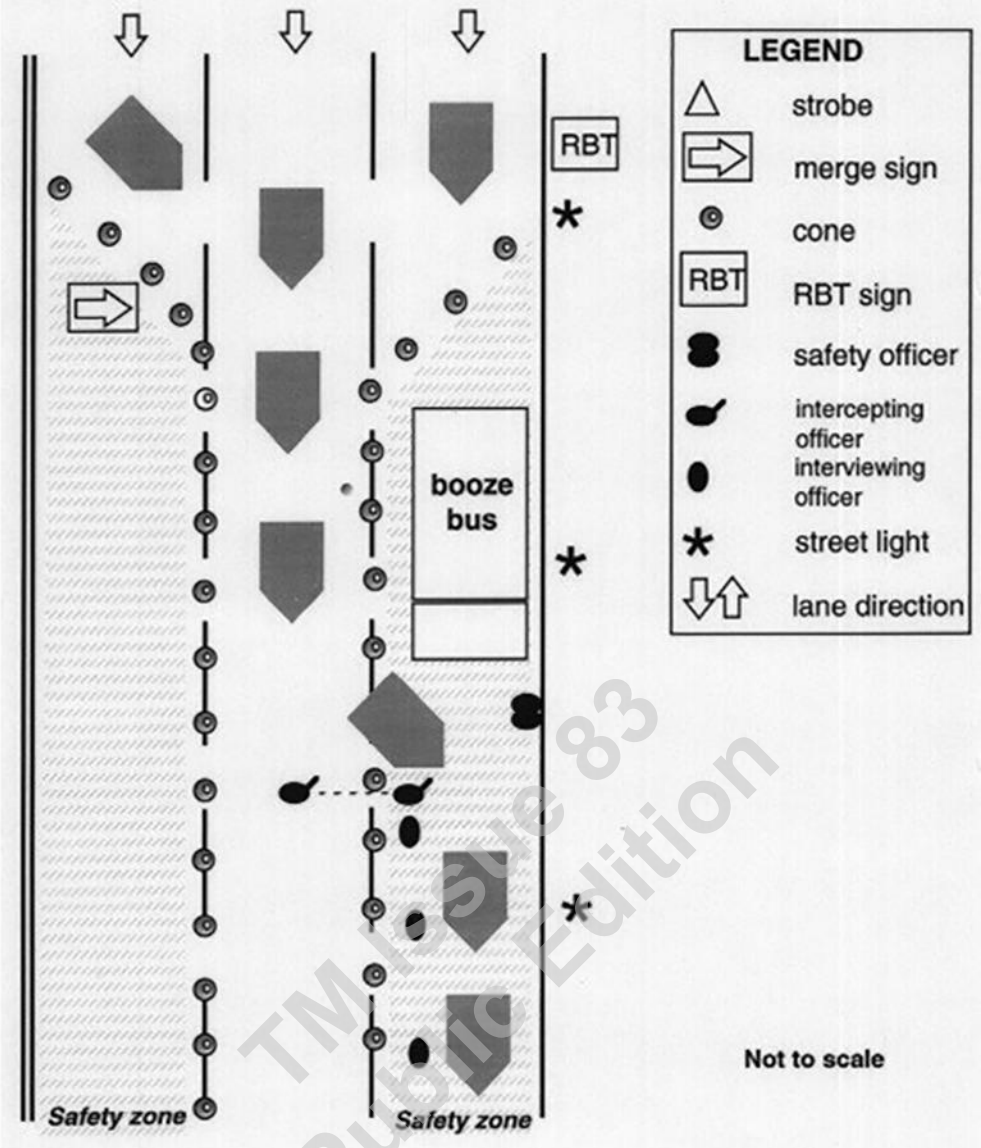
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Appendix 3.2 Static interception site set-up—Three lane operation (alternate)

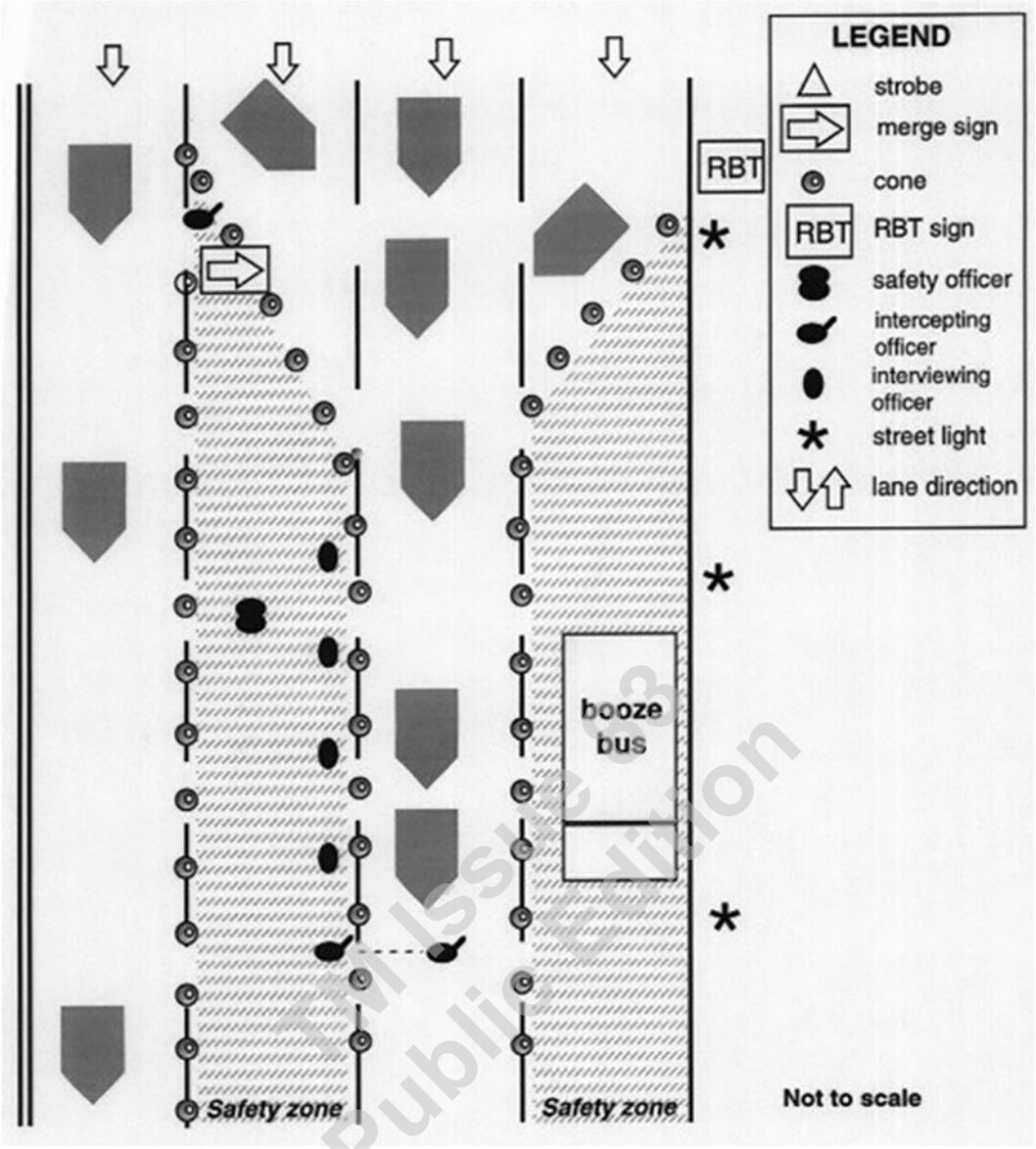
(s. 3.2.4)



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Appendix 3.3 Static interception site set-up—Four lane operation

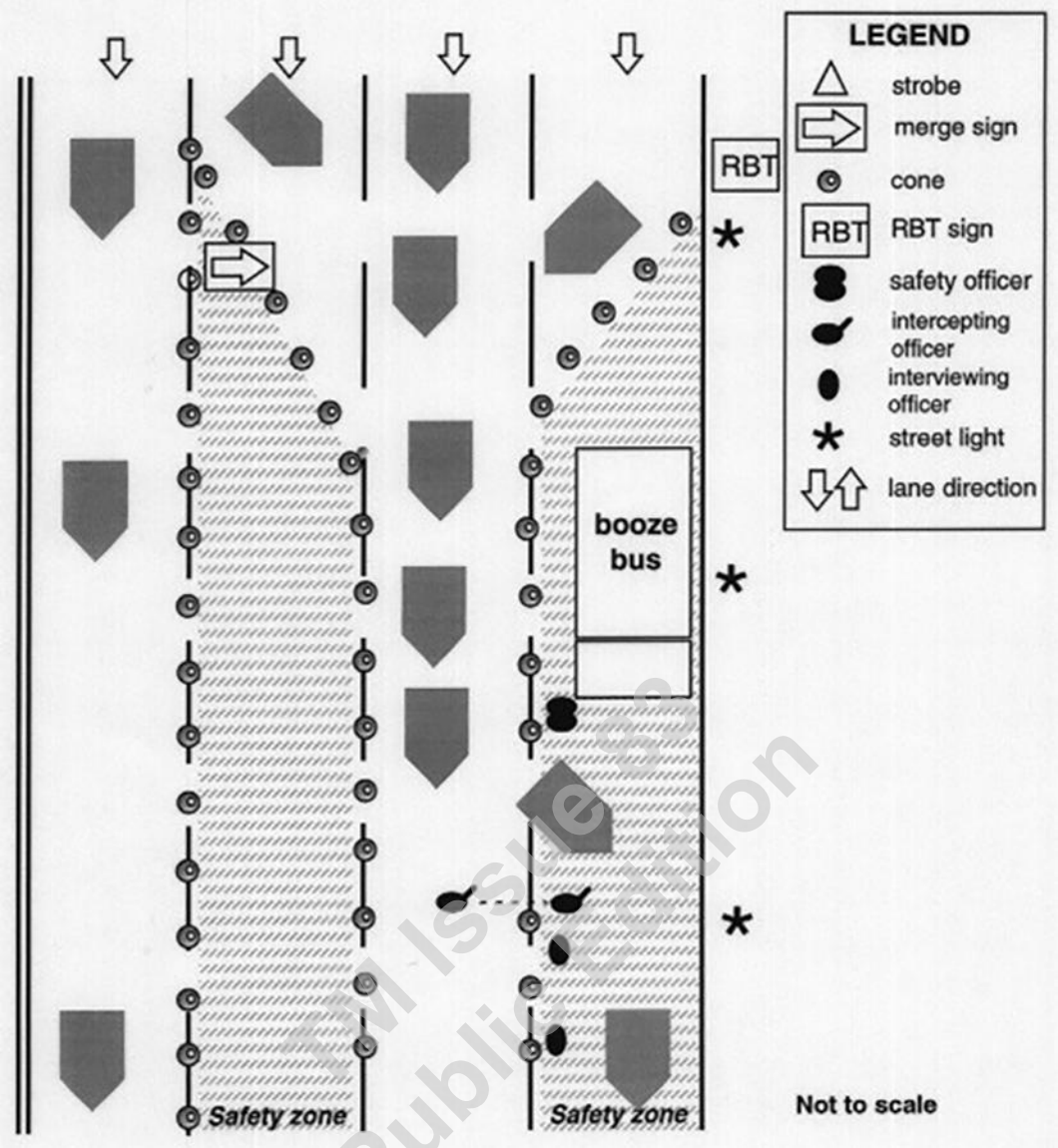
(s. 3.2.4)



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Appendix 3.4 Static interception site set-up—Four lane operation (alternate)

(s. 3.2.4)



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4.1 Introduction

This chapter outlines the policy, procedures and orders relating to Queensland driver licences issued pursuant to the TO(RUM—DL)R.

4.2 Issuing of Queensland driver licences at some stations

A number of police stations in rural and remote areas of Queensland perform transactions on behalf of the DTMR.

4.2.1 Licensing policy (Department of Transport and Main Roads)

Officers, at stations where driver licensing services are conducted on behalf of the DTMR, should access the DTMR Online Documentation (**TMR Documentation**) on the Service Intranet for the relevant chapters in Transport Information, Policy and Procedures System (TIPPS) which contains the procedures and guidelines relating to:

(i) licence applicant testing;

(ii) Queensland driver licence issue; and

(iii) medical condition reporting.

Officers should comply with the relevant provisions of TIPPS when issuing or testing applicants for Queensland driver licences and dealing with medical condition reporting.

In instances where issues may remain unresolved contact should be made with the nearest the DTMR Customer Service Centre or the Registration and Licensing Help Desk Unit of the DTMR (see SMCD).

4.2.2 Queensland driver licence tests (eligibility for testing at police stations)

Officers at police stations which perform transactions on behalf of DTMR are not to conduct Queensland driver licence practical tests unless the test applicant:

(i) resides within the police division where the Queensland driver licence test application is made; or

(ii) is a person who in the opinion of the OIC of the station has reasonable grounds to be tested within that police division (e.g. the applicant is a resident of a neighbouring division which is closed for a period of time, resides at a place in a neighbouring division which is closer to the station at which the application is made than to the station which is responsible for the division or is a seasonal employee temporarily working or residing in the division).

These eligibility criteria do not apply to persons applying for the issue of learner licences.

Officers who, in accordance with this policy, decide not to conduct a practical driving test at the police station where the application is made, should advise the applicant to:

(i) make an online booking for a practical driving test at the nearest DTMR Customer Service Centre near the applicant's place of work or residence; or

(ii) attend their local police station, if the applicant resides within a police division where Queensland driver licence testing is conducted at the local police station.

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4.2.3 Testing officers to be appropriately licensed

Officers performing driving tests should be aware that the holder of a learner licence must drive under the direction of an appropriately licensed person while driving upon a road (i.e. the supervising person must hold an appropriate licence for the class of vehicle being used). This requirement extends to the holder of a learner licence who is undertaking a driving test pursuant to the provisions of the TO(RUM—DL)R.

Officers are not to conduct practical driving tests on behalf of the DTMR unless the officer:

(i) is appropriately licensed for the particular class of licence for which the person is being tested; and

(ii) has successfully completed training in Q-SAFE procedures.

Where possible, arrangements should be made for another officer, from the same or a nearby station or establishment, who has the appropriate licence classification and has completed training in Q-SAFE procedures to conduct the test. Alternatively, the officer may advise applicants to make an online booking for a practical driving test at the nearest DTMR Customer Service Centre.

4.2.4 Endorsements

When issuing or dealing with Queensland driver licences officers should pay particular attention to the following:

(i) change of address or licence renewal expiry date should be the only physical endorsements appearing on a photographic Queensland driver licence; and

(ii) if, as a result of a show cause interview, a decision is made to amend a licence, a new photographic licence is to be issued free of charge, showing the class and restriction code. The relevant licence receipt contains particulars of the modification and must be carried by the licensee.

4.2.5 Licence classes

Officers should refer to Schedule 2: 'Codes for types of Queensland driver licences' and Schedule 3: 'Codes for conditions of Queensland driver licences' of the TO(RUM—DL)R for the current Queensland driver licence classifications and codes.

4.2.6 Mental or physical incapacity (notice by applicant or driver licence holder)

In accordance with ss. 177: 'Applicants for grant or renewal of Queensland driver licences must give notice of mental or physical incapacity likely to adversely affect ability to drive safely' and 178: 'Holders of Queensland driver licences must give notice of mental or physical incapacity likely to adversely affect ability to drive safely' of the TO(RUM—DL)R a person:

(i) when applying for the grant or renewal of a Queensland driver licence; or

(ii) who already holds a current Queensland driver licence,

must give notice in the approved form to the Chief Executive, DTMR, about any:

(i) permanent or long-term mental or physical incapacity; or

(ii) 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,

that is likely to adversely affect the person's ability to drive safely.

The approved form to give the required notice is either the DTMR form F4355: 'Medical Condition Notification' or the F3712: 'Medical Certificate for Motor Vehicle Driver'.

Members at stations where driver licensing services are conducted on behalf of the DTMR should refer to the relevant DTMR 'TIPPS' procedures for medical condition reporting.

Staff members who become aware of an offence under ss. 177 or 178 of the TO(RUM—DL)R should notify an appropriate police officer.

An officer who detects an offence under ss. 177 or 178 of the TO(RUM—DL)R should:

(i) contact the DTMR Medical Condition Reporting Unit (see SMCD) to confirm that no notice in the approved form has been received;

(ii) report to an officer authorised to amend, suspend or cancel a driver licence outlining the relevant circumstances (see s. 4.3: 'Show cause proceedings' of this chapter); and

(iii) in appropriate circumstances create a QPRIME occurrence and commence a prosecution for an offence against ss. 177 or 178 of the TO(RUM—DL)R.

The officer authorised to amend, suspend or cancel a driver licence should take the action outlined in s. 4.3: 'Show cause proceedings' of this chapter, if deemed necessary.

Non-Queensland driver licence

Authority to drive on Queensland roads for non-Queensland driver licence holders can only be withdrawn by the Chief Executive, DTMR or a delegated officer within DTMR.

4.2.7 Licensee of advanced years

All medical and aged driver licence holders approaching their 75th birthday are advised by the DTMR that they are to obtain a medical certificate and present it at a DTMR Customer Service Centre prior to renewing their Queensland driver licence.

See s. 253: 'Persons who hold Queensland driver licences and are 75 years or older' of the TO(RUM—DL)R.

The person does not commit an offence if the person produces the relevant medical certificate within 48 hours.

See s. 4.3: 'Show cause proceedings' of this chapter.

4.3 Show cause proceedings

Section 352: 'Grounds for amending, suspending or cancelling Queensland driver licences' of the TO(RUM—DL)R outlines nine grounds for amending, suspending or cancelling a Queensland driver licence.

Section 353: 'Show cause notices' of the TO(RUM—DL)R outlines the 'proposed action' to be undertaken regarding a show cause action. The legislation confers powers on the Chief Executive, DTMR. The power to commence action

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under this section has been delegated by the chief executive to the OIC of a station or Highway Patrol, who is of the rank of sergeant or above, through Delegation D 18.4.

The show cause process and documents has been developed by the DTMR for the use of officers who are authorised to perform show cause duties under s. 353 of the TO(RUM—DL)R. The process/documents are contained within the DTMR TIPPS system (type 'Show Cause' in the search field to locate the 'show cause/driver licence (Reference document)' hyperlink). In accordance with the delegation, applications for a 'show cause' action are to be signed by the OIC of a station or Highway Patrol, who is of the rank of sergeant or above.

Data entry on TRAILS regarding show cause proceedings is only to be performed by DTMR staff.

Members who become aware that any of the grounds mentioned in s. 352 of the TO(RUM—DL)R apply to the holder of a Queensland driver licence are to submit a report to an officer authorised to amend, suspend or cancel the licence under s. 356: 'Decisions in relation to taking proposed actions' of the TO(RUM—DL)R.

Members with inquiries concerning the show cause process as outlined within TIPPS, which cannot be answered from within the Service, should contact the Medical Condition Reporting Unit, Customer Services Branch, DTMR (see SMCD).

District officers should ensure members who process show cause applications are properly trained and are fully conversant with relevant procedures.

ORDER

Officers who perform driver licence show cause duties are to comply with the show cause documentation procedures as outlined located within the DTMR TIPPS system.

4.3.1 Show cause for mental or physical incapacity

The Medical Condition Reporting Unit, DTMR, determines medical condition show cause applications on behalf of the Service. The Medical Condition Reporting Unit will update the TRAILS computer system and correspond with the subject person in relation to these matters.

Members who become aware that the holder of a Queensland driver licence should have their licence suspended or cancelled due to a mental or physical incapacity in accordance with s. 352 of the TO(RUM—DL)R are to submit a report to an officer authorised to amend, suspend or cancel the licence under s. 352 of the TO(RUM—DL)R.

Members with inquiries:

(i) concerning the show cause process, as outlined within TIPPS; or

(ii) to discover the outcome from a mental or physical incapacity show cause process,

which cannot be answered from within the Service, should contact the Medical Condition Reporting Unit, DTMR for advice (see SMCD).

Where an OIC of a station or Highway Patrol, of the rank of sergeant or above, becomes aware that the holder of a Queensland driver licence has a mental or physical incapacity that is likely to adversely affect the licensee's ability to drive safely in accordance with s. 352 of the TO(RUM—DL)R, the officer is to ensure that:

(i) a letter is completed on Service letterhead addressed to the Medical Condition Reporting Unit, DTMR seeking the show cause determination; and

(ii) the letter and all relevant correspondence is forwarded to the Medical Condition Reporting Unit, DTMR for a show cause determination (see SMCD).

See also s. 4.2.6: 'Mental or physical incapacity (notice by applicant or driver licence holder)' of this Manual.

4.3.2 Application for reconsideration

In accordance with s. 388: 'Reconsideration of decisions' of the TO(RUM—DL)R, a person may apply to the chief executive of the DTMR to reconsider a decision under the Regulation. Where a person wishes a decision to be reconsidered, members should advise the person to complete a form F2981: 'Application for Reconsideration of a Decision of the Chief Executive', which is available from a DTMR Customer Service Centre.

4.4 Application for removal of disqualification

Section 131(2): 'Reviews and appeals with respect to issue of licences etc.' of the TO(RUM)A allows for a person to apply to a magistrates court, district court or the Supreme Court for the removal of an absolute disqualification or disqualification in excess of 2 years, previously imposed by a court, from holding or obtaining a Queensland driver licence.

ORDER

An OIC of a station or establishment who has been advised that a person has made an application for the removal of disqualification under s. 131(2) of the TO(RUM)A is to:

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(i) advise the relevant police prosecutor that an application has been made;

(ii) arrange for a report to be submitted by an officer relating to the character of the applicant. The report should include:

(a) any evidence of the applicant having driven a motor vehicle on a road since disqualification that can be supported by admissible evidence;

(b) where discreet inquiries with neighbours reveal that the applicant has been driving, statements from witnesses;

(c) any evidence of mental or physical instability of the applicant;

(d) reference to any traffic or criminal offence which has been committed by the applicant since the disqualification was imposed;

(e) three copies of the applicant's traffic history and a criminal history;

(f) copies of the original court brief(s) (QP9) which is the subject of the application; and

(g) a recommendation as to whether the application should be opposed;

(iii) with respect to an application in the magistrates court, ensure that the report is delivered to the relevant police prosecutor at least five working days prior to the date of hearing of the application; and

(iv) with respect to an application in the district court or supreme court, ensure that the report is delivered to the OIC of the region in which the offence which resulted in the disqualification of the offender occurred as soon as practicable.

If the OIC of a region is of the opinion that an application in the district or supreme court should be opposed, advice to this effect should be forwarded to the Deputy Commissioner, Regional Operations at least ten working days prior to the date of hearing of the application for referral to QPS Legal Services.

The costs of legal representation involved in opposing such applications, if any, are to be borne by the region in which the original offence resulting in the disqualification of the offender occurred.

4.5 Licences issued outside Queensland

Chapter 5: 'Driving under non-Queensland driver licences and defence force licences' of the TO(RUM—DL)R provides that a valid non-Queensland driver licence authorises the licensee to drive a class of motor vehicle that the licensee is authorised to drive under the licence on a road in Queensland.

In accordance with s. 211(1) of the TO(RUM—DL)R, once a person takes up residence in Queensland, the person's authority to drive on a road in Queensland under the person's non Queensland driver licence is withdrawn 3 months after taking up residence under certain circumstances.

Section 211(2) of the TO(RUM—DL)R provides that a defence force member, or eligible family member may continue to drive on their valid interstate driver licence after living in Queensland for more than three months provided that they carry defence force identification while driving.

Section 213 of the TO(RUM—DL)R provides that the chief executive may withdraw the authority of a non-Queensland driver licence holder to drive in Queensland if the chief executive reasonably considers that the licensee has a mental or physical incapacity that is likely to adversely affect the licensee's ability to drive safely (see s. 4.2.6: 'Mental or physical incapacity—notice by applicant or driver licence holder' of this chapter).

Sections 269: 'Application of division' and 270: 'Chief executive must give notice of suspension of authority to drive' of the TO(RUM—DL)R provides for the suspension of a person's authority to drive on Queensland roads under the person's non-Queensland driver licence due to the accumulation of demerit points.

Defence force licence

In accordance with s. 215: 'Authority to drive under defence force licences' of the TO(RUM—DL)R, a member of the Australian Defence Force may drive a class of vehicle on a road whilst the driver is:

(i) the holder of a valid defence force driver licence for that class of vehicle; and

(ii) performing a function of their role.

Example:

A defence force licensed soldier is authorised to drive a military heavy rigid truck (HR class) on a road, whilst only being the holder of a civilian car licence (C class) in the performance of their duties.

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Non-Queensland driver licence conditions

In accordance with s. 207 of the TO(RUM—DL)R, a person must comply with any conditions of their valid non-Queensland driver licence. This may allow the person to operate a motor vehicle with greater freedom, or alternatively additional restriction, than a similar Queensland driver licence holder.

Examples, a holder of a non-Queensland:

(i) motorcycle learner licence may have a specific condition on their licence authorising the rider to operate a motorcycle on a road within supervision; or

(ii) driver licence may have a specific restriction on their licence prohibiting the driver from operating the motor vehicle at certain times (e.g. late-night driving restriction).

4.6 Production of driver licences and verification of identity

It is important that the identity of a holder of a driver licence be verified by the sighting of the particulars of such licence and the photograph. Section 58: 'Production of driver licence' of the PPRA provides a power for an officer to require a person to produce the person's driver licence under particular circumstances. It is an offence for a person to fail to comply with such a requirement unless the person has a reasonable excuse (see s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA).

Section 40: 'Person may be required to state name and address' of the PPRA provides that in prescribed circumstances (see s. 41: 'Prescribed circumstances for requiring name and address' of the PPRA) an officer may require a person to:

(i) state the person's name and address; and

(ii) give evidence of the correctness of the stated name and address, if in the circumstances it would be reasonable to expect the person to be in possession of evidence of the correctness of the stated name or address.

A person who holds an open driver licence issued under the TO(RUM)A who is unable to produce that driver licence immediately upon requirement may, unless the person is in control of a heavy vehicle, comply with the requirement by producing the licence to the OIC of a nominated police station within forty-eight hours after the requirement is made (see ss. 58(3) and 58(5) of the PPRA).

Where a person produces a Queensland driver licence which has expired, been suspended or cancelled, or the driver has been disqualified by a court from holding or obtaining a driver licence (an invalid licence) in compliance with a requirement to produce a driver licence, an officer may seize the invalid driver licence (see s. 376: 'Seizing Queensland driver licences' of the TO(RUM—DL)R).

Officers who intercept drivers of motor vehicles should require the driver to produce their driver licence (see s. 58 of the PPRA).

Officers should check the validity of driver licences which are produced to them:

(i) where practicable, at the time of production by radio, telephone, mobile computer inquiries; or

(ii) by recording the licence details and making their own QPRIME inquiries as soon as reasonably practicable.

Officers who require the driver of a motor vehicle to produce their driver licence should require the person to state their correct name and address and ensure that the particulars are consistent with the information on their driver licence. If the particulars of the licence are inconsistent with the apparent identity of the person producing such licence, officers should make inquiries in order to verify the person's identity.

Officers who require a person to produce an open driver licence issued under the TO(RUM)A to a police station within forty-eight hours should ask the person which police station the person wishes to produce the person's driver licence at.

Where it is found that the holder of a driver licence has been driving a motor vehicle:

(i) while their driver licence or privilege to drive in Queensland under a non-Queensland driver licence, is suspended;

(ii) after their driver licence has been cancelled; or

(iii) after their privilege to drive in Queensland under a non-Queensland driver licence has been withdrawn,

officers should:

(i) question the person as to their knowledge of the suspension, cancellation or withdrawal of their driver licence or privilege to drive in Queensland;

(ii) if the person claims not to have known that their driver licence or privilege to drive in Queensland was suspended, cancelled or withdrawn at the relevant time, make further inquiries to establish whether the person was given any required notice or appropriately informed that their driver licence or privilege to drive in Queensland

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was to be suspended, cancelled or withdrawn before taking any enforcement action (see the TO(RUM—DL)R and ss. 104 to 108 of the *State Penalties Enforcement Act*);

(iii) if the person was informed or given notice that their driver licence or privilege to drive in Queensland has been suspended, cancelled or withdrawn by written notice, ascertain whether the person received that written notice. If, in the case of a notice sent by post, it can be proven that the person did not receive the notice, e.g. a notice sent by mail has been returned unclaimed to the issuing authority, no action should be taken to prosecute the person for an offence of unlicensed driving. Generally, where a notice sent by post is returned to the issuing authority unclaimed, the issuing authority will remove the suspension of the person's driver licence until notice can be given;

(iv) if the person resides at an address which is different from that shown on their Queensland driver licence, ascertain whether the person has notified Queensland Transport of their changed address in accordance with s. 363: 'Change of Name or Address' of the TO(RUM—DL)R;

(v) if the person disputes that their driver licence or privilege to drive in Queensland has been suspended by the State Penalties Enforcement Registry (SPER):

(a) contact SPER (see SMCD) to verify that the person's driver licence or privilege to drive in Queensland is suspended; and

(b) if SPER advises that the person's driver licence or privilege to drive in Queensland is suspended or SPER cannot be contacted, tell the person that their driver licence or privilege to drive in Queensland is suspended and the person should contact SPER to resolve the matter.

Where the person raises the excuse of an honest and reasonable belief that their driver licence was not suspended by SPER prior to the alleged offence, officers should investigate the matter with a view to gathering evidence to negate the excuse. Such evidence may include obtaining statements from witnesses, including officers, that support the person having had knowledge of the SPER suspension prior to the offence, e.g. previous intercepts by police and/or previous contact with staff from SPER;

(vi) in every case of a person whose driver licence or privilege to drive in Queensland has been suspended by SPER, complete a QP 0953: 'Suspended Driver Licence Interception Report' and send the report to SPER as soon as practicable. SPER will provide details of the person's driver licence suspension and any contact the person has had with SPER or other interceptions since the driver licence suspension commenced;

(vii) where appropriate, take action to commence a prosecution for an offence of unlicensed driving. A proceeding for an offence which relates to driving a motor vehicle while the person's driver licence was suspended by SPER should not be commenced, or if commenced should be discontinued, if:

(a) the person denies that they were aware of the relevant driver licence suspension at the time of the alleged offence; and

(b) there is insufficient admissible evidence to negate the excuse of honest and reasonable mistake of fact see s. 24: 'Mistake of fact' of the CC (see also s. 3.4.3: 'Factors to consider when deciding to prosecute' of the OPM); and

(viii) where a certificate is required under s. 157: 'Evidentiary provisions' of the *State Penalties Enforcement Act* for a police prosecution set down for hearing, officers are to complete a QP 0954: 'Police request for Certificate of SPER Registrar' and send the report to SPER as soon as practicable. SPER will provide the required certificate to the requesting officer.

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4.7 Licence production/surrender register

In accordance with s. 130: 'Delivery of cancelled or surrendered licences, or licences for endorsement' of the TO(RUM)A, a licensee may be required to deliver their driver licence to the OIC of the station in the division in which the nominated address on the licence, is situated.

In accordance with s. 58(3): 'Production of driver licence' of the PPRA an officer may direct a person to produce an open Queensland driver licence to a specified station.

OICs of stations and establishments should maintain a register at their station/establishment for the purpose of recording details of all driver licences surrendered or produced for inspection.

Officers who, in accordance with s. 58(3): 'Production of driver licence' of the PPRA, require a person to produce an open driver licence to a police station should check whether the person produced their licence in accordance with the direction (see s. 4.6: 'Production of driver licences and verification of identity' of this chapter).

4.8 Issuing infringement notices for unlicensed driving offences

Section 78: 'Driving of motor vehicle without a driver licence prohibited' of the TO(RUM)A allows an infringement notice to be issued to a person driving a motor vehicle if:

(i) the person is an unlicensed driver (see s. 78(6) of the TO(RUM)A for the motor vehicle driven by the person; and

(ii) the person had not, in the five years before the contravention, been convicted of another offence against s. 78(1): 'Driving of motor vehicle without a driver licence prohibited' (unlicensed driving); and

(iii) subsections 78(1B) to (1E) of the TO(RUM)A do not prevent the infringement notice being issued to the person. Subsections 78(1B) to (1E) outline an infringement notice cannot be issued to a person for unlicensed driving if the person:

(a) would be subject to an interlock condition if the person had been granted a Queensland driver licence;

(b) had been an interlock driver but at the time of the unlicensed driving offence:

- did not hold a valid Queensland driver licence (except where their licence had expired within four weeks of the offence); and
- their interlock period had not ended, or

(c) has never held a driver licence.

(see s. 78(1C) and (1E) of the TO(RUM)A).

The infringement notice fine amount varies depending on the circumstances of the offence.

ORDER

An infringement notice is not to be issued to a person for unlicensed driving offences who has never held a driver licence.

Before issuing an infringement notice for an offence of unlicensed driving, officers should:

(i) ascertain whether the offender has previously held a driver licence;

(ii) ascertain whether the offender has a current 'Permit to Drive (recently expired driver licence);

(iii) check QPRIME to determine whether:

(a) the offender's driver licence is a recently expired licence (see s. 78A(6): 'Permit to drive recently expired driver licence' of the TO(RUM)A);

(b) subsections 78(1B) to (1E) of the TO(RUM)A prevent the infringement notice being issued to the person;

(c) a QPRIME type 2 flag exists, indicating the offender has committed another type 2 vehicle related offence within the relevant period (see Chapter 16: 'Impounding motor vehicles' of this Manual);

(iv) check the offender's traffic history to ascertain whether the person had not, in the five years before the contravention, been convicted of another offence against s. 78(1) of the TO(RUM)A;

(v) ascertain the circumstances of the offence, which will determine the appropriate offence code and infringement notice fine amount, by questioning the offender, checking QPRIME and making any other necessary inquiries with the DTMR to establish whether the:

(a) offender's driver licence:

- expired no more than one year before the contravention;
- expired more than one year before the contravention;
- was surrendered by the person; or
- was suspended or cancelled because the person had a mental or physical incapacity likely to adversely affect the person's ability to drive safely; or

(b) offender:

- was disqualified by a court order from holding or obtaining a driver licence for a period and has not obtained another driver licence at the end of the period of disqualification; or
- holds a driver licence but is not authorised by the driver licence to drive, or learn to drive, the class of vehicle involved in the contravention; or

(c) person's authority to drive under a non-Queensland driver licence was withdrawn under ss. 210 or 213 of the TO(RUM—DL)R; and

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(vi) consider whether to commence proceedings by way of a notice to appear or arrest as opposed to the issuing of an infringement notice, especially where the person has previously committed type 2 vehicle related offences during the relevant period (see s. 16.8: 'Impounding of motor vehicles' of this Manual).

Officers may issue an infringement notice, if the person is an unlicensed driver, and:

(i) does not hold a current 'Permit to Drive (recently expired driver licence)';

(ii) has not been convicted of another offence against s. 78(1) of the TO(RUM)A during the preceding five years;

(iii) subsections 78(1B) to (1E) of the TO(RUM)A do not prevent the infringement notice being issued;

(iv) has not committed another type 2 vehicle related offence within the relevant period; and

(v) the officer can determine the offence code and fine amount to enter into the infringement notice.

Where an officer reasonably believes a person is an unlicensed driver, but the circumstances of the offence cannot be established within a reasonable time, the officer should issue a notice to appear instead of an infringement notice.

An officer who issues an infringement notice, or proceeds by notice to appear or arrest, must serve and explain a QP0964: 'Notice of pre-impoundment/Notice of first type 2 vehicle related offence' on the driver, and complete a QPRIME occurrence, Infringement Report and flag the driver. (See s. 16.6: 'First type 2 vehicle related offence (pre-impoundment offence)' of this Manual).

Permit to Drive (recently expired driver licence)

If an officer issues an infringement notice to a person with a recently expired licence for an offence under s. 78 of the TO(RUM)A, the officer may also issue a 'Permit to Drive (recently expired driver licence)' (Permit to Drive) under s. 78A: Permit to drive—recently expired driver licence' of the TO(RUM)A. A Permit to Drive may not be issued unless an infringement notice has been issued for this offence.

A Permit to Drive is only valid within Queensland.

Officers should issue a 'Permit to Drive' (recently expired driver licence) in any case where the issue of such a permit is lawful and necessary. A Permit to Drive should not be issued if an appropriately licensed person is a passenger in the vehicle.

In cases where a Permit to Drive cannot be issued, officers are not to explicitly or tacitly permit a person whose driver licence has expired to drive. Wherever necessary, officers are to comply with s. 14.28.1: 'Rendering assistance to stranded motorists' of the OPM.

When completing the Permit to Drive, officers should ensure that the stated place to which the person is permitted to drive is clearly described, e.g. the person's home address or a nominated place of safety. The term of the Permit to Drive must commence from a specific time and date after the time of the offence and must not exceed twenty-four hours.

Issuing officers may place conditions upon the Permit to Drive. Any such conditions should be specific and relevant to the issuing of the Permit to Drive and/or relate to the movement of the vehicle. For example, the conditions placed on the Permit to Drive may:

(i) specify the particular vehicle to be used, this should be the vehicle which the person was driving at the time of their interception;

(ii) specify the route to be taken; or

(iii) require the holder to carry and produce the permit on demand by a police officer.

Officers who issue a Permit to Drive should ensure that the police copy of the permit is attached to the prosecution copy of the relevant infringement notice.

Officers who issue a Permit to Drive are to ensure that any conditions placed on the permit are relevant and reasonable.

Officers should consider fatigue management issues by ensuring the conditions of the Permit to Drive do not require the person to drive for extended periods to comply with the permit. Where a person would not be able to complete their journey within a reasonable time, within the twenty-four hour maximum period, the Permit to Drive should authorise the person only to drive to a nearer place of safety.

Wherever possible, the officer should advise the person of the location of the nearest DTMR Customer Service Centre or if appropriate, the nearest police station where driver licences may be renewed.

Failure to comply with the provisions or conditions of a Permit to Drive

If the permit is issued on a condition, the permit is cancelled if the condition is contravened (see s. 78A(4) of the TO(RUM)A).

If an officer ascertains that the driver of a vehicle is a person to whom a Permit to Drive has been issued, and that person has driven outside the terms of the permit, the officer should consider taking appropriate action for an offence of unlicensed driving.

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If an officer ascertains a person to whom a 'Permit to Drive' (recently expired driver licence) has contravened a condition of that permit, the officer should endorse the Permit to Drive with:

(i) the word 'cancelled'; and

(ii) the time and place of cancellation; and

(iii) the officer's name, rank and station; and

(iv) the words 'Permit to be delivered forthwith to the Officer in Charge of (police station in the area where the person to whom the permit was issued resides)'.

Section 49: 'Power to require documents to be produced' of the TO(RUM)A provides the authority to require the production of a Permit to Drive and to make a note on it.

The cancelled Permit to Drive should be returned to the person to whom it was issued.

The officer should tell the person that the Permit to Drive is cancelled and that the person is no longer authorised to drive a motor vehicle until the person renews their driver licence. The officer should also tell the person that it is an offence to possess a cancelled licence, which includes a Permit to Drive, without reasonable excuse and that person is to deliver the permit forthwith to the OIC of the station in the division within which the person resides (see ss. 126: 'Fraud and unlawful possession of licences' and 130: 'Delivery of cancelled or surrendered licences, or licences for endorsement' of the TO(RUM)A).

It may be appropriate to consider taking action for an offence of unlicensed driving if:

(i) the contravention of a condition which caused the cancellation of the Permit to Drive was of a nature which shows a deliberate disregard for the conditions of the permit; and

(ii) there is sufficient evidence of the person having driven a motor vehicle for a reasonable period between the time of the contravention and the time of interception.

OICs of stations receiving cancelled permits to drive should forward the permit to the OIC of the issuing station for filing with the prosecution copy of the relevant infringement notice.

Officers who are aware that a person has previously been issued a Permit to Drive should not issue another Permit to Drive to that person.

Issuing infringement notices for failing to produce driver licence

When an officer requires a person to produce their driver licence, and the person fails to produce that licence after the officer has warned the person in accordance with s. 633: 'Safeguards for oral directions or requirements' of the PPRA, the officer may issue an infringement notice for the offence under ss. 791: 'Offence to contravene direction or requirement of police officer' and 58(2): 'Production of driver licence' of the PPRA. It should be noted that open driver licence holders have the opportunity of producing the driver licence at a nominated police establishment within forty-eight hours of a requirement made by an officer.

Officers detecting an offence under this section should check QPRIME prior to the issuing of an infringement notice to ascertain whether the driver is licensed.

If an infringement notice is not issued, an officer should take such alternative enforcement action as is appropriate in the circumstances.

If it is determined that the driver is unlicensed, the officer should take appropriate enforcement action which may, if the person's driver licence has recently expired, involve issuing an infringement notice and 'Permit to Drive' (recently expired driver licence).

Requesting information from the Department of Transport and Main Roads (DTMR)

For procedures on obtaining information from the DTMR see s. 7.1.10: 'Requesting information from the Department of Transport and Main Roads' of the MSM.

4.9 Alcohol ignition interlocks

For definitions of terms used in this section, see Chapter 5, Part 3B: 'Alcohol ignition interlocks' of the TO(RUM)A.

Where a person applies for the re-issue of their Queensland driver licence after being convicted of a defined drink driving offence, and following the completion of their disqualification period, the person will be required to comply with the conditions of the DTMR Alcohol Ignition Interlock Program.

Where a person's Queensland driver licence is subject to the interlock condition an 'I' condition will be displayed on their licence and within TRAILS.

The person will remain subject to the program for a maximum period of two years from the day after their relevant disqualification period ends. Where the person chooses not to participate in the program, they will be required to serve the full five year interlock period without driving.

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Where the person chooses to have an approved alcohol ignition interlock device fitted to a nominated vehicle, they may be eligible to exit the program after a minimum period of 12 months (the **'prescribed period'**). When the prescribed period has been completed, the DTMR will remove the 'I' condition from the person's driver licence details in TRAILS.

A person subject to the DTMR Alcohol Ignition Interlock Program may apply for an interlock exemption. Where an interlock exemption is granted, the person will be exempt from driving a motor vehicle fitted with an alcohol ignition interlock in accordance with any restrictions of the exemption. When asked by an officer whether a person may drive the vehicle under the interlock condition of the person's Queensland driver licence, the person must produce for inspection their exemption certificate (see s. 91W(4): 'Driving a motor vehicle other than as allowed under an interlock condition' of the TO(RUM)A).

Drink driving offences

A person whose Queensland driver licence is subject to the interlock condition and a person who has an interlock exemption are subject to the no alcohol limit (see s. 79(2J): 'Offence for particular licence holders if driving etc. while over the no alcohol limit but not over general alcohol limit' of the TO(RUM)A).

See also the Alcohol Ignition Interlocks information page contained on the DTMR web site and s. 3.4.10: 'Drink driving offences' of the OPM.

When an interlock driver does not commit an offence

Section 79(13) and (14) of the TO(RUM)A provide that, unless the person is under the influence of a drug, or whilst a relevant drug is present in the person's blood or saliva, an interlock driver does not commit an offence where they attempt to put in motion, or are in charge of, a motor vehicle nominated by the interlock driver under s. 91L: 'Nomination of vehicle' of the TO(RUM)A and fitted with a prescribed interlock device.

Over the no alcohol limit but not over the general alcohol limit

Where an officer conducts a roadside breath test of a subject person and the breath testing device indicates the person is over the no alcohol limit but not over the general alcohol limit, the officer is to:

(i) request the person produce their driver licence to confirm they are the holder of a current open driver licence for that class of vehicle and not subject to a no alcohol limit;

(ii) where any doubt exists as to the licence type, class or conditions, cause checks to be carried out in QPRIME of the DTMR's TRAILS records; and

(iii) where the person is subject to a no alcohol limit, advise the person they are required to accompany police for the purpose of a further test in accordance with s. 7.3.2(ix): 'The breath test' of this Manual. (See also s. 3.4.10 of the OPM).

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Driver interlock offences

Division 5: 'Offences' of Part 3B: 'Alcohol ignition interlocks' of the TO(RUM)A provides for a number of alcohol ignition interlock offences.

Section 91W of the TO(RUM)A provides that an interlock driver must not drive a vehicle that is a prohibited vehicle for that person unless the person has an interlock exemption that has effect.

Section 91W(4) and (5) of the TO(RUM)A provide that where an officer questions a person as to whether they may drive under the interlock condition of their Queensland driver licence, the person must produce for inspection their exemption certificate unless the person has a reasonable excuse for not complying.

Section 91X: 'Noncompliance with restrictions applying to interlock exemption' of the TO(RUM)A provides that an interlock driver who has an interlock exemption must comply with any restrictions applying to the exemption.

Section 91Y: 'Person with interlock exemption must give notification of change in circumstances' of the TO(RUM)A provides that where a person who holds an interlock exemption fails to give written notice of any relevant change of circumstances within fourteen days, they commit an offence.

Members are able to confirm a person's Queensland driver licence is subject to an interlock condition by viewing the person's driver licence details in QPRIME. The 'I' condition will be displayed in the person's driver licence information contained within TRAILS. Additionally, the 'I' condition will be displayed on the person's driver licence.

Members are able to confirm whether a vehicle is a nominated vehicle and the type and serial number of the prescribed interlock device by using QLiTE to search TRAILS records.

Members seeking to confirm:

(i) a vehicle is a nominated vehicle;

(ii) an interlock device is a prescribed interlock device;

(iii) a person holds an interlock exemption and the conditions of that exemption;

(iv) a person has completed their prescribed period and is no longer bound by the interlock condition; and

(v) other inquiries in relation to the DTMR Alcohol Ignition Interlock Program,

can do so by contacting the DTMR Interlock Processing Unit between the hours of 0800 hours to 1700 hours Monday to Friday (see SMCD).

Officers are to be aware there is no specific offence where a person enables a vehicle fitted with an alcohol ignition interlock to be started on behalf of an interlock driver, by providing a specimen of their own breath.

Depending on the particular interlock offence committed, officers may issue an infringement notice or commence a proceeding against the person, for example by issuing a notice to appear. Where an officer reasonably suspects a person has committed an offence against ss. 91W, 91X or 91Y of the TO(RUM)A officers are to consider taking enforcement action in accordance with Appendix 4.1: 'Alcohol Ignition Interlock Flow Chart' of this chapter.

Unlicensed driving

Section 78(1B): 'Driving of motor vehicle without a driver licence prohibited' of the TO(RUM)A provides an infringement notice cannot be issued to a person who is driving unlicensed in circumstances where, if they had been granted a Queensland driver licence, that licence would be subject to an interlock condition.

Section 78(1C) of the TO(RUM)A provides that an infringement notice cannot be issued to a person in circumstances where the person had been an interlock driver but at the time of the unlicensed driving offence:

(i) did not hold a valid Queensland driver licence; and

(ii) their interlock period had not ended.

For example, where a driver described in s. 78(1C) of the TO(RUM)A failed to renew their 'I' condition Queensland driver licence.

Section 78(1D) of the TO(RUM)A provides than an infringement notice may be issued to a person mentioned in s. 78(1C) for an offence against s. 78(1) where:

(i) the person has not, in the 5 years before the contravention, been convicted of an offence against s. 78(1) of the TO(RUM)A (see s. 78(1A)(b) of the TO(RUM)A); and

(ii) the person's 'I' condition driver licence had expired within 4 weeks of the unlicensed driving offence.

However, in such circumstances officers are to consider commencing a proceeding for the offence.

Where an officer suspects a person of driving a motor vehicle whilst not being the holder of a valid driver licence in circumstances provided for under the provisions of ss. 78(1B) and 78(1C) of the TO(RUM)A, the officer is to investigate the matter with a view to commencing a proceeding against the provisions of s. 78(1) of the TO(RUM)A (see s. 3.5: 'The institution of proceedings' of the OPM).

Members are able to confirm a person is unlicensed in circumstances where, if they had been granted a Queensland driver licence, that licence would be subject to an interlock condition, by searching QLiTE or alternatively by searching the person's driver licence details and traffic history in QPRIME to determine their licence status and history.

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4.10 Peer passenger restrictions

Section 248: 'Late night driving of peer passengers' of the TO(RUM—DL)R provides that certain young drivers are prohibited from carrying young passengers between the hours of 11pm and 5am.

Officers who suspect that a person has committed an offence against s. 248 of the TO(RUM—DL)R should:

(i) require the person to produce their driver licence for inspection;

(ii) verify the name, address and age of the person;

(iii) question passengers suspected of being under 21 as to their age and, if required, their name and address (ss. 40: 'Person may be required to state name and address' and 42 'Power for age-related offences and for particular motor vehicle related purposes' of the PPRA refer);

(iv) question the driver and relevant passengers as to their relationship to establish whether an immediate family relationship exists between the driver and any passengers. Officers may make further inquiries of other persons, where the officer considers it necessary to establish whether an immediate family relationship exists, such as a telephone call to the parents of the driver or a passenger. Officers are to ensure that a driver is given the opportunity to explain any relationship that may exist with any relevant passenger;

(v) explain to the driver that an infringement notice may be issued if the driver or relevant passengers cannot prove:

(a) the relevant passengers are at least 21 years of age; or

(b) that an immediate family relationship between the driver and relevant passengers exists;

(vi) issue an infringement notice for the offence if the officer:

(a) reasonably suspects the person:

- is a driver to whom s. 248(1) of the TO(RUM—DL)R applies; and
- drove a car on a road between 11pm on one day and 5am on the next day while carrying more than one passenger under the age of 21; and

(b) believes on reasonable grounds that an immediate family relationship does not exist between the driver and those passengers;

(vii) where the officer issues an infringement notice, not permit the driver to continue the offence by continuing to carry passengers in contravention of s. 248 of the TO(RUM—DL)R; and

(viii) advise the driver of the vehicle that if sufficient proof of the age of a passenger or an immediate family relationship with the passengers can be obtained:

(a) a letter outlining such proof, with any supporting documents, should be written to the OIC of the police station responsible for the area in which the offence is alleged to have occurred (see s. 8.10: 'Complaints concerning the issue of infringement notices' of this Manual); or alternatively

(b) the driver should, as soon as possible, take any proof or supporting documents available, to a police station.

If a person attends a station in relation to an infringement notice issued for a contravention of s. 248 of the TO(RUM—DL)R, and that person seeks to provide proof or any supporting documents of an immediate family relationship with the passengers in the vehicle at the time, officers should:

(i) record any information given by the person;

(ii) make copies of any documents provided;

(iii) if necessary assist the person to complete a statutory declaration, where insufficient documentary evidence exists;

(iv) complete a covering report, and attach any documents provided; and

(v) forward the correspondence to their OIC to be dealt with in accordance with s. 8.10.3: 'Procedures for letters of complaint' of this Manual.

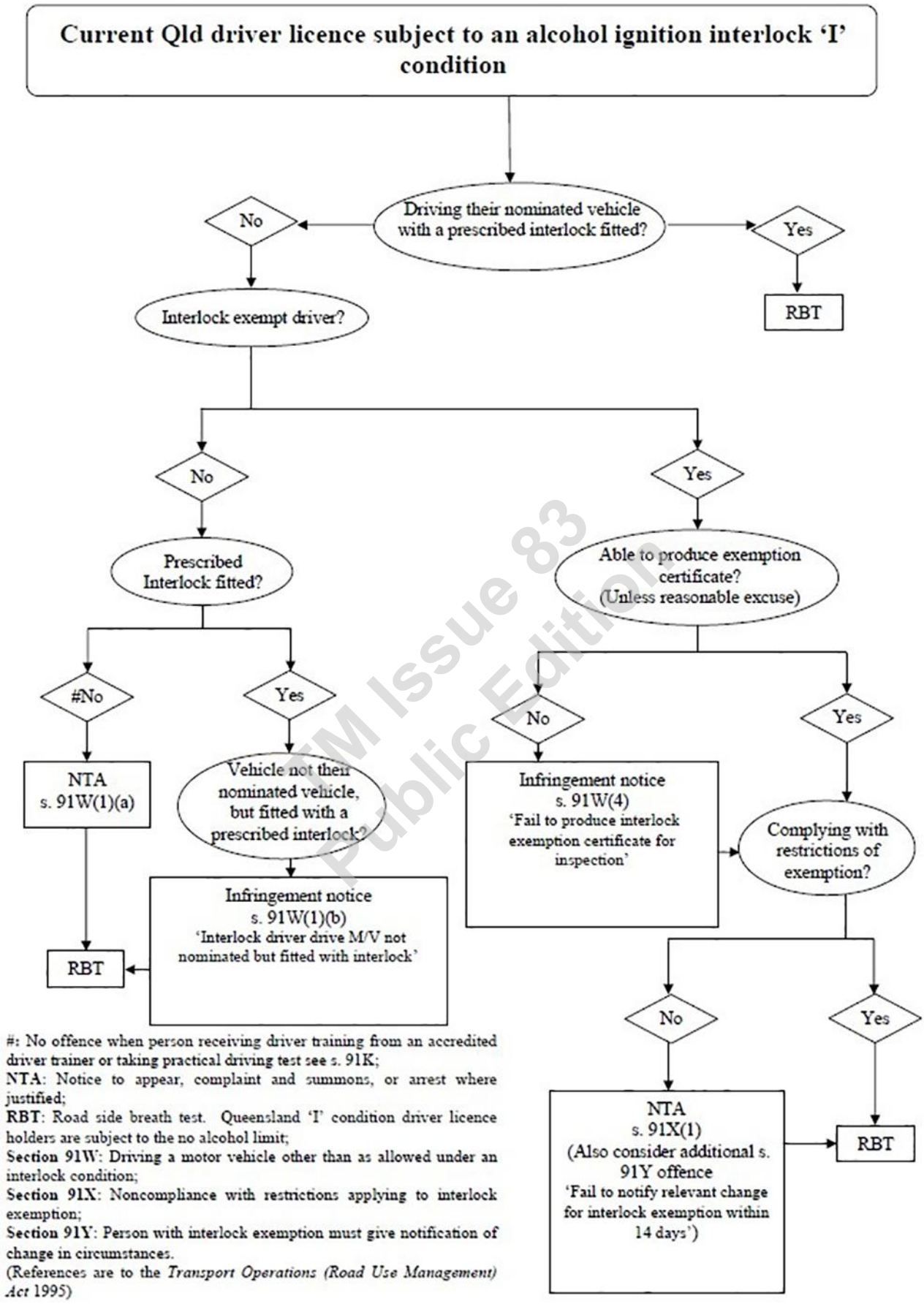
ORDER

In cases where police enforcement action has resulted in occupants of a vehicle being left without transport, officers are to comply with s. 14.28.1: 'Rendering assistance to stranded motorists and passengers' of the OPM.

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Appendix 4.1 Alcohol Ignition Interlock Flow Chart

(s. 4.9)



#: No offence when person receiving driver training from an accredited driver trainer or taking practical driving test see s. 91K;
NTA: Notice to appear, complaint and summons, or arrest where justified;
RBT: Road side breath test. Queensland 'I' condition driver licence holders are subject to the no alcohol limit;
Section 91W: Driving a motor vehicle other than as allowed under an interlock condition;
Section 91X: Noncompliance with restrictions applying to interlock exemption;
Section 91Y: Person with interlock exemption must give notification of change in circumstances.
(References are to the *Transport Operations (Road Use Management) Act* 1995)

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5.1 Introduction

Incident management includes the process of coordinating the activities of response agencies at an incident site so that the problem is resolved as effectively as possible and with minimum effect on people, property and the environment.

Officers are in charge of a traffic crash site and are responsible for the coordination of the various emergency services attending the crash.

The Queensland Fire Department is responsible for the retrieval of persons trapped in vehicles and any fire control at an accident while the Queensland Ambulance Service is responsible for the on-site patient care and subsequent transportation of casualties.

5.2 Attending and investigating traffic crashes

Officers are not necessarily advised about all traffic crashes. Traffic crashes must be reported to the Service in the circumstances outlined in:

(i) s. 93(4): 'Duties of a driver involved in a crash—stopping and providing information' of the TO(RUM)A; and

(ii) s. 34: 'Duty to notify accidents to police' of the MAIA.

Regardless of whether a traffic crash is required to be reported or not, a person may choose to report a traffic crash.

Power to investigate traffic crashes

An officer's investigative powers will vary depending on the particulars of the traffic crash.

In addition to an officer's general investigative powers, they may, make any reasonably necessary inquiries, investigations, inspections, examinations or tests to obtain information related to a relevant vehicle incident (see s. 56: 'Additional power of inquiry for relevant vehicle incidents' of the PPRA).

5.2.1 Attendance at a traffic crash

When a member is advised of a traffic crash, and it is suspected that one or more of the following criteria exist:

(i) death or injury to a person (personal injury requiring treatment by a paramedic, nurse or doctor);

(ii) suspected involvement of alcohol or drugs;

(iii) a driver is refusing to provide their required details;

(iv) a hazardous environment or threat to public safety exists, including heavy traffic congestion (e.g. fuel spill, fallen power lines);

(v) a person with an impairment or disability requires police assistance; or

(vi) the public interest suggests the traffic crash should be attended and/or investigated, for example:

(a) the crash results from dangerous operation of a motor vehicle or hooning;

(b) when significant damage is caused to public infrastructure such as bridges; or

(c) where the offender and/or vehicle can be readily located and evidence obtained,

an officer is to be tasked to attend the traffic crash.

Officers and shift supervisors are to use discretion when determining whether police attend or investigate a crash in the public interest.

Officers who attend a traffic crash, but are not required to report or investigate the incident, are to ensure sufficient details are recorded in their patrol log or occurrence sheet for any future reference (see also 'Service entry of public reportable traffic crashes' of s. 5.2.2: 'Reporting and investigating traffic crashes' of this chapter).

Non-attendance at a traffic crash

Where it is determined that the traffic crash does not require police attendance (e.g. no injuries or hazardous environment), the member receiving the information should advise the person involved in the crash to:

(i) exchange information with other persons involved in the traffic crash (see s. 93 of the TO(RUM)A);

(ii) arrange for the movement of the vehicles involved in the traffic crash; and

(iii) where required, refer the member of the public to the options for reporting the traffic crash to the Service (see 'Public reporting of traffic crashes' of s. 5.2.2 of this chapter).

Moving vehicles

Members should advise a caller not to move a vehicle if:

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(i) there are exceptional circumstances surrounding the traffic crash, e.g. unreasonable risk to the safety of the public as a result of the positioning of the vehicles;

(ii) there is a suspicion of the involvement of drugs, alcohol or criminal negligence (e.g. dangerous operation of a motor vehicle);

(iii) there is a risk of further damage to property or vehicles; or

(iv) the vehicle is unable to be immediately moved due to the size of the vehicle and/or spillage.

Where the involved vehicles are not required to remain in their post-crash position, the person should be advised to move the vehicles to reduce traffic congestion.

5.2.2 Reporting and investigating traffic crashes

Reporting and investigating traffic crashes by officers

Officers receiving a report of a traffic crash are to report and investigate traffic crashes which involve:

(i) death or injury to a person (personal injury requiring treatment by a paramedic, nurse or doctor);

(ii) suspected involvement of alcohol or drugs;

(iii) a driver who has failed or is refusing to provide their required details; or

(iv) other specific aspects which indicate the traffic crash should be attended and/or investigated in the public interest, for example:

(a) the crash resulted from dangerous operation of a motor vehicle or hooning; or

(b) when significant damage is caused to public infrastructure such as bridges.

Officers and shift supervisors are to apply their discretion when determining whether police investigate a crash in the public interest.

All traffic crashes involving Service vehicles are to be investigated in accordance with s. 5.13: 'Investigation of traffic crashes involving Service vehicles' of this chapter.

Where a member of the public reports a traffic crash directly to Policelink (see 'Public reporting of traffic crashes' of this section), the crash will not be further investigated, unless the criteria in this section above exist.

Where a traffic crash is later identified as a crash which is to be investigated by an officer (e.g. a person involved in the crash later requires medical treatment), the investigating officer (IO) is to:

(i) contact Policelink to change the occurrence type by submitting a Policelink Intranet Reporting supplementary report to amend the occurrence from a Traffic crash—public report [1464] to a Traffic crash—with injury [1410]; and

(ii) report and investigate the traffic crash in accordance with this chapter.

ORDER

Where an officer is advised of a reportable traffic crash in accordance with this section, the officer is to ensure the traffic crash is recorded and investigated as completely as possible (see also ss. 5.6.2: 'Responsibilities of officers in charge of stations and establishments' and 5.6.3: 'Processing of traffic crash occurrences' of this chapter).

Public reporting of traffic crashes

Members of the public are able to report a non-injury traffic crash to the Service by:

(i) submitting a 'Minor traffic crash report (public)' available on the QPS internet;

(ii) telephoning Policelink on 131444; or

(iii) attending a station to make a report in person.

Public reported non-injury traffic crashes will not be further investigated by officers unless specific circumstances exist (see subsection 'Reporting and investigating traffic crashes by officers' of this section).

When Policelink receives a public-reported traffic crash, a 'Traffic crash—public reported [1464]' QPRIME occurrence number will be generated and provided to the person within twenty-four hours of the report being submitted, subject to operational priorities.

Service entry of public reported traffic crashes

Where:

(i) an officer attends a traffic crash, but is not otherwise required to report or investigate the incident; or

(ii) a member of the public attends a station to report a non-injury traffic crash,

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the member should advise the involved person that the traffic crash does not meet the requirements of a reportable crash and explain that the crash can be reported electronically or by telephone to Policelink.

Where it is more appropriate for a member to report a traffic crash on behalf of a member of the public, for example:

(i) client service reasons; or

(ii) where an involved person has a disability or other circumstances preventing them from submitting their own report to Policelink,

the member may assist by recording the crash through the 'Minor traffic crash report (public)' portal available on the Service Intranet on behalf of the person.

Members should advise the person that:

(i) the non-injury traffic crash will not be further investigated by the Service unless specific circumstances exist; and

(ii) limited information regarding the crash will be recorded by the Service and the involved person should make their own record of the crash, including involved vehicles and drivers etc.

5.2.3 Members receiving notice of a traffic crash under the provisions of the Motor Accident Insurance Act

Where a traffic crash has not previously been reported to the Service in accordance with s. 93(4): 'Duties of a driver involved in a crash—stopping and providing information' of the TO(RUM)A, a person may report a motor vehicle accident under s. 34: 'Duty to notify accidents to police' of the MAIA, by giving a completed 'Report of traffic incident to police' (available from the Motor Accident Insurance Commission website) to the Service.

Members receiving a 'Report of Traffic Incident to Police' and any attachments (**'s. 34 notice'**) are to treat the notice as a report of a traffic crash.

OICs who receive s. 34 notices should assign the notice to an officer for investigation and reporting in accordance with s. 5.5: 'Duties of officers investigating a traffic crash' and s. 5.6: 'Traffic crash occurrences' of this chapter. Any s. 34 notice should be scanned into the relevant QPRIME occurrence and filed at the owning station.

Where an officer determines that the crash has been previously reported to police, any additional information provided in the s. 34 notice should be entered into the relevant QPRIME occurrence.

In cases where the receipt of a s. 34 notice indicates that an offence under ss. 92: 'Duties and liabilities of drivers involved in road incidents' or 93 of the TO(RUM)A may have been committed, officers should consider commencing a prosecution for the appropriate offence.

In all cases, the officer investigating the crash should provide the QPRIME occurrence number to the person lodging the s. 34 notice.

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5.3 Duties of first response officers at traffic crashes

Consistent with and in addition to the provisions of Chapter 2: 'Investigative Process' of the OPM, officers should:

(i) neutralise any danger to casualties, emergency workers or the public if they are able to, bearing in mind that dangers such as gas leaks, fallen electricity cables and chemical spills must be attended to by the appropriate emergency service, e.g. Gas Examiner, Queensland Fire Department (QFD), electricity authority;

(ii) ensure thorough searches to locate persons killed or injured in the crash have been or are being conducted. If QFD officers are at the scene, request confirmation from the senior QFD officer that primary and secondary searches of the vehicles and surrounding area have been or are being conducted. Officers should assist in conducting searches when requested;

(iii) if medical personnel are not at the scene, render assistance to the injured;

(iv) assess the situation and determine if additional Service resources or ambulance, fire units, etc., are required. RDO or patrol group inspectors should be advised of crashes that cause significant traffic flow disruption;

(v) depending on the type of crash, ascertain and relay the following information to the appropriate emergency service in cases where support is required at the traffic crash scene:

(a) the nature of the crash and the need for the emergency service;

(b) exact location of the crash/spillage including cross streets;

(c) accessibility to crash;

(d) proximity of spillage to water, if known;

(e) the number of persons injured, the nature of the injuries, and whether a person is trapped within a vehicle;

(f) the type of fire or spillage. If a chemical spill occurs, whether the substance spilt is toxic, injurious or dangerous (see s. 5.4: 'Duties at traffic crashes involving hazardous materials' of this chapter);

(g) whether there is a need for specialist recovery or rescue equipment; and

(h) any other details that may assist with emergency service response e.g. gas leaks, fallen electricity cables, etc.;

(vi) preserve the scene and record evidence utilising available Service resources, including portable recording devices;

(vii) provide assistance to other emergency service officers, as required;

(viii) direct or divert traffic as necessary (see ss. 59, 124 and 125 of the PPRA). This may involve activating regional traffic management plans in the case of crashes resulting in significant traffic flow disruptions;

(ix) comply with s. 8.13.7: 'Fatal traffic crashes' of the OPM when appropriate; and

(x) ascertain whether the vehicles involved may be moved to minimise disruption to traffic, consistent with the investigation requirements (see s. 5.5: 'Duties of officers investigating a traffic crash' of this chapter).

Traffic crashes resulting in significant traffic flow disruptions

In addition to the above procedures, where a traffic crash results in a significant traffic flow disruption, first response officers should:

(i) in accordance with any regional/district traffic management plan, consider implementing a multi-agency response utilising an appropriate DTMR traffic management centre or local government office to assist with the quick clearance of the crash and to minimise traffic flow disruptions;

(ii) when a multi-agency response is considered necessary, contact the appropriate police communications centre (PCC) to arrange for the required assistance;

In remote areas where police radio communications may not be readily available, the officer should contact an appropriate traffic management centre or local government office direct (see SMCD).

Upon receiving such requests for assistance, the manager of the traffic management centre will assess and determine what assistance can be provided to police; and

(iii) provide regular SITREPs to the appropriate PCC.

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5.4 Duties at traffic crashes involving hazardous materials

Vehicles transporting hazardous materials generally display an Emergency Information Panel (EIP). that shows the following information:

(i) the correct shipping name for the product being transported;

(ii) the United Nations number;

(iii) the Hazchem Code;

(iv) '000', Police or Fire Brigade;

(v) Class label and Subsidiary Risk Label; and

(vi) a 24-hour emergency information service contact telephone number.

The Hazchem Code is an alpha-numeric code and provides an 'initial response action guide' for first responders at an incident (see Appendix 17.4: 'Hazchem Interpretation Aid' of the OPM).

At traffic crashes where there is a danger from gases, liquids, chemicals, explosives and/or fire, first response officers should attempt to locate the EIP on any vehicles involved or a transport manifest held in the driver's compartment (normally on the inside of the driver's door) to ascertain the name of the hazardous substance. If the hazardous substance cannot be identified the code '4WE' is used.

Additional information and officer's responsibilities are contained in s. 17.3.14: 'Hazardous materials' of the OPM.

ORDER

Officers are not to move into any situation where a potential danger exists which would render such officer liable to harm by skin absorption, inhalation or ingestion of a dangerous substance.

Additional duties

Officers, after evaluating the potential threat of dangerous goods should, in addition to the procedures outlined in s. 5.3: 'Duties of first response officers at traffic crashes' of this chapter:

(i) if necessary and practicable, establish a cordon around the crash scene;

(ii) position themselves 'upwind' of dangerous gases;

(iii) divert traffic from the danger area (see s. 59 of the PPRA);

(iv) evacuate all persons in danger, and if necessary, arrange for a commissioned officer to invoke the provisions of the *Public Safety Preservation Act* where applicable;

(v) if the spillage is recoverable, or its effects can be minimised, request that suitable equipment and personnel be sent to the scene urgently;

(vi) prohibit smoking, eating and drinking in close proximity to the crash; and

(vii) if necessary, establish a command post.

5.5 Duties of officers investigating a traffic crash

Consistent with the provisions of Chapter 2: 'Investigative Process' of the OPM, officers who investigate a traffic crash should:

(i) obtain statements from any witnesses to the crash;

(ii) preserve the scene in accordance with Service policy;

(iii) record the details of the traffic crash in their official police notebook (a 'Traffic crash aide-memoire' is available from the Traffic Crash Management SharePoint page) and/or QLiTE device. Details may include:

(a) all persons and vehicles directly involved in the crash and any other person who may be able to assist in the subsequent investigation;

(b) the damage to the vehicle(s) involved in the traffic crash, the general condition of the vehicle(s) and the position of the hand brake and gear lever;

(c) the position of all relevant items of evidence (location of bodies, vehicles, tyre marks, scratch marks, gouge marks, debris on the roadway, including oil stains, water, broken glass, blood stains, etc.) to assist in identifying the impact point of the collision. QLiTE devices wherever available, should be utilised to record photographic evidence of the vehicle(s), the site, and evidence. Photographs were taken are to be uploaded into the relevant QPRIME occurrence;

(d) other scene evidence such as traffic lights, signs, road markings, skid marks, etc., by sketch plan; and

(e) if the vehicles have been moved after the traffic crash, the reason for moving and by whom, the exact original positions of impact and where the vehicle(s) came to rest immediately after impact;

(iv) where a person has suffered injuries in the crash:

(a) requiring transportation to hospital; and

(b) the FCU or a scenes of crime officer is not attending the scene,

ensure suitable digital photographs or video recordings are taken of the scene showing the involved vehicles'/pedestrians'/cyclists' final positions following the crash, location of evidence, damage to vehicle(s), roadway and the surrounding environment;

(v) if considered necessary, obtain assistance from Scenes of Crime or additional officers to accurately record the scene, by making a request through the relevant police communications centre;

(vi) where the traffic crash involves a bus or a heavy vehicle (see s. 6: 'Meaning of *heavy vehicle*' of the Heavy Vehicle National Law (Queensland)) which:

(a) results in a fatality or serious injury; or

(b) may have been caused by a mechanical defect,

ensure the Heavy Vehicle Road Operations Program Office, Road Policing Group and the National Heavy Vehicle Regulator (NHVR) is advised of the incident. Generally, NHVR inspectors will not attend an incident scene unless:

(a) the investigating officer (IO) at the scene ascertains vital evidence may be lost or the incident is of such a serious nature to warrant attendance at the scene by NHVR inspectors; and

(b) upon arrival at an incident scene, NHVR inspectors will make a determination as to whether the vehicle(s) can be successfully examined at the scene or should be removed to a holding yard.

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NHVR inspectors are available during business hours and inspections are normally conducted in a holding yard or an inspection station, on a stable surface;

(vii) where a heavy vehicle is involved in a traffic crash, examine the driver's work diary to establish whether the provisions of the *Heavy Vehicle National Law Act* and Heavy Vehicle (Fatigue Management) National Regulation have been complied with. Advice can be sought from members of the State Highway Patrol and/or local Highway Patrols in assessing work diaries;

(viii) inspect the general mechanical condition of the vehicle and if it is suspected there may be a mechanical defect or a claim of mechanical malfunction, arrange for the vehicle to be mechanically inspected (see s. 5.14: 'Vehicle mechanical inspections' of this chapter);

(ix) in cases where a tyre defect is alleged to have caused or contributed to the crash, arrange for the Vehicle Inspection Unit (VIU) to conduct:

(a) a tyre examination;

(b) a mechanical inspection; and

(c) advise the examiner of the circumstances of the crash prior to such examination;

(see s. 5.14: 'Vehicle mechanical inspections' of this chapter);

(x) require the driver of any motor vehicle involved in a traffic crash to provide a specimen of breath for a breath test. Where a roadside drug testing officer is available, arrange for their attendance and administration of a roadside drug test. Where a blood specimen is obtained from a driver involved in a traffic crash which results in a person being seriously injured or killed, the specimen of blood is also to be tested for the presence of drugs in accordance with the relevant provisions of the TO(RUM)A and Chapter 7: 'Drink and Drug Driving' of this Manual;

(xi) in cases where a vehicle involved in a traffic crash requires towing (or seized and towed away) from the scene by the authority of an IO or other officer, the provisions of s. 4.12.2: 'Towing of motor vehicles following a traffic crash' of the OPM apply;

(xii) where the traffic crash is such that a FCU or a trained investigator has been requested to attend the scene (see s. 5.9: 'Investigation of major incidents by Forensic Crash Unit' of this Manual), treat the matter as a criminal investigation and apply the appropriate provisions of the PPRA (i.e. Chapter 15, Part 3: 'Safeguards ensuring rights of and fairness to persons questioned for indictable offences') when interviewing persons involved in the crash prior to the arrival of a trained investigator; and

(xiii) where the traffic crash has resulted in serious injury or death to any person, contact should be made with DTMR on phone 13 19 40 within 24 hours of the crash to ascertain if any DTMR-owned video / camera monitoring devices were operating in the area at the time of the crash and to lawfully obtain a copy of any relevant images or recordings by completing DTMR Corporate Form F4961: 'Request for Information'. Officers obtaining video evidence are to ensure a QP 0880: 'Section 95 certificate (statements contained in a document or thing produced by device or process)' is completed accordingly (see s. 2.4.11: 'Video and photographic evidence recorded during the commission of offence' of the OPM).

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5.6 Traffic crash occurrences

Release of traffic crash information

Members are to be aware that information contained within QPRIME traffic crash occurrences is transmitted daily to CITEC Confirm for provision on payment to external organisations and members of the public.

Members are to ensure information contained in traffic crash occurrences is correct. Where information is not to be publicly released, officers are to request an authorised officer to apply a QPRIME Access Control List on the information (see s. 5.13: 'Investigation of traffic crashes involving Service vehicles' of this chapter).

Traffic crash information is to be released in accordance with s. 5.6.5: 'Requests for information related to traffic crashes' of the MSM.

5.6.1 Duties of investigating officer to record information

Service entry of public reportable traffic crashes

Members reporting a non-injury traffic crash, which would otherwise be reported on-line or by telephone to Policelink, are to create a 'Traffic crash—public report [1464]' QPRIME occurrence through the Policelink Internet Reporting facility. No further investigation is required in relation to the crash (see s. 5.2.2: 'Reporting and investigating traffic crashes' of this chapter).

Recording of traffic crashes subject to investigation

Where a crash is to be reported and investigated by an officer (see 'Reporting and investigating traffic crashes by officers' of s. 5.2.2: 'Reporting and investigating traffic crashes' of this chapter), officers should:

(i) record all relevant information, including a sketch plan, in their official police notebook and/or QLiTE device, making reference to the 'Traffic crash aide-memoire' (available on the Traffic Crash Management SharePoint page);

(ii) ensure all available information is entered in the relevant QPRIME occurrence as soon as possible. In every case the following items need to be recorded in QPRIME prior to the completion of the shift during which the crash was reported:

(a) create a QPRIME occurrence and initial report task;

(b) link the occurrence address;

(c) add and complete an MVC Occurrence Report with narrative;

(d) link reporting officer;

(e) link reporting station; and

(f) complete the initial report task; and

(iii) where a crash occurs in which a person is fatally injured or a fatal injury is considered reasonably likely, in addition to (ii) above, ensure the following items are recorded in the relevant QPRIME occurrence prior to the completion of the shift during which the crash was reported:

(a) add major occurrence flag to occurrence;

(b) link all involved drivers, riders and pedestrians;

(c) link all deceased person/s;

(d) link all injured persons;

(e) add and complete a Person MVC Report for each:

- deceased person;
- injured person; and
- driver, rider and pedestrian;

(f) link all involved vehicles;

(g) add and complete a Vehicle MVC Report; and

(h) send SEMS message and QPS Sudden Death Notification workflow,

(see s. 8.13.7: 'Fatal traffic crashes' of the OPM).

Where the identity of the victim is unknown, the person should be linked with the 'sex' field only in QPRIME. Unknown fields should not be completed;

(iv) excluding fatal traffic crashes, if it is not possible to enter any further details during the same shift as the crash is reported, ensure any remaining details or information is entered on to the occurrence within 48 hours where possible and in all cases within seven days of ascertaining such information; and

(v) in the event a crash is reported at a station or establishment, query QPRIME to ascertain whether the crash has been previously reported at another station or establishment. If the crash has been previously reported the record of that crash is to be modified by entering any additional information which is available.

Traffic crash sketch plans

Officers furnishing traffic crash occurrences are to ensure a plan of the crash location, not necessarily to scale, is completed and uploaded as an external document into the relevant QPRIME occurrence. To assist, a QP 0952: 'Traffic crash sketch plan' may be utilised for this purpose. Once the plan of the crash location or QP 0952 has been uploaded into the QPRIME occurrence, the original document should be disposed.

Where a plan may be required as a superior court exhibit, it should be prepared to scale.

5.6.2 Responsibilities of officers in charge of stations and establishments

The OICs of stations or establishments are responsible for traffic crash records which are generated as a result of traffic crashes occurring within their area of responsibility.

ORDER

The OICs of stations and establishments are to ensure that:

(i) where required by subsection 'Reporting an investigating traffic crashes by officers' of s. 5.2.2: 'Reporting and investigating traffic crashes' of this chapter:

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(a) traffic crashes reported to officers under their control are thoroughly investigated in accordance with Service policy and procedures; and

(b) unless specific reasons preclude it, enforcement action is taken where an offence is identified during a traffic crash investigation (see s. 5.7: 'Enforcement action following traffic crashes' of this chapter);

(ii) all particulars have been entered in QPRIME within the time frames outlined in s. 5.6.1: 'Duties of investigating officer to record information' of this chapter;

(iii) investigations into traffic crashes are finalised as early as possible;

(iv) QPRIME tasks detailed to their station or establishment are dealt with expeditiously; and

(v) QPRIME tasks originating from their station or establishment are dealt with promptly by liaising with the OIC of the station or establishment to which the QPRIME task has been detailed.

5.6.3 Processing of traffic crash occurrences

The OICs of stations and establishments are responsible for the assessment and management of all traffic crash occurrences which are generated as a result of traffic crashes occurring within their divisions irrespective of where the crash is reported.

ORDER

When a traffic crash is reported to police, the OIC of the owning station or establishment (see SMCD) is to:

(i) assess and monitor all correspondence associated with the crash;

(ii) ensure a copy of the QP 0952: 'Traffic crash sketch plan' has been uploaded as an external document into the QPRIME occurrence; and

(iii) ensure the traffic crash occurrence is finalised in QPRIME when:

(a) no further police action needs to be undertaken;

(b) any infringement notice issued has been finalised; or

(c) any prosecution commenced as a result of the traffic crash has been finalised and the 28 day appeal period has expired.

If the investigation relates to a fatal traffic crash, any documents in relation to the fatal traffic crash are to be filed with the Coroners Court of Queensland (see SMCD).

When a traffic crash is reported at a station or establishment other than the station or establishment in the division in which the crash occurred, the OIC of that station or establishment is to:

(i) ensure all necessary inquiries are completed within the division and that the available particulars are entered in QPRIME;

(ii) ensure a copy of the QP 0952: 'Traffic crash sketch plan' has been uploaded as an external document into the QPRIME occurrence; and

(iii) ensure the relevant QPRIME investigation task is completed and the owning station is advised by a QPRIME FYI task (as appropriate).

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5.7 Enforcement action following traffic crashes

ORDER

Where the investigation of a traffic crash identifies an offence has been committed, unless precluded by ss. 3.4.2: 'The decision to institute proceedings' or 3.4.3: 'Factors to consider when deciding to prosecute' of the OPM, officers are to commence enforcement action against the relevant person.

Where an officer has completed an investigation and is:

(i) of the opinion:

(a) there is insufficient evidence to support any prosecution action; or

(b) an offence can be proved; however, it may not be in the public interest to commence proceedings. The officer is to update the relevant QPRIME occurrence, including particulars of the offending conduct, results of any investigation and the reasons why proceedings should not be commenced; or

(ii) seeking advice as to the type of enforcement action to be taken, including the offence/s committed,

the officer is to submit a QPRIME task to their superintendent of traffic (SOT) (see Delegation D 25.2) or OIC or an officer nominated in writing by the OIC seeking a determination.

Commencing enforcement action

Where, following the investigation of a traffic crash an offence has been identified, officers may commence enforcement by:

(i) issuing an infringement notice to the offender (see s. 5.7.1: 'Issuing of infringement notices for traffic crash investigations' of this chapter);

(ii) issuing a notice to appear (NTA) to the offender. A NTA for an offence under the TO(RUM)A or Regulations may be served by registered mail (see s. 3.5.3: 'Proceedings by way of notice to appear' of the OPM);

(iii) arresting the offender (see s. 3.5.10: 'Making an arrest' of the OPM); or

(iv) in exceptional circumstances only, by issuing a complaint and summons (see s. 3.5.4: 'Proceedings by way of complaint and summons' of the OPM).

All actions in relation to investigating and commencing enforcement action following a traffic crash should be recorded in the relevant QPRIME occurrence.

No further action

Where there is insufficient evidence to successfully prosecute an offender, or it is not in the public interest to commence proceedings (see ss. 3.4.2 and 3.4.3 of the OPM), the relevant QPRIME occurrence should be endorsed accordingly. The SOT should send a FYI task within the QPRIME occurrence to the OIC of the owning station or establishment.

The OIC of the owning station or establishment should:

(i) ensure the decision to take no further action is recorded within the relevant QPRIME occurrence; and

(ii) finalise the relevant QPRIME occurrence.

If the investigation relates to a fatal traffic crash, the documents are to be filed with the Coroners Court of Queensland (see SMCD).

Duties of superintendent of traffic

A superintendent of traffic (SOT) is to ensure appropriate action is taken following a traffic crash investigation.

When making a determination with respect to any action following a traffic crash, a SOT is to:

(i) review all available information about the traffic crash, including:

(a) the relevant QPRIME occurrence;

(b) any relevant notes made in the investigating officer's (IO) notebook; and

(c) any statements which were taken in respect of the traffic crash;

(ii) determine:

(a) whether it is in the public's interest to commence a prosecution following the traffic crash; and

(b) the appropriate offence for which a prosecution should be commenced; and

(iii) decide whether sufficient evidence has been obtained to support the prosecution of the offence.

Where a SOT has reviewed a traffic crash and determined:

(i) insufficient evidence has been obtained to support the commencement of a prosecution, advise the IO what additional inquiries should be made prior to further considering the commencement of a prosecution; or

(ii) the matter has been fully investigated:

(a) advise the IO of the appropriate offence and means of commencing a prosecution; or

(b) there is insufficient evidence to support any prosecution action, advise the IO that no further action should be taken,

the SOT should update the relevant QPRIME task outlining the action to be taken.

Restrictions on superintendent of traffic

A superintendent of traffic (SOT) in respect of traffic crash investigations is not to be the IO unless a SOT is not reasonably accessible (e.g. at remote one-person stations).

5.7.1 Issuing of infringement notices for traffic crash investigations

Where completed investigations into a traffic crash have identified sufficient evidence to prove the commission of an offence, an officer should consider issuing an infringement notice if:

(i) the offence indicated is one for which an infringement notice may be issued (see s. 8.3: 'Offences for which infringement notices may be issued' of this Manual);

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(ii) the infringement notice will be issued within 8 months of the traffic crash (see s. 8.6: 'Manner of issuing infringement notices' of this Manual and s. 13.15: 'Issue of infringement notices generally' of the OPM)

(iii) a supervising officer has not directed action to be commenced by another means; and

(iv) the crash:

(a) was not a fatal crash; or

(b) did not result in a life-threatening injury to or the hospitalisation of any person involved.

In all other cases, a prosecution should be commenced by issuing a NTA, arrest or by issuing a complaint and summons.

Where an investigating officer (IO) is satisfied the issuing of an infringement notice to a person involved in a traffic crash is appropriate, the officer should do so in accordance with s. 8.6: 'Manner of issuing infringement notices'. Further information to be recorded on the rear of the station/establishment copy of the PT56: 'infringement notice' or in the 'Notes and photos' entry screen of a QNotice eTicket includes:

(i) the relevant QPRIME occurrence number;

(ii) the name/s of all officers assisting in the investigation;

(iii) the notebook number and page number/s of any relevant notes considered when deciding to issue the infringement notice; and

(iv) reference to any statements or other material considered, which are not recorded in the relevant QPRIME occurrence, when deciding to issue the infringement notice and the location of those statements or other material.

If a PT56 is issued after the creation of the relevant QPRIME occurrence, the occurrence number should be recorded in the appropriate section at the bottom of the notice instead of the rear of the pink copy.

If an IO from a station or establishment other than the 'owning station' (see SMD) completes a traffic crash investigation, where appropriate that officer may consider issuing an infringement notice directly to the offender.

Who may issue an infringement notice

The following officers may issue an infringement notice at the conclusion of a traffic crash investigation:

(i) an IO;

(ii) an authorised officer; or

(iii) Superintendent of Traffic.

An authorised officer is the OIC of a station or establishment, or an officer nominated in writing by the OIC.

First year constables are to be under the direct supervision of a qualified field training officer when issuing an infringement notice.

Issuing infringement notice by mail

Where an infringement notice cannot be issued in person to the person involved in the traffic crash, IO are to forward a QPRIME task to an authorised officer to:

(i) confirm that the crash is appropriate to be dealt with in such a manner; and

(ii) determine the appropriate offence for which an infringement notice should be issued.

Where the authorised officer decides that an infringement notice should be issued to a person involved in the traffic crash, the IO is to:

(i) complete a PT56: 'Infringement notice', a QNotice eTicket is not to be used; and

(ii) prepare a suitable letter to accompany the PT56 signed by the authorised officer.

After the PT56 and accompanying letter are signed, the issuing officer is to ensure:

(i) the infringement type and notice number are recorded in the relevant QPRIME occurrence;

(ii) the PT56 accompanying letter is uploaded into the occurrence;

(iii) an FYI task is sent to the owning station advising of the issue of the infringement notice; and

(iv) the PT56 and accompanying letter are sent to the alleged offender by regular mail.

Duties of an authorised officer

After an authorised officer has reviewed a reported traffic crash and is satisfied the issue of an infringement notice to a person involved in a traffic crash is appropriate, the authorised officer should:

(i) ensure the IO undertakes the duties outlined in this section;

(ii) check the accuracy and completeness of the PT56; and

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(iii) sign the accompanying letter.

Duties of officers in charge of owning stations

The OICs of owning stations who receive a QPRIME FYI task in relation to a traffic crash where an infringement notice was issued are to ensure periodic checks are conducted on the offender's traffic history in QPRIME to establish whether the infringement notice has been paid or otherwise finalised. Upon payment or other finalisation of the infringement notice, the OIC is to finalise the QPRIME traffic crash occurrence.

5.8 Injurious matter on roadways

Officers who establish that a contributing factor to a traffic crash was that some injurious matter was on the roadway should:

(i) endeavour to identify the person responsible for placing the matter on the roadway;

(ii) note the position, area and type of matter;

(iii) note any claims by drivers of the vehicles involved as to the effect the matter had on the crash;

(iv) note identifying numbers, signs or marks on any article which may be associated with the injurious matter or the receptacle from which the matter may have fallen;

(v) in the case of spillage:

(a) note the type and size of the spill;

(b) ascertain where the spillage commenced and finished; and

(c) in cases of hazardous chemical spillages (see s. 5.4: 'Duties at crashes involving hazardous materials' of this chapter and Chapter 17: 'Major Incidents' of the OPM).

Where injurious matter has been deposited on the roadway as a result of a traffic crash, the officer assigned to investigate such crash should ensure that all reasonable measures are taken for the protection of road users and that the appropriate agency is advised to attend the scene.

In some cases the placing or dropping of injurious matter on a road may constitute an offence against local laws or s. 137: 'Injurious matters on roads' of the TO(RUM)A.

5.9 Investigation of major incidents by Forensic Crash Unit

Permanent and part-time FCU exist throughout Queensland at various locations.

Role of Forensic Crash Unit

The role and functions of the FCU, are outlined in this section, further information is located on the unit's SharePoint page.

In areas where there is no permanent FCU, some officers have been trained in incident investigation techniques (trained investigators). Trained investigators are available to provide some of the services that are provided by a FCU.

Attendance of Forensic Crash Unit at incidents

A FCU officer or trained investigator should be requested to attend:

(i) serious road incidents involving:

(a) the death of any person;

(b) serious injury to any person; or

(c) evidence of criminal negligence on the part of any person, including incidents occurring:

- at an intersection controlled by traffic lights and a driver involved has apparently disobeyed a red traffic light;
- at an intersection controlled by a 'Stop' sign or a 'Give Way' sign and a vehicle involved has apparently entered the intersection at considerable speed;
- as an apparent result of one or more of the vehicles involved being on the incorrect side of the road at the time of impact; or
- where there are apparently multiple traffic breaches of life endangering offences on the part of one or more persons;

(ii) incidents involving multiple vehicles and/or people or where the incident is a major transport incident;

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(iii) complex road incidents, where the investigation is considered to be beyond the normal investigative capabilities of officers attending the scene;

(iv) a rail related incident involving the death of any person, after consultation between the senior officer and forensic officer and it is determined the rail related death is not the result of a suicide. See also s. 17.3.4: 'Rail incidents' of the OPM;

(v) in circumstances where a person has been killed or there is a likelihood of death resulting from injuries received due to:

(a) a notifiable workplace incident (including a work-related recreational water activity incident) (see s. 35: 'What is a notifiable incident' of the *Work Health and Safety Act*);

(b) a dangerous electrical event (see s. 12: 'Meaning of dangerous electrical event' of the *Electrical Safety Act* (ESA)) at workplaces or residences (see s. 8.13.3: 'Fatal workplace or electrical incidents' of the OPM);

(c) a serious electrical incident (see s. 11: 'Meaning of serious electrical incident' of the ESA) at workplaces or residences;

(d) an aircraft incident (commercial or non-commercial); or

(vi) for any other reason where skills or expertise of the FCU or trained investigator are required.

An officer at the scene of an incident who requests the services of a FCU officer or trained investigator is to ensure the requirements of s. 2.4.6: 'Preservation of incident scenes' of the OPM are observed and the primary investigation is conducted in accordance with s. 2.5: 'Investigation' of the OPM. In addition, the officer is to ensure that:

(i) vehicles involved in a road incident are not moved without the authority of the FCU officer or trained investigator investigating the incident; and

(ii) where appropriate, drivers of vehicles involved in an incident are subjected to roadside tests for alcohol and drugs, or steps are taken to obtain blood specimens for analysis.

Call out procedure

The first response officer/police forward commander/investigating officer should advise their:

(i) RDO;

(ii) DDO; or

(iii) patrol group inspector,

who will assess the situation. If it is considered that the attendance of specialist support is necessary, the RDO, DDO or patrol group inspector should ensure that the request is transmitted to the:

(i) Duty Officer, Brisbane Police Communications Centre (PCC) (in their area of responsibility);

(ii) OIC of the relevant PCC (in their area of responsibility); or

(iii) OIC of the station or establishment where the incident occurred in places where a PCC does not exist,

who will ensure that the OIC of the relevant specialist support area is contacted and notified of the request and the particulars of the incident.

The OICs of regions are to ensure that regional instructions for the call out of specialist support are developed and maintained in their region.

In cases where the FCU officer or trained investigator is contacted and determines that FCU attendance is not required or unable to attend, the FCU officer or trained investigator should record the following in a supplementary entry in the relevant occurrence:

(i) the reason for the non-attendance; and

(ii) the advice given by the FCU officer to the requesting officer, DDO or Comco outlining the subsequent inquiries to be made.

Responsibility for investigation

On arrival at the scene of the incident, FCU officers or trained investigators assume responsibility for the conduct of the investigation unless:

(i) their attendance was requested for a specific purpose (i.e. to undertake a collision analysis/scene reconstruction, take photographs, or prepare a forensic map); or

(ii) the FCU officer or trained investigator attending the incident scene forms the opinion that the matter is one not requiring further attention by an FCU officer or trained investigator and has advised the requesting officer where the responsibility for the investigation will remain with the first response officer originally detailed to investigate the matter.

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The responsibilities detailed in s. 8.3.3: 'Additional responsibilities of investigating officers' of the OPM remain with the first response officer originally detailed to investigate the matter.

ORDER

Where the FCU officer or a trained investigator assumes responsibility for an investigation of an incident in a region, and significant resources are required in order to conduct the investigation beyond the capacity of the FCU (e.g. 'hit and run' incidents), that region is to provide all reasonable assistance to the FCU including the provision of appropriate resources for the investigation. In the case of criminal or negligence related deaths or injury incidents, CIB will provide assistance to regional investigators and FCU investigations.

Cost recovery

If the Brisbane FCU or a regional FCU is requested to provide services to a region, the requesting region will be liable for the costs of the provision of the service, which may include overtime, travelling allowance, and court attendance costs.

5.9.1 Vetting of collision analysis evidence by a suitably trained crash investigator

Due to the specialist nature of collision analysis evidence, it is essential that quality control measures are in place to ensure that the credibility of such evidence is maintained.

Only officers who have successfully completed the advanced crash investigation course or other relevant analysis course are qualified to provide expert evidence relating to basic collision analysis and speed estimations based on physical evidence at the scene of a crash.

All such specialist evidence is to be vetted by a suitably trained crash investigator, prior to being included in a brief of evidence or a report to a Coroner.

Qualified officers are to forward a report to a suitably trained crash investigator, containing all evidence relating to reconstruction of traffic crashes prior to its presentation in court. This report should include:

(i) a brief summary of the crash under investigation;

(ii) all mathematical calculations used to arrive at the conclusion; and

(iii) methodology used in the preparation of the report.

The suitably trained crash investigator should:

(i) ensure that the investigator has successfully completed the advanced crash investigation course or other relevant analysis course;

(ii) ensure all mathematical calculations have been completed correctly;

(iii) ensure the methodology used to arrive at the conclusion was correct for the matter under investigation; and

(iv) ensure the peer review verification is completed and signed within the body of the report.

Officers performing duties as shift supervisors or brief managers should not accept briefs of evidence relating to speed estimation or any accident reconstruction unless the peer review verification within the body of the report is completed and signed.

ORDER

Officers submitting a report to a Coroner relating to a speed estimation or any crash reconstruction, and where an analysis report has been completed, are to ensure the analysis report is peer reviewed. If the speed estimation or crash reconstruction is not part of a full analysis report and is a draft or estimate only, this must be stipulated within the report.

5.9.2 Friction tests conducted to afford evidence

The use of Service vehicles and other vehicles for friction testing is sometimes necessary to obtain expert evidence. Friction tests are only to be undertaken by a suitably trained crash investigator.

ORDER

Officers who intend to conduct friction tests are to request authorisation from a forensic crash investigator of the rank of sergeant or above prior to a series of friction tests being conducted. Such request is to include details of:

(i) the necessity for the tests;

(ii) time, date and place at which the tests are to be conducted;

(iii) who is to conduct the tests;

(iv) the safety precautions to be taken prior to and during the tests;

(v) the safety equipment to be utilised during the tests; and

(vi) a completed site safety plan for the tests.

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After approval to conduct a friction test is given, the officer conducting the test is to ensure that:

(i) prior to the conducting of the friction test, the vehicle to be used is inspected and the braking system tested;

(ii) prior to the conducting of the friction test, when a Service vehicle is used, such vehicle is to be inspected prior to the test for physical damage. The Service vehicle is to be returned in a road worthy condition. This may involve the changing of tyres and repairing any damage;

(iii) the relevant portion of the roadway to be used is secured against the entry of members of the public; and

(iv) the tests are conducted in a manner which is appropriate and does not unduly interfere with the safe and effective regulation of traffic.

5.10 Traffic crashes at railway level crossings and railway bridges

Officers should be mindful that a crash involving a train may involve hazardous material and high voltage electricity.

Officers are to ensure that Queensland Rail (QR) is advised as soon as possible of any crash involving a train or damage which has been caused to railway property (boom gates, control lights, railway lines, railway bridges, etc.) as the result of a traffic crash having regard to the risk of structural damage. In this section, railway property does not include motor vehicles owned by QR.

Officers assigned to investigate a traffic crash involving a train or other vehicles at a railway level crossing should ensure:

(i) QR is notified of the incident as soon as possible;

(ii) inquiries are carried out as expeditiously as possible, consistent with the aims of covering all essential aspects of thorough investigation and minimising serious disruption to traffic;

(iii) the train or the vehicle is removed so that interference to trains running on that line is minimised;

(iv) if the crash involves an excess dimension vehicle or load and it is suspected that the dimensions of the vehicle or load have contributed to the crash, a transport inspector, DTMR is to be notified with a view to having the vehicle checked for compliance with the relevant permit;

(v) if circumstances permit, some elements of the investigation, such as interviewing train crew members and establishing the composition of the train, may be deferred, provided that the positions where vehicles and persons involved in the crash have come to rest and the point of impact are accurately recorded; and

(vi) where it is considered that upgrading of railway equipment at level crossings should be carried out, furnish a report through the normal channels to the Deputy Commissioner's Secretary, QR. This report should be furnished as soon as possible and not rely on the finalisation of the traffic crash investigation. A copy of this report should be scanned into the relevant QPRIME occurrence as an external report.

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5.11 Notification of Department of Transport and Main Roads and local authorities

In cases where:

(i) a traffic crash results in a fatality or serious injury to any person or major damage to property; or

(ii) a traffic crash other than one referred to in (i) above, and it is considered that any feature or condition of the road or the absence of appropriate warning signs on the road, has been a contributing cause; or

(iii) a series of traffic crashes at the same scene in circumstances where those crashes would not normally be reported to an engineer, DTMR,

the OIC of the owning station (see SMCD) should furnish a report in relation to the incident(s) to the:

(i) DTMR; or

(ii) relevant local government authority engineer,

responsible for the road in question including, if requested the supply of traffic crash information. This report should be furnished as soon as possible and not rely on the finalisation of the crash investigation. A copy of this report should be scanned into the relevant QPRIME occurrence as an external report.

5.12 Emergency rescuer's guides

5.12.1 Safety restraint systems

Modern motor vehicles are fitted with a number of devices to provide additional protection to occupants. Where the various devices are fitted, there will be a warning label fitted to the vehicle, usually in a door opening, dashboard side or on the sun visor.

Normally, electrical cabling for occupant supplementary restraint systems (SRS) will have a yellow covered cover.

Airbags

Passenger vehicles sold in Australia since the mid 1990's have been fitted with airbag SRS, initially as an option and since 2000 as a mandatory requirement under the Australian Design Rules (ADR). New cars are now fitted with multiple airbag SRS, both in compliance with the ADR and for occupant safety, with the vast majority of vehicles containing:

(i) driver airbag SRS (in the steering wheel);

(ii) front passenger airbag SRS (usually in the dashboard);

(iii) thorax airbag SRS for front seat occupants (usually in the side of the seat);

(iv) curtain airbag SRS for front and rear passengers (usually running above the doors and down the windscreen pillar); and

(v) driver's knee airbag SRS (under the steering wheel).

The installation of airbag SRS has also started in light and medium trucks, generally consisting of a driver and front passenger airbag SRS in the steering wheel and dashboard.

Airbag SRS are designed to deploy above a set minimum speed and also in a set direction (i.e. front airbag SRS are designed only for a frontal impact, curtain airbag SRS are designed only for a side impact) and may not discharge in a crash. Officers should be careful when attending crashes for airbag SRS devices which have not discharged (see Appendix 5.1: 'Emergency rescuer's guide to cars fitted with Airbag Supplement Restraint Systems (Airbag SRS)').

Officers should be conversant with these guidelines and follow the procedures wherever practicable.

Pyrotechnic seat restraints

In addition to airbag SRS occupant protection devices, an increasing number of vehicles are fitted with pyrotechnic seat restraints, generally on the front seats. In a vehicle fitted with the system, the pyrotechnic seat restraint will be 'fired' when an accident occurs which discharges the airbag SRS. Pyrotechnic seat restraints are fitted on the base of the seat and are attached to the seat belt buckle/anchor and when discharged pull the seat belt clasp closer to its mount, tightening the seat belt.

Whilst pyrotechnic seat restraints would normally be discharged in a serious traffic crash (where an airbag SRS is deployed), there is a risk that a pyrotechnic seat restraint may fail to discharge or suffer a delayed discharge. There is a risk a rescuer may suffer an injury if the system discharges whilst the person is handling the seat belt.

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5.12.2 Hybrid electric vehicles

A hybrid electric vehicle uses an electric motor in conjunction with a standard petrol or diesel internal combustion engine to provide propulsion.

Normally, electrical cabling for hybrid electrical supply in a vehicle will have an orange covered cover. Officers are to:

(i) be aware that hybrid electrical systems operate at very high voltages (650 volts +); and

(ii) avoid handling all orange coloured components (see Appendix 5.2: 'Emergency response guide to hybrid electric vehicles' of this chapter).

Officers should:

(i) familiarise themselves with these guidelines; and

(ii) comply with the provided procedures.

5.12.3 Tyre explosions

Tyre explosions can propel wheel and rim components over considerable distances. For example, tyre explosions on large mining trucks have propelled wheel fragments over 300 metres. Both the force of the explosion and the flying debris can cause property damage, personal injury, or death.

Pyrolysis

When excess heat is developed in, or applied to an inflated tyre, a chemical reaction called pyrolysis can occur, causing a build-up of flammable gases and pressure within the tyre, which may ultimately explode. Pyrolysis related explosions are unpredictable and can occur instantaneously, or several hours after the application of heat to the tyre or rim.

Common causes of tyre explosions include:

(i) vehicle contact with high voltage overhead power lines;

(ii) vehicle lightning strikes;

(iii) welding or heating wheel rim assemblies without removing the tyre;

(iv) vehicle fires; and

(v) overheating brake systems.

A tyre explosion can occur where no fire is visible.

Split rim wheel assemblies

Trucks, tractors, off-road vehicles, forklifts and earthmoving machinery often use multiple-piece or split rim wheel assemblies. These wheel assemblies have one or more side rings which support the tyres' bead and serve as a flange and locking system to keep the inflated tyre on the rim. The rim base, side/lock rings and inflated tyre assembly make up the wheel.

Split rim wheel and tyre assemblies can explode if poorly maintained, incorrectly fitted, assembled or disassembled while inflated, or if damaged in traffic crash or other incident. The application of fire or heat build-up within the wheel assembly will add to the overall risk but the rims can be dislodged whilst at or below normal operating temperature.

A number of people have been killed or seriously injured as a result of tyre explosions involving split rim wheel assemblies. In the event of an explosion, these wheels pose the added risk of the rim components separating in the blast.

Officers attending incidents where inflated tyres are damaged or have been exposed to heat in a manner described above, should:

(i) be mindful of the potential for the tyres to explode;

(ii) consider the possibility of damage or injury from other objects, glass, gas and fuel sources in the vicinity in the event of an explosion; and

(iii) advise and seek assistance from the Queensland Fire Department.

Further information concerning tyre explosions is available on the internet (see Safety Bulletin No. 47: 'Tyre Fires, Pyrolysis and Explosions' published by the Mines Inspectorate, Resources Safety and Health Queensland).

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5.13 Investigation of traffic crashes involving Service vehicles

Investigation of traffic crashes (generally)

For the purpose of this section:

Minor Service traffic crash

means a crash in which:

(i) the only damage caused is to Service property (includes collision with wildlife);

(ii) damage is less than $2500, or some lesser amount established in regional standing orders;

(iii) no person is injured; and

(iv) the involved Service vehicle is in a safe condition to drive.

The aim of investigations into traffic crashes involving Service vehicles is to:

(i) ensure accountability;

(ii) promote professional driving behaviour; and

(iii) maintain public confidence.

All traffic crashes involving Service vehicles are to be investigated.

The nature and scope of any investigation will vary according to the circumstances of the crash but should be reflective of the severity of the crash, the resources of the relevant organisational unit and the aim of investigations into traffic crashes involving Service vehicles.

QPRIME is to be used to record all Service traffic crashes as part of the traffic crash occurrence reporting requirements.

Investigations of traffic crashes involving Service vehicles are to be overseen by:

(i) the assistant commissioner in charge of the region or command, or a commissioned officer delegated for that purpose, to which the involved vehicle is attached; or

(ii) in the case of a vehicle not under the control of an assistant commissioner by a commissioned officer delegated for that purpose.

Assistant commissioners in charge of regions and commands should ensure that regional instructions are established within their area of responsibility to provide procedures for the investigation of crashes involving Service vehicles.

Regional instructions should incorporate:

(i) procedures for determining whether an investigation is to be commenced immediately or at a later convenient time.

Immediate investigation of a traffic crash involving a Service vehicle is warranted when:

(a) injury is caused to any person;

(b) the circumstances of the crash indicate that a member of the Service may have committed a driving related offence;

(c) the crash is connected with a pursuit or urgent duty driving;

(d) damage to Service property exceeds $2,500;

(e) damage is caused to the property of another person or entity; and

(f) the nature of the crash suggests that an injury to a person may develop as a result of the crash.

It may be appropriate to delay the commencement of an investigation to a later, more convenient, time in the case of minor Service traffic crashes;

(ii) the appropriate time within which an investigation is to be commenced, if not required to be commenced immediately. A delayed investigation should generally be commenced within 24 hours unless exceptional circumstances exist;

(iii) whether the Service vehicle should be left 'in situ' at the scene of the crash until such time as the investigating officer (IO) is able to attend the scene. A vehicle is to be left 'in situ' in crashes where death or serious injury has been caused as a result of the crash or where the circumstances of the crash suggest that a FCU officer or trained investigator should be requested to attend the crash in accordance with s. 5.9: 'Investigation of major incidents by Forensic Crash Unit' of this chapter;

(iv) the nomination of an appropriate IO, having regard to the resources of the region and the location of the crash. It is not necessary that the investigation be conducted by a commissioned officer; however investigations should be carried out, wherever practicable, by officers senior to the driver of the Service vehicle;

(v) where a traffic crash involves a covert Service vehicle, or a vehicle being used at the time for covert purposes, the crash should be investigated by a designated member of the relevant region where the incident occurred;

(vi) processes for notifying the relevant overseeing commissioned officer of the crash;

(vii) instructions as to the type of report forms and formats to be used in particular cases. Traffic crashes involving Service vehicles are to be reported in accordance with s. 5.6: 'Traffic crash occurrences' except in cases of minor Service traffic crashes. In such cases regional instructions may establish alternative reporting requirements, however QPRIME is to be used in all Service traffic crashes, with the relevant information to generate the insurance claim form;

(viii) a timeframe for providing the overseeing commissioned officer with interim and final reports on the investigation;

(ix) a method for placing the crash on the agenda of the relevant significant event review panel as soon as reasonably practicable;

(x) procedures for compliance with:

(a) s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)';

(b) s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer and shift supervisor'; and

(c) s. 1.18: 'Significant events',

of the OPM; and

(xi) where the traffic crash has resulted in serious injury or death to any person, contact should be made with DTMR on phone 13 19 40 within 24 hours of the accident to ascertain if any DTMR-owned video/camera monitoring devices were operating in the area at the time of the crash and to lawfully obtain a copy of any relevant images or recordings by completing DTMR Corporate Form F4961: 'Request for Information'. Officers obtaining video evidence are to ensure a QP 0880: 'Section 95 certificate (statements contained in a document or thing produced by device or process)' is completed accordingly (see s. 2.4.11: 'Video and photographic evidence recorded during the commission of offence' of this Manual).

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Responsibilities of members

Members who are the drivers of Service vehicles that are involved in traffic crashes are to:

(i) in the case of crashes occurring in areas where a police communication centre exists, advise the relevant police communication centre of the nature and location of the crash as soon as practicable; or

(ii) in the case of crashes occurring in other locations, advise their supervisor of the nature and location of the crash as soon as practicable.

Members who are the drivers of Service vehicles that are involved in traffic crashes, or a nominated member, are to commence the required QPRIME occurrence in relation to the crash as soon as practicable.

Members who authorise a non-member to drive a Service vehicle that is involved in a traffic crash while under the control of the non-member are to ensure that the crash is reported to a police officer:

(i) as soon as practicable after the crash has occurred; or

(ii) as soon as practicable after the member becomes aware of the crash.

To facilitate compliance with this policy, members should advise non-members, at the time that authorisation to drive the Service vehicle is given, of the requirement to report crashes involving Service vehicles. Regardless of any instructions given to a non-member, the member authorising the use of the Service vehicle remains responsible for ensuring that any traffic crash involving the Service vehicle is reported in compliance with this policy.

The requirement to report traffic crashes involving Service vehicles applies regardless of the amount of damage caused or the severity of injury sustained as a result of the crash.

Members who receive advice that a Service vehicle has been involved in a traffic crash are to arrange for a commissioned officer to be notified of the crash.

Responsibilities of investigating officers

Officers who investigate traffic crashes involving Service vehicles are to complete the relevant reports, including the QPRIME occurrence, as described in this section or as established under regional instructions and provide a copy to the relevant overseeing commissioned officer where necessary.

Responsibilities of commissioned officers

Commissioned officers who are notified of traffic crashes involving Service vehicles are to ensure that an investigation of the crash is commenced as soon as reasonably practicable in accordance with regional instructions and the circumstances of the crash.

Commissioned officers who receive reports on traffic crashes involving Service vehicles are to:

(i) ensure that any disciplinary breaches committed by members are reported in accordance with 'Complaint Management' of the Ethical Standards Command Guidelines; and

(ii) make recommendations to the relevant assistant commissioner as to any further action which should be taken in respect of the crash.

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Investigation of serious traffic crashes

The investigation of crashes involving members resulting in fatalities or serious injuries is outlined in s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)' of the OPM.

In addition to the requirements of s. 1.18: 'Significant Events' of the OPM, a regional crime coordinator should also be mindful of the policy set out in s. 5.9: 'Investigation of major incidents by Forensic Crash Unit' of this chapter.

Restricting release of traffic crash information in certain instances

Information contained in QPRIME traffic crash occurrences is automatically transferred to CITEC Confirm on a daily basis, usually at 0600 and 0900 hours.

Where a traffic crash involves:

(i) a covert Service vehicle;

(ii) a covert officer;

(iii) a human source and there is a need to restrict the release of identifying information; or

(iv) an officer or Service vehicle and there are legitimate reasons for restricting the release of information,

and approval is granted by a commissioned officer, a QPRIME Access Control List (ACL) should be placed on the information immediately after data entry is completed.

Where access to a QPRIME traffic crash occurrence involving an officer or Service vehicle needs to be restricted, the IO should:

(i) prior to entering the traffic crash information into QPRIME, contact the Road Crash Data Unit, Police Information Centre, Legal Division and confirm the QPRIME data release times. The occurrence should be entered when data will not be transferred to CITEC Confirm;

(ii) request the QPS ACL Manager or approved Crime Command ACL Manager to place an ACL on the information to be restricted. Only the details of the officer, human source or Service vehicle and the relevant reports should be restricted;

(iii) include the details of the commissioned officer who authorised the use of the ACL to restrict the information in the relevant QPRIME occurrence.

The commissioned officer authorising the restriction of the traffic crash information should make a record in their official diary of the traffic crash and the reasons the information is to be restricted.

5.14 Vehicle mechanical inspections

Forensic vehicle inspectors (FVI) attached to the Vehicle Inspection Unit (VIU), Scientific Section, Forensic Services Group undertake mechanical, identification and other inspections of all classes of motor vehicles throughout Queensland.

FVI hold engineering (mechanical) or equivalent qualifications; have wide automotive backgrounds supported by various specialist training courses and are accepted as expert witnesses by courts at all levels, with their expertise acknowledged by prosecutors and defence.

The evidence of FVI has been accepted as credible and impartial by the courts, defence and prosecution lawyers. Every effort is to be made to maintain this level of credibility and impartiality.

FVI should not be involved in aspects of an investigation other than the inspection of vehicles (e.g. FVI should not initiate prosecutions in respect of vehicles they have inspected).

5.14.1 Circumstances where an inspection may be warranted

The inspection of vehicles involves significant cost and resources and should only be requested when it appears likely that mechanical failure of a vehicle contributed to or caused an incident. Investigating officers of traffic crash related offences/incidents are to attempt to negate a defence of mechanical failure through questioning, and electronic footage sourced from CCTV, dashcam, body worn cameras, or Polair before requesting a mechanical or other inspection of a vehicle involved for the purpose of obtaining expert evidence

An inspection of a vehicle may be warranted when:

(i) the vehicle is involved in a fatal or life-threatening injury road crash and an examination of a vehicle is required to support or negate any defence that may be raised in relation to a criminal or traffic charge or during a coronial inquest;

(ii) an examination is required by the Forensic Crash Unit to support a collision analysis;

(iii) the vehicle is involved in any incident where mechanical failure or tyre failure is alleged; and the incident relates to the dangerous operation of a motor vehicle, life imprisonment offence, or it is in the public interest as determined by the OIC Vehicle Inspection Unit (VIU);

(iv) the vehicle is the subject of a defective vehicle notice and is involved in an incident which relates to an offence which carries life imprisonment, or it is in the public interest as determined by the OIC VIU;

(v) a motor vehicle is involved in the commission of a serious crime such as a homicide, arson, armed robbery, or drug trafficking in circumstances where mechanical condition is relevant, reporting on the operation of any mechanised concealed compartment is required, or a mechanical defence may be alleged; or

(vi) the vehicle has suspected altered identification details i.e. VIN, engine number, compliance and body identification plates/labels.

Circumstances when a vehicle will not generally be inspected

A vehicle will not generally be inspected by a FVI in situations where:

(i) there is no indication that mechanical failure contributed to an incident that does not involve a death or serious injury;

(ii) continuity cannot be proven, where the vehicle has not been seized immediately after the incident and where such a period of time has elapsed, that any inspection of the vehicle would offer little or no probative value;

(iii) there are no suspects or charges laid with the exception of coronial matters;

(iv) the matter involves minor traffic offences;

(v) the vehicle is in the possession of the owner or the owner's agent;

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(vi) it is a unit involved in a traffic incident and the driver is not subject to prosecution with the exception of coronial matters involving extenuating circumstances after justification has been provided to the OIC VIU for consideration;

(vii) the vehicle cannot be safely inspected; or

(viii) the vehicle's mechanical condition has been compromised prior to VIU attendance.

5.14.2 Airbag control modules

Vehicle airbag control module (ACM) downloads and analysis are performed by the Forensic Crash Unit (FCU) and this should be conducted in-situ. Investigators should direct all enquires to their local FCU office.

In circumstances where in-situ downloads are not practicable due to extensive electrical damage or remote location, VIU are able to assist in the removal of ACM's after the investigating officer has obtained approval from the FCU. Seizure and transporting of ACM's remains the responsibility of the investigating officer.

5.14.3 Vehicle Inspection Unit call-out procedure, court attendance and cost recovery

To obtain the assistance of a forensic vehicle inspector (FVI) from the Vehicle Inspection Unit (VIU), Scientific Section, officers should:

(i) for routine requests:

(a) complete a QP 1011: 'Vehicle inspection request' and save the completed request in the Reports tab of the relevant QPRIME occurrence;

(b) create a property examination task in the relevant QPRIME occurrence, include any additional information in a supplementary report and submit the task:

- for mechanical examination, to the VIU [ORG Unit 0911]
- for identification examinations, to the Vehicle Identification Unit [5259] and;

(c) comply with any regional instructions for requesting mechanical inspections; and

(d) ensure the keys and fob are with all vehicles.

(ii) for urgent requests:

(a) during normal working hours:

- telephone the OIC VIU; and
- complete a QP 1011 and send a task in QPRIME to the VIU [ORG Unit 0911] as confirmation of the request as outlined in points (i) and (ii) of this section; and

(b) outside normal working hours:

- contact the Inspector, Scientific Section; and
- complete a QP 1011 and send a task in QPRIME to the VIU [ORG Unit 0911] as confirmation of the request as outlined in points (i) and (ii) of this section.

The attendance of FVI after hours is at the discretion of the Inspector, Scientific Section and is funded by Forensic Services Group.

The identification of burnt-out vehicles remains the responsibility of the investigating officer. VIU can provide advice on the location of vehicle identifiers, however, will not examine burnt out vehicles unless identifiers have been obliterated.

Inspection request cancelation

When a tasked mechanical inspection is no longer required, the requesting officer should cancel or close the QPRIME Task and advise the OIC VIU by phone, published on the VIU webpage of the Service intranet, or via email to the 'Vehicle Inspection Unit (Alderley)'.

Attendance at scene of incident

Generally, FVIs are not to attend at incident sites unless:

(i) the investigating officer (IO) at the scene ascertains that vital evidence may be lost or the incident is of such a serious nature that involves heavy vehicles and warrants attendance at the scene by FVIs; and

(ii) upon arrival at an incident scene, FVIs will make a determination as to whether the vehicle can be successfully examined at the scene, or such vehicle should be removed to a holding yard.

Court attendance

Court advice should be provided by the IO at the first available opportunity to the OIC, VIU by email or sending a QPRIME task from the relevant occurrence to [Org Unit 0911] or by email to the FVI involved. A FVI is to give evidence

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via audio visual link or audio link unless a court or application from a party to the proceeding directs otherwise (see s. 39PB: 'Expert witness to give evidence by audio visual link or audio link' of the *Evidence Act*).

Cost recovery

Generally, the costs associated with carrying out vehicle inspections are funded by Forensic Services Group.

Any travelling allowance or overtime incurred as a consequence of FVIs attending court to give evidence is charged to the relevant region.

5.14.4 Storage of vehicles awaiting inspection

Vehicles awaiting inspection:

(i) should be stored:

(a) at a readily accessible holding yard that is an 'authorised holding yard' as evidenced by an accreditation document issued under s. 19: 'Giving accreditation documents and information notices' of the *Tow Truck Act* (see also Part 8: 'Provisions relating to storage of towed motor vehicles and movable property' of the Tow Truck Regulation);

(b) on a covered, hard, all-weather surface with sufficient clear space around the vehicle (minimum 1.5m); and

(c) in a space clear of animal faeces and contaminants; and

(ii) are to have the vehicle's ignition key with the vehicle.

Whenever possible, where more than one vehicle is to be inspected as the result of a traffic crash, the vehicles should be stored in the same holding yard.

Deviation of this policy for vehicles considered off fleet vehicles or covert plated fleet vehicles, may only be approved by the Detective Superintendent, CSOG, Crime Command.

Storage of Service vehicles awaiting inspection

Service vehicles awaiting inspection are to have all Service equipment disabled or removed, the exception to this is the removal of hard-wired equipment which requires contractor removal (e.g. lights and sirens). For members to disable or remove Service equipment for a vehicle fitted with:

(i) GWN radios, members are to force the GWN radio into an inhibited mode;

(ii) digital encrypted radios, members are to disable the radio either by:

(a) where a local RES workshop is accessible, arrange for the vehicle to attend the RES workshop and remove the digital radio; or

(b) where a local RES workshop is not accessible, ensure the radio control head has been removed;

(iii) regional analogue radios, members are to facilitate for a local Radio and Electronics Section (RES) workshop to disable the analogue radio in the vehicle;

(iv) ANPR are to have the ANPR Toughbook removed from the vehicle and ensure the remaining ANPR equipment has been deactivated (see s. 9.5.1: 'Use of automatic number plate recognition system' of this Manual);

(v) in-vehicle cameras (IVCs) including other alternative dash cameras installed, are to have the camera unit itself removed or where this is not possible remove the SD memory card from the unit (see s. 4.5: 'In-vehicle cameras' of the DERIE and s. 5.9: 'Investigation of major incidents by Forensic Crash Unit' of this Manual; or

(vi) mobile road safety cameras, members are to remove the Panasonic laptop and contact the Calibration Laboratory. Calibration Laboratory staff will guide the member with instructions on how to remove certain camera components that will disable the camera (see also s. 9.4.4: 'Management of speed camera systems and vehicles' of this Manual);

5.15 Indictable and simple offence charges against drivers involved in traffic crashes

A driver involved in a traffic crash may be charged with simple and indictable offences as a result of the incident. Where a person is charged with multiple offences, indictable offences should be dealt with before the finalisation of simple offences.

5.15.1 Adjournment of simple offences pending indictable offence result

Where a driver of a motor vehicle involved in a crash has been charged with a simple offence, including an offence under s. 79: 'Vehicle offences involving liquor or other drugs' of the TO(RUM)A and:

(i) indictable offences have also been laid; or

(ii) further investigations have indicated that indictable offences may be laid,

from the same incident, the investigating officer is to advise the prosecutor of the pending or proposed indictable charges prior to the charged person's next appearance.

Where the prosecutor is advised that indictable charges have been laid, or may be laid against the charged person, the prosecutor is to arrange for the charge for the simple offence to be adjourned until after the:

(i) finalisation of any investigation; and

(ii) completion of all proceedings for the indictable offence.

5.15.2 Upon finalisation of an indictable offence

Where a Judges remarks are available

Where an indictable offence is finalised, and the person has been charged with an adjourned simple offence, the investigating officer (IO) is to obtain a copy of the Judge's remarks.

The IO is to deliver a copy of the Judge's remarks to the police prosecutor for the simple offence.

Where a Judges remarks are not available

If a copy of the Judge's remarks is not available, the IO is to:

(i) obtain advice from the crown prosecutor as to whether the allegations which constitute the simple offence were taken into account during sentencing for the indictable offence; and

(ii) advise the police prosecutor handling the simple offence of the results of such inquiries.

Continuation of simple offence from same incident

Where a person has been sentenced for an indictable offence arising from a crash and the person has also been charged with a simple offence, including an offence under s. 79: 'Vehicle offences involving liquor or other drugs' of the TO(RUM)A, from the same incident, if the Judge's remarks:

(i) indicate the allegations constituting the simple offence were taken into account during sentencing, the police prosecutor is to arrange for the simple offence charge(s) to be withdrawn; or

(ii) do not indicate the allegations constituting the simple offence were taken into account during sentencing, the police prosecutor is to proceed with the simple offence charge(s).

When an accused is acquitted of an indictable offence and the simple offence is still outstanding, the police prosecutor is to proceed with the simple offence charge(s).

Conflict of information regarding the Judge's remarks

When a police prosecutor proceeding with a simple offence charge, receives advice from the defence that the allegations constituting the simple offence were taken into consideration by the Judge during sentencing for an indictable offence arising from the same incident, which is not indicated by the Judge's remarks, the prosecutor is to contact the crown prosecutor to ascertain whether the simple offences were taken into account during the sentencing of the accused.

If the simple offences were taken into account by the Judge, the police prosecutor is to arrange for the simple offences to be withdrawn.

If the simple offences were not taken into account by the Judge, the police prosecutor is to proceed with the simple offence charges.

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Appendix 5.1 Emergency Rescuer's Guide to Cars Fitted with Airbag Supplemental Restraint Systems (Airbag SRS)

(s. 5.12.1)

How an airbag SRS works

An airbag supplementary restraint system (SRS) may be an electrical or mechanical type, with some or all of the following elements;

- The airbag SRS module—includes an inflator, an airbag, and a trim cover
- The electronic diagnostic module—monitors the airbag SRS electrical system for faults and disables the system when certain faults are detected
- Crash sensors—detect sudden deceleration. Internal sensors are integral with the airbag SRS module, resulting in a self-contained system. External sensors are located elsewhere on the vehicle.
- A back-up power supply—provides power to the system in case the battery is damaged before the crash sensors operate.

The driver-side airbag SRS module is located in the hub of the steering wheel. The passenger-side airbag SRS module is in the dashboard above the glove compartment. Side-impact airbag SRS modules (if the vehicle is so equipped) are fitted in the roof rail (curtain airbags) and/or the side of the seat (thorax airbags).

An airbag SRS is designed to deploy in moderate to major crashes, depending on the 'targeted direction' of the airbag SRS. Frontal airbags will only inflate when a vehicle is struck from the front, and curtain/thorax airbags only will work in a side impact ('T-bone' type accident). Due to this, a vehicle may be involved in a crash and several airbag SRS devices may not be activated.

The following four steps show how the airbag SRS works:

(i) In an impact, sensor(s) in the vehicle detect the sudden deceleration. When the sensor(s) close, electricity flows to the inflator and causes ignition of the gas generator.

(ii) The gas generator then rapidly burns in the metal chamber. The rapid burning produces inert gases and small amounts of dust. The inert gases and dust are cooled and filtered, during inflation of the airbag.

(iii) The inflating airbag splits open the trim cover. The airbag then rapidly unfolds and inflates to protect the occupant.

NOTE: Steps 1–3 take place in a fraction of a second.

(iv) After inflation, the gas is vented through openings or open weave areas in the airbag. Airbags deflate at once and may be pushed aside for occupant removal.

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Airbag SRS chemicals

Rescuers should not be overly concerned about the possibility of contact with any airbag SRS chemicals. The two generator in common use are sodium azide and nitrocellulose. Prior to deployment of the airbag SRS, gas generator are extremely well sealed within a strong metal container.

Early airbag SRS devices were generally fitted with sodium azide gas generators. Sodium azide in its solid state is toxic. However due to the strong metal container, contact with it is extremely unlikely for rescue workers. Newer airbag SRS devices will use different chemicals which are not toxic.

As in all other rescue operations, rescuers should wear gloves and eye protection. After handling a deployed airbag, rescuers should avoid rubbing their eyes, eating or smoking until they wash their hands with mild soap and water.

Once the airbag SRS has deployed, the vehicle interior may briefly appear to contain 'smoke'. This 'smoke' is actually a powdery residue that will settle on the surface of deployed airbag(s) and the vehicle interior. The powdery residue is corn starch or talcum powder, which is used to lubricate the airbag as it deploys. The residue may also contain sodium compounds, mostly sodium carbonates (e.g. baking soda), and the interior air may contain small amounts of carbon monoxide. All of these are by-products of the general combustion. There might also be a very small amount of sodium hydroxide that may be irritating to the skin and eyes.

How to identify a vehicle fitted with an airbag SRS

A number of vehicles manufactured after the early 1990's and all passenger cars sold in Australia after 2000 are fitted with airbag SRS devices. Airbag SRS devices are also now available in some light and medium trucks. To identify a vehicle fitted with an airbag SRS, begin by checking for a 'SRS' or 'Airbag' moulded on the trim cover of the steering wheel hub and on the dashboard on the passenger's side, or a cloth tag on airbag equipped seats. Side airbags are not always visually identifiable. There may also be a label or placard fitted to the following:

- underside of the bonnet
- sun visor(s)

- inside of the glove box
- driver-side windscreen pillar
- driver-side or passenger-side 'B' pillar
- driver-side door
- lower corner of the windscreen.

How to de-activate an airbag SRS

Different types and models of airbag SRS have different methods of de-activation, with the vast majority using a 'back-up' power system. When responding to an incident where all airbag SRS devices have not been discharged, officers should:

(i) disconnect the power supply from the ignition by:

(a) turning the vehicle's ignition key to 'off'; or

(b) in vehicles with a 'proximity key' system (where the key doesn't have to be placed into a switch):

- turn the power to 'off' by the button on the dash; and
- physically remove the 'proximity key' at least 5 metres from the vehicle;

(ii) disconnect the car battery by physically cutting or removing the negative battery cable (black cable) and then the positive battery cable (red cable) from the battery will begin the de-activation period for the back-up power supply. De-activation time for the back-up power supply may take a period of time ranging from seconds to minutes, depending on the system.

Simply turning the ignition switch to 'OFF' may not de-activate the airbag SRS. The airbag SRS deployment mechanism may operate independently of the ignition switch. However, most systems will have a 'safing' sensor which offers additional security against inadvertent deployment of the airbag.

Vehicle fire

When dealing with a vehicle fire, use standard fire extinguishing procedures first. Use any type of fire-fighting agent, including water. The gas generator is sealed in a watertight container.

In the rare case of an interior occupant compartment fire, the airbag SRS module is designed to self-deploy if its internal temperature reaches approximately 175°C. The inflator will remain intact and operate normally. Airbag SRS modules will not explode.

Rescue with undeployed airbag SRS

An airbag SRS will deploy only in moderate to major crashes in the direction the airbag SRS is designed to operate. For this reason, it is likely that you will be involved in a rescue from a vehicle with an airbag SRS that did not deploy.

An airbag SRS is unlikely to deploy during a rescue. On some vehicles there are two sensors which must close at the same time; therefore it is unlikely that rescue operations will result in a deployment. On many vehicles, the diagnostic module will also disable the airbag SRS if it detects crash sensor circuit 'shorts' that exist for ten seconds while the ignition is 'ON'.

If the vehicle has been identified as having an airbag SRS the rescue steps are as follows:

(i) if possible, de-activate the airbag SRS. When fully de-activated (including waiting for any specified de-activation period), rescue operations can be carried out as normal;

(ii) if the airbag SRS cannot be deactivated, disconnect the power supply (see 'How to de-activate an airbag SRS' of this guide) and commence rescue operations by moving the seat of a stabilised occupant back as far as possible or lower the seat back;

(iii) It is important to appreciate the following during rescue operations with an airbag SRS that has not deployed and has not been de-activated:

(a) perform rescue efforts from the side of the vehicle and away from the potential deployment path of the airbag;

(b) keep your body or objects/tools off the airbag SRS trim cover and away from the front of an undeployed airbag;

(c) DO NOT apply sharp blows to the steering column or dashboard if a vehicle is fitted with internal crash sensors, that is, a self-contained system in the steering wheel;

(d) DO NOT cut into the vehicle structure containing the airbag SRS (unless unavoidable);

(e) DO NOT apply heat near the SRS module, as this could cause the inflator to deploy; and

(f) If the vehicle is fitted with side airbags, avoid sharp blows to the door, seat or B-pillar areas.

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Rescue with deployed airbag SRS

If the airbag SRS has deployed, use normal rescue procedures and equipment. Do not delay rescue. There are no hazardous medical consequences for an occupant or rescue personnel from a deployed airbag SRS.

Wear the same gloves and eye protection that rescuers would normally wear. Protective equipment will guard against possible skin or eye irritation from the powdery airbag residue. Whether gloves are worn or not, wash your hands with mild soap and water after handling a deployed airbag.

Be aware of hot metal parts underneath the deployed airbag fabric. These components are located inside the steering wheel hub or behind the dashboard when there is a deployed passenger-side airbag SRS. These components are somewhat out of the way and should pose no threat.

Push deflated airbag aside for occupant removal. Airbags deflate at once after a deployment. There is no need to cover, remove, or repack the airbag during rescue operations.

Occupants can sustain minor skin redness or abrasions from contact with a deploying airbag, e.g. on the inside of the forearm or on the chin.

Source:

- ‘Emergency Rescuer’s Guide to Vehicles Fitted with Supplemental Restraint Systems (SRS)’ Department of Infrastructure and Transport (Cwlth), 2006.
- ‘Airbags and Pretensioners Emergency Response Guide’ GM Service Technical College, 2007.

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Appendix 5.2 Emergency Response Guide to Hybrid Electric Vehicles

(s. 5.12.2)

Hybrid electric vehicles

Hybrid electrical vehicles (HEVs) combine a petrol or diesel internal combustion engine with an electric propulsion/regeneration system. Vehicles are conventional in design except that the electric energy is stored in a sealed nickel metal hydride (NiMH) battery. The battery bank can operate at 300 volts DC and potassium and sodium hydroxide may be used as the electrolyte.

Hazards

Hybrid vehicles may pose a hazard if involved in serious collisions.

Officers are to be aware that:

(i) the HEV battery system is high voltage (HV) and poses an electrocution hazard (650 volt AC & 300 volt DC); and

(ii) the HEV electrolyte absorbed in the cell plates is hazardous to human body tissue.

Officers should be aware that:

(i) the HV battery pack is sealed in a metal case and is rigidly mounted in the vehicle;

(ii) all HV cables are isolated from the metal chassis of the vehicle;

(iii) the HV cables are exclusively colour coded bright orange and are routed underneath the vehicle;

(iv) numerous safeguards have been incorporated into HEVs to ensure that the HV battery pack is protected in an accident; and

(v) the risks are very low and could occur only after a very serious collision and a combination of highly unlikely events.

Hazard assessment

Officers should:

(i) on arrival, follow standard operating procedures for vehicle crashes and immobilise and disable the vehicle; and

(ii) assess the scene and arrange the attendance of QFD if required. QFD are responsible for managing electrolyte leakages.

Officers should be aware that indications of a potentially hazardous site include:

(i) a severe rear collision of a HEV;

(ii) loss of petrol or electrolyte from the rear of the HEV; and

(iii) partially submerged conditions.

Emergency response

When responding to an incident involving a HEV, officers should:

(i) not assume the HEV is shut off because it is silent;

(ii) disconnect the power supply from the ignition by:

(a) turning the vehicle's ignition key to 'off'; or

(b) in vehicles with a proximity key:

- turn the power to 'off' using the button on the dash; and
- physically remove the proximity key at least 5 metres from the vehicle; and

(iii) disconnect the 12-volt car battery by physically cutting or removing the negative battery cable (black cable) and the positive battery cable (red cable) from the battery.

Officers should:

(i) not disconnect or cut any orange coloured HV electrical cables;

(ii) be aware that after disabling the vehicle, power is maintained for 90 seconds in the airbag SRS system and 10 minutes in the HV electrical system, and

(iii) proceed with caution if the disabling steps above cannot be performed as the HV electrical system, SRS or fuel pump may not be disabled.

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Fire in the HV battery pack

Officers should be aware that:

(i) the battery module electrolyte is a caustic alkaline that is damaging to human tissue;

(ii) the battery module cover should NEVER be breached or removed under any circumstances, including fire. Doing so may result in severe electrical burns, shock or electrocution; and

(iii) any fire in the battery module should be allowed to burn out. Battery modules burn rapidly and will quickly reduce to ashes except for the metal alloy cell plates.

Spills

Officers should be aware that:

(i) the electrolyte is absorbed in the battery module cell plates and will not normally leak even if it is cracked; and

(ii) an extremely catastrophic crash that breaches both the metal case and battery module would be a rare occurrence.

Submersion

Officers should:

(i) shut off the HEV as outlined above if the HEV is fully or partially submerged.

(ii) be aware that the HV battery pack is isolated from the chassis and there is no danger of shock by contact with the metal chassis.

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6. Speed Detection

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6.1 Introduction

This chapter relates to the methods of speed detection, involving the use of:

(i) speed detection devices;

(ii) a police motor vehicle to obtain a follow speed;

(iii) estimation; and

(iv) the speed formula.

The Service's policies in relation to the use of photographic detection devices are contained in Chapter 9: 'Photographic Detection Devices' of this Manual.

6.2 Speed detection and methods

6.2.1 Purpose of speed detection

Speed detection and enforcement are necessary components of traffic policing and are, amongst other things, designed to:

(i) reduce the incidence of traffic incidents, traffic related injuries, deaths, road trauma and damage to property;

(ii) encourage compliance with speed limits;

(iii) achieve safe and effective regulation and control of traffic; and

(iv) reduce, by enforcement, the number of road users exceeding speed limits.

6.2.2 Speed detection methods

Contravention of speed limits is an offence against s. 20: 'Obeying the speed limit' of the TO(RUM—RR)R. For a successful prosecution of an offence of exceeding the speed limit, in addition to other matters, officers are required to prove that the offender drove at a speed in excess of the speed limit applying to the driver for the length of road where the driver was driving. This may be achieved in a number of ways including the use of:

(i) speed detection devices;

(ii) follow speed;

(iii) estimation;

(iv) speed formula; and

(v) photographic detection devices (see Chapter 9: 'Photographic detection devices' of this Manual).

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6.3 Speed detection devices

6.3.1 Positioning of speed detection devices

Officers operating speed detection devices should be able to justify their reasons for operating such devices in areas where such use may be open to question.

Justification for use of a speed detection device may include:

(i) a history of traffic incidents occurring in the locality;

(ii) complaints of speeding vehicles being received from members of the public. The 'Traffic Complaint' functionality within QPRIME should be used to identify such complaints (see s. 13.2.2: 'Traffic complaints by members of the public' of this Manual);

(iii) officers having observed speeding offences in the area. Consultation with local authorities or the DTMR should be considered to establish that there are no other means of overcoming the situation, such as increased speed limits or traffic engineering solutions; or

(iv) locations where there is a real threat to the safety of road users (including road construction workers).

The use of a speed detection device at a site must be consistent with the perceived need for speed limit enforcement and the benefits likely to be gained for society due to the device being operated at that location.

6.3.2 Restrictions on speed detection device site locations (restricted site locations)

Speed detection devices should not generally be operated in the following restricted site locations:

(i) on a road which could be described as the downgrade of a hill;

(ii) on a road within 300 metres after a sign indicating any decrease in the prescribed speed limit;

(iii) on a road within 100 metres before a sign indicating any increase in the prescribed limit; or

(iv) where the length of the speed zone is less than one kilometre.

It is recognised that in some instances, it may be necessary to perform speed detection operations in restricted site locations. Such instances include:

(i) 40 km/h school zones;

(ii) local neighbourhood areas;

(iii) on downhill grades where there is documented history of crashes; and

(iv) areas where there are a number of public complaints relating to the speeding of vehicles. The 'Traffic Complaint' functionality within QPRIME should be used to identify such areas.

When operating a speed detection device in any restricted site location, the officer in command is to consider the aspect of fairness towards the motoring public. In every case, that officer is accountable for justification of the operation of the device at the restricted site location.

6.3.3 Site selection—speed detection devices

In the selection of a site where a speed detection device is to be used, the safety of the general public and officers is paramount. Careful consideration should be given to the physical characteristics of each location and the operating capability of the relevant speed detection device prior to the operation of any speed detection device.

Officers responsible for the selection of a site for the operation of a speed detection device should:

(i) select an appropriate site consistent with the provisions of s. 3.2.1: 'Establishing a static interception site' of this Manual;

(ii) ensure a clear and uninterrupted view exists between the point at which a valid speed measurement is taken and the point where the speeding vehicle is to be intercepted, so that the intercepting officer and the authorised operator can visually monitor the vehicle until the point of interception;

(iii) comply with any manufacturer's specifications and/or guidelines relating to site selection applicable to the type of speed detection device being used;

(iv) comply with the provisions of ss. 6.3.1: 'Positioning of speed detection devices' and 6.3.2: 'Restrictions on speed detection device site locations (restricted site locations)' of this chapter;

(v) comply with instructions relating to the use of the particular speed detection device being operated as outlined in the Speed Management Training Manual for that particular speed detection device; and

(vi) not operate a speed detection device at a site which has had the speed limit reduced for at least twenty-eight days after the new speed limit applies.

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6.3.4 Responsibility of authorised operators

Speed detection device operators are to hold a current operator authorisation for the type of speed detection device being used. An officer who does not hold a current operator authorisation for a particular device, is not to operate a device of that kind unless that person is under the instruction of an officer who holds a current instructor authorisation for that device.

Authorised operators are to comply with the:

(i) relevant legislation including the:

(a) TO(RUM)A; and

(b) *Work Health and Safety Act*.

(ii) manufacturer's specifications and/or guidelines for operation and testing of the particular speed detection device;

(iii) relevant policy, procedures and orders relating to interception by police when using a speed detection method or the operation of a speed detection device where there is an interception of vehicles which have been measured (see s. 3.2: 'Static interception' of this Manual and s. 15.4: 'Vehicle interceptions' of the OPM); and

(iv) Speed Management Training Manual applicable for that speed detection device.

Authorised operators are to ensure the speed detection device:

(i) is not subjected to adverse weather conditions;

(ii) is stored in a dry, safe location for protection;

(iii) is never intentionally pointed directly into any person's eyes at close proximity;

(iv) is not carried on a Service motorcycle or by the motor cyclist whilst the cycle is in motion except when the device is secured in the specific bracket or holster fitted to the motorcycle or stored in the motorcycle pannier; and

(v) is not placed or stored on the dashboard of a Service vehicle or carried externally of the vehicle whilst in motion except for a mobile radar device which is to be fitted in compliance with Service policy and manufacturer's instructions.

6.3.5 Record of speed detection device operation

Officers who operate speed detection devices should record the details of operation in one or more of the following methods:

(i) an official police notebook;

(ii) site safety plan; or

(iii) similar document.

The recorded details should include:

(i) date, time, location and applicable results of field testing of the particular device. Field testing should occur at the start and end of the shift;

(ii) particulars of the device used; and

(iii) where applicable, the particulars of the vehicle used to test the device.

6.3.6 Resources allocated to a speed detection device operation

Efficient and effective policing requires that resources are used to maximum advantage. The use of a speed detection device and the number of officers deployed at the site of a speed detection device operation should be considered. The officer in command should deploy a sufficient number of officers and vehicles to ensure effective and efficient policing at the selected site (see s. 3.2: Static interception' of this Manual).

6.3.7 Providing evidence of speed detected to intercepted drivers

A driver of a motor vehicle intercepted as a result of the use of a speed detection device, where the driver's speed has been detected in excess of the prescribed speed limit should, where practicable, be afforded the opportunity by the authorised operator to view the speed displayed on the speed detection device.

When deciding whether to allow the driver to view the speed detection device, officers are to consider the safety of all persons, including other road users. Certain operational circumstances relating to the deployment of the speed detection device at a particular time may prevent the authorised operator from allowing the driver to view the displayed speed on the speed detection device.

In circumstances where it is considered unsafe or not operationally practical to allow an intercepted driver to view a speed detection device that uses a Micro DigiCam, the OIC of the static intercept site may make alternative viewing arrangements. Micro DigiCam viewing software may only be available at limited police stations or establishments.

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6.4 Training in operation of speed detection devices

This section outlines the policy for the officer training requirements for the operation of speed detection devices.

ORDER

Officers are not to operate speed detection devices unless they:

(i) hold a current Service-issued authorisation to operate the device;

(ii) are undergoing a Service-operated training or reassessment course in the device; or

(iii) are operating the device in the presence and under the direct supervision of an instructor who holds a current authorisation to operate the relevant device.

The Service provides:

(i) an Authorised Instructor's Course;

(ii) an Authorised Operator's Course; and

(iii) a re-authorisation course for officers whose authorisation as instructors or operators has lapsed,

in the operation of a:

(i) laser (hand-held) speed detection device;

(ii) direct (mobile) speed detection device; and

(iii) radar-detector detection device.

ORDER

All authorised operators are to undertake a competency reassessment course every three years to retain authorisation in the use of each respective speed detection or photographic detection device.

Authorised instructors providing training to other officers in relation to the operation of speed detection devices are to ensure:

(i) such training is given in accordance with the relevant:

(a) manufacturer's specifications and/or guidelines in the operation of the device; and

(b) legislation;

(ii) training is given in accordance with Service-approved course material; and

(iii) practical training in the operation of the relevant device is carried out at appropriate sites consistent with the provisions of this Manual and the Speed Management Training Manual for the particular device.

6.4.1 Conducting and attending speed detection device operator's authorisation courses

Speed detection operator's authorisation courses are conducted throughout the state at the discretion of the relevant education and training coordinator.

ORDER

A speed detection device operator's authorisation course is to be conducted, for the:

(i) theory component of the training, by an authorised instructor who has successfully completed the:

(a) Speed Detection Device Up-Skill Course (during 2014); or

(b) Speed Device Instructor Course (post 2014),

in the relevant device; and

(ii) remainder of the training, by an authorised instructor in the relevant device,

in accordance with the QPS Speed Management Training Manual.

Minimum selection criteria to attend speed detection device operator's authorisation training courses

ORDER

Prior to attending a speed detection device operator's authorisation training course, officers are to satisfy the minimum selection criteria, namely:

(i) completion of the First Year Constable Program;

(ii) demonstrated an effective use of laws, policies and procedures that apply to traffic enforcement;

(iii) demonstrated professionalism towards and a commitment to road policing; and

(iv) successfully completed the Competency Acquisition Program training subject in QCW010: 'Work Health and Safety: Law and Policy' within a two year period prior to the commencement of the course; and

(v) successfully completed the Competency Acquisition Program training subject in QCP002: 'Queensland Police Service Safe Driving Policy' within a two year period prior to the commencement of the course.

6.4.2 Authorisation, re-authorisation and competency reassessment of speed detection device operators

The OIC of the district or region in which the officer is stationed is to ensure officers who successfully undertake courses in the operation of speed detection devices are issued with appropriate authorisation. The authorisation is to be signed by a commissioned officer.

The authorisation of authorised speed detection instructors and operators lapses if an authorised instructor or operator:

(i) has not used the relevant speed detection device within a 12 month period; or

(ii) has not successfully completed the relevant reassessment course in the operation of the relevant device in the preceding 36 months.

To achieve satisfactory competence, authorised instructors should use either a reassessment course or if necessary a full operator course in the relevant speed detection device to determine re-authorisation of an operator in the relevant device.

In the event an authorised instructor is not reasonably available an experienced and currently authorised operator together with a workplace assessor may undertake the practical component of the reassessment course.

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6.4.3 Training records

Records of officers who are authorised instructors or operators are required to be kept and maintained by district education and training officers, for authorised officers within their district, and the Road Policing Group for all authorised instructors. These records are to be maintained within the Ignite learning and performance management system.

Upon completion of a speed detection device training course, the course facilitator is to ensure that the relevant district education and training office are advised of the successful course participants.

6.4.4 Issue of speed detection device operator's authorisation

Upon completion of a training course authorising the use of a speed detection device the course facilitator is to ensure that successful course participants are issued with the appropriate authorisation to operate the specified device(s).

The authorisation is to be issued within a reasonable time of the training being completed.

Upon successful completion of a speed detection device course, appropriate authorisation is to be issued by either the OIC of the region or district in which the officer is stationed.

6.4.5 Issue of speed detection device instructor's authorisation

At the completion of each instructor's training course, the Officer in Charge, Specialist Programs, Road Policing Group is to arrange for the authorisation of successful participants as instructors for the appropriate speed detection device(s).

Road Policing Group is responsible for all training and authorising of instructors in the use of speed detection devices.

6.4.6 Revocation of authorisation to operate speed detection devices

Authorised instructors and operators are to carry out their responsibilities in a professional manner in accordance with Service policy and the:

(i) relevant legislation;

(ii) guidelines relating to the use and operation of a speed detection device set by the manufacturer of the equipment; and

(iii) QPS Speed Management Training Manual for the particular speed detection device.

If it becomes evident that an officer who is either an authorised instructor or an authorised operator should not continue to be authorised, the authorisation held by that officer may be revoked. A revocation notice may be issued by the Commissioner or a commissioned officer attached to Road Policing Group (RPG) in cases of authorised instructors.

In cases involving authorised operators, the revocation notice may be issued by:

(i) the OIC:

(a) of the district in which the officer is stationed; or

(b) of the region or command in which the officer is stationed; or

(ii) a commissioned officer attached to RPG.

Revocation notices are to be served on the authorised instructor or authorised operator concerned by a commissioned officer.

6.5 Follow speed

Speed detection whereby the speed of a subject vehicle is ascertained by comparing it to that of a following Service vehicle driven by an officer is commonly referred to as the 'follow speed' detection method.

An officer intending to check the speed of another vehicle by the follow speed method should consider the following:

(i) the amount of tolerance appropriate in the circumstance (see s. 6.8: 'Amount of tolerance allowed in speed detection' of this chapter);

(ii) whether the speedometer of the following vehicle is currently certified as accurate by having been tested within the previous six months (s. 123I: 'Certificate is evidence of another matter—stop watches, other watches and speedometers of the TO(RUM)A); and

(iii) whether the distance between the police vehicle and the followed vehicle ensures the safety of the occupants of both vehicles and other road users having regard to the speed of the vehicles, road conditions and weather.

For a successful prosecution of a speeding offence, using the follow speed detection method, officers should be able to provide to a court, evidence of the:

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(i) accuracy of the speedometer of the motor vehicle used in obtaining the follow speed (the accuracy of a speedometer may be proved by the production of a certificate which complies with s. 123I: 'Certificate is evidence of another matter—stop watches, other watches and speedometers of the TO(RUM)A);

(ii) distance between the following vehicle and the followed vehicle during the time the follow speed was ascertained and any variations to the distance between both vehicles (e.g. the distance may increase as the followed vehicle increases in speed); and

(iii) distance over which the follow speed was ascertained. It is recommended that this distance be a minimum of 200 metres.

6.6 Estimation

The estimation method of speed detection relies on the experience of officers gained through their daily activities including their official duties as police officers. Experience gained by an officer often results in the officer developing an ability to estimate the speed of moving vehicles with greater accuracy than the average person. Although estimation evidence by its nature is not entirely accurate, it may be acceptable to a court for the purposes of showing the general speed of a vehicle in order to prove that the speed of a subject vehicle exceeded a prescribed speed limit at a particular time.

The estimation speed detection method should only be used where no other means of speed detection is available such as a speed detection device or vehicle speedometer.

An officer intending to use estimation as a means of speed detection should consider that:

(i) a prosecution for an offence of exceeding a prescribed speed limit based solely on the evidence of the officer's observations and experience has a greater risk of failing compared to more conventional means of speed detection; and

(ii) it is difficult to prove to a court speeds which are marginally over the prescribed speed limit making the method more suitable to circumstances where the alleged speed of a subject vehicle is substantially in excess of the prescribed speed limit.

Evidence supporting of an officer's estimation of the speed of a vehicle may include:

(i) engine noise being emitted by the subject vehicle, such as excessive revving;

(ii) other noise caused by the subject vehicles' apparent excessive speed such as the sound of wind being generated;

(iii) the time (in seconds) that is taken for the vehicle to travel from one given point to another. In this regard officers should familiarise themselves with the following equation:

'SPEED = DISTANCE DIVIDED BY THE TIME TAKEN TO TRAVEL THAT DISTANCE'.

Once the time taken for the vehicle to travel a certain distance has been taken, the distance can later be measured and the calculation then made as to the speed of the vehicle at the set time;

(iv) any movement of physical objects at the side of the roadway (such as leaves on trees or road signs) as the subject vehicle passes such objects indicating the creation of turbulence or tail winds;

(v) comparisons of the speed of the subject vehicle with that of other vehicles which may be travelling on the particular road at the time; and

(vi) observations of body movement of the vehicle upon the road, especially whilst cornering and under braking.

6.7 Speed formula

The speed formula method of speed detection relies upon the time that a vehicle travels over a known distance. This method can be used by an electronic time switching mechanism or the manual actuation of a timing device.

This method should only be considered when other speed measurements techniques are not practicable (e.g. Vessel speed monitoring).

The OIC of a speed detection site shall be responsible for selecting this method of operation and prior to deciding to use this method should be satisfied that:

(i) the site is suitable for this method of speed measurement, taking into consideration the operator's ability to view the start and finish point of the distance over which the measurement is to be taken: and

(ii) the timing mechanism operator is able to accurately activate the timing mechanism.

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ORDER

Officers utilising this method of speed detection are not to calculate the speed from their own mathematics but are to utilise the function inbuilt into the timing device.

The timing device used in this method of speed detection is to be a certified device with traceability to the *National Measurement Act*.

6.8 Amount of tolerance allowed in speed detection

The amount of tolerance allowed in speed detection should not be made public knowledge. This information, if published, may create a de-facto speed limit.

The officer responsible for determining the amount of tolerance to be allowed in any method of speed detection should be, in the case of:

(i) a speed detection device operation, the OIC of the site;

(ii) a follow speed method, the officer taking enforcement action; and

(iii) the estimation or speed formula method, the officer making the estimation of the speed or determining the speed by using the speed formula.

The amount of tolerance may vary in different circumstances and an officer when determining the appropriate amount of tolerance applicable for a particular circumstance should consider the:

(i) accuracy of the speedometers fitted to vehicles;

(ii) accuracy of the speed detection method used;

(iii) speed limit for that particular road;

(iv) nature of the road (number of lanes, geographic features, etc.);

(v) condition of the road;

(vi) amount of traffic on the road at the time, the day of the week and the time of the day;

(vii) prevailing weather conditions at the time; and

(viii) safe and efficient use of resources at a speed detection device interception site.

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6.9 Testing and accuracy calibration

The testing and accuracy calibration of speed detection devices and distance calibration bases is the responsibility of the OIC, QPS Calibration Laboratory.

6.9.1 Speed detection devices

The OIC, QPS Calibration Laboratory is to ensure the testing and accuracy calibration of speed detection devices is in compliance with the relevant manufacturer's specifications and/or guidelines.

The accuracy of the testing equipment is to be traceable to the *National Measurement Act*.

All speed detection devices should be tested and accuracy calibrated every twelve months in compliance with the manufacturers specifications.

Authorised operators should ensure prior to using a speed detection device, it is:

(i) sealed in compliance with Service policy; and

(ii) currently certified as tested and accuracy calibrated; and

(iii) field tested in compliance with and meets the necessary requirements as outlined by the manufacturer and Service policy.

6.9.2 Distance calibration bases

Distance calibration bases are established for the accuracy testing of LIDAR speed detection devices. A distance calibration base may be either fixed or portable.

ORDER

Fixed distance calibration bases are to be:

(i) surveyed by a qualified surveyor;

(ii) measured with measuring equipment traceable to the *National Measurement Act* (Cwlth);

(iii) tested for accuracy:

(a) every two years by a qualified surveyor; and

(b) whenever damage or movement to the base is detected; and

(iv) established in compliance with the calibration procedure set out by the Supervising Engineer, Surveyor, Land Survey, Queensland DTMR.

Portable distance calibration bases are to be established:

(i) using tape measures that are certified accurate and traceable to the *National Measurement Act* (Cwlth);

(ii) using tape measures that are in good condition and are used only whilst certification is current; and

(iii) in compliance with 'Portable LIDAR Distance Calibration Bases' guidelines located via the Road Policing Group SharePoint page.

The tape measure comprising part of the portable distance calibration base is to be of a quality approved by a recognised verifying authority. The verifying authority is to be able to issue certificates of verification with reference to the *National Measurement Act* (e.g. Office of Fair Trading, Measurement Standards Laboratory).

Distance calibration bases may be established at police stations and establishments at the discretion of the relevant district officer.

Portable distance calibration bases may be acquired and used at the discretion of the relevant district officer.

6.10 Warnings given to motorists about the location of speed detection operations—obstructing or hindering police

Warnings about the location of speed detection devices may be provided by the Service or by the DTMR as part of a road safety strategy.

Warnings may also be provided by individuals or organisations with the intent of hindering or obstructing police carrying out speed detection operations (see s. 790: 'Offence to assault or obstruct police officer' of the PPRA).

Additionally, s. 24A: 'Unlawful SMS messages etc.' of the *Summary Offences Act* provides that a person must not commercially provide a service to inform another person, by a 'relevant message', of the location of a traffic enforcement site, enabling the other person to avoid, or be prepared for, a check made at the site (see s. 24A(4) of the *Summary Offences Act* for the definition of relevant message). Officers are to note that s. 24A of the *Summary Offences Act* does not apply to commercial radio stations.

Members are not to be directly involved in, nor support actions by individuals or organisations other than the Service or other agencies acting with the approval of the relevant regional assistant commissioner or the Chief Superintendent, Road Policing Group aimed at warning motorists of speed detection operation locations.

In circumstances where an offence against:

(i) s. 790: 'Offence to assault or obstruct police officer' of the PPRA which constitute obstruction or hindering of officers in the performance of their duties as a result of warning motorists of the location of speed detection operations; or

(ii) s. 24A: 'Unlawful SMS messages etc.' of the *Summary Offences Act*,

is suspected, officers are to conduct a thorough investigation.

Upon finalising such an investigation, and prior to commencing a prosecution, the matter is to be referred through the relevant regional assistant commissioner to the Chief Superintendent, RPG.

The Chief Superintendent, RPG is to ensure that the legal aspects surrounding the particular matter are examined prior to recommending whether or not a prosecution should be commenced.

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7.1 Introduction

Persons affected by the consumption of liquor and/or drugs have an impaired driving ability. Officers should take all necessary safety precautions when attempting to intercept a vehicle when it is suspected that its driver is affected by the consumption of liquor and/or drugs.

7.2 Interception

Authority to intercept vehicles

In accordance with s. 60: 'Stopping vehicles for prescribed purposes' of the PPRA officers may require the person in control of a vehicle to stop the vehicle to allow the officer to conduct a breath test or saliva test.

7.3 Breath test

A breath test (see SMD) is commonly referred to as a roadside breath test.

7.3.1 Authority to breath test

Breath testing of drivers of motor vehicles, trams, trains or vessels

Section 80(2): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A provides the authority for an officer to require a person to provide a specimen of breath for a breath test if the officer has found such person, or suspects on reasonable grounds that such person, was during the last preceding 3 hours:

(i) driving a motor vehicle, tram or train on a road or elsewhere;

(ii) attempting to put in motion a motor vehicle, tram or train on a road or elsewhere;

(iii) in charge of a motor vehicle, tram or train on a road or elsewhere; or

(iv) driving or in charge of or attempting to put in motion a vessel being used or apparently about to be used in navigation.

Section 80(2A) of the TO(RUM)A provides that an officer may require a person to provide a specimen of breath for a breath test where a motor vehicle, tram, train or vessel is involved in an incident resulting in injury to or death of any person or damage to property if the officer suspects, on reasonable grounds, that such person was:

(i) driving or attempting to drive the motor vehicle, tram or train on a road or elsewhere;

(ii) in charge of the motor vehicle, tram or train on a road or elsewhere; or

(iii) driving or in charge of or attempting to drive the vessel;

at the time of the incident.

Breath testing of riders of bicycles, Electric Power Assisted Cycles(EPACs) or personal mobility devices

Section 80(2AA): 'Request for specimen of breath in relation to circumstances involving bicycles (including EPACs) or personal mobility devices' of the TO(RUM)A provides the authority for an officer to require a person who is 16 years or older to provide a specimen of breath for a breath test if the officer has found such person, or suspects on reasonable grounds that such person, was during the last preceding 3 hours:

(i) riding or attempting to ride a bicycle (including EPACs) or personal mobility device on a road, on a road-related area or in a public place; or

(ii) in charge of a bicycle (including EPACs) or personal mobility device on a road, on a road-related area or in a public place;

Section 80(2AAA) of the TO(RUM)A provides that an officer may require a person who is 16 years or older to provide a specimen of breath for a breath test where a bicycle (including EPACs) or personal mobility device is involved in an incident resulting in injury to or death of any person or damage to property if the officer suspects, on reasonable grounds, that such person was:

(i) riding or attempting to ride the bicycle (including EPACs) or personal mobility device on a road, on a road-related area or in a public place;

(ii) in charge of a bicycle (including EPACs) or personal mobility device on a road, on a road-related area or in a public place;

at the time of the incident.

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More than one specimen of breath may be required

Officers may require a person to provide as many specimens of breath as the officer considers reasonably necessary to carry out the breath test (see s. 80(1A), (2B) and (2C) of the TO(RUM)A). Circumstances in which officers may require a person to provide more than one specimen of breath for a breath test include circumstances where:

(i) the specimen has not been sufficient to enable the test to be carried out;

(ii) the specimen is not provided in a way that enables the objective of the test to be satisfactorily achieved;

(iii) the device used for the test is or becomes defective precluding its satisfactory operation;

(iv) for any reason it is not possible to use or continue using the device to conduct the breath test; and

(v) for any reason it is not possible to complete the breath test.

Breath testing time limits for requirement for specimen

Section 80(4) of the TO(RUM)A provides that a requirement shall not be made under s. 80(2), 2(AA), (2A) or 2(AAA) of the Act unless it is made as soon as practicable and within 3 hours after the occurrence of the event whereby the police officer is authorised by that section to make such a requirement.

Breath testing of drivers of animals and other things

There is no authority under the TO(RUM)A to require a specimen of breath for a breath test when a person drives or is in charge of any horse or other animal on a road. Officers may institute proceedings under s. 79(7): 'Offence of driving etc. animals and other things while under the influence of the TO(RUM)A' by way of arrest (see s. 365: 'Arrest without warrant' of the PPRA). Prior to making the arrest, officers are to rely on observations of the person's behaviour, appearance, or other evidence to form a reasonable suspicion that the person is under the influence liquor or a drug. Once the person is arrested for the offence, the officer may require the person to provide 1 or more of the following:

(i) a specimen of the person's breath for analysis by a breath analysing instrument;

(ii) a specimen of the person's saliva for saliva analysis;

(iii) a specimen of the person's blood for a for laboratory testing;

to confirm the presence of liquor or drugs, as per the provisions of s. 80(8): 'Particular persons under arrest or detained may be required to provide specimen' of the TO(RUM)A.

Breath testing at hospital

Where a subject person is at a hospital for treatment and it is intended to require that person to provide a specimen of breath for a breath test (as distinct from a specimen of breath for analysis) the requirement should be made only with the approval of the doctor who is familiar with the person's injuries and apparent state of health at the time.

Breath testing the supervisor of a learner driver

Section 79AA: 'Provisions applying to supervisor of a learner' of the TO(RUM)A applies to a person who is the supervisor of a learner, while the learner is driving a motor vehicle under the direction of the supervisor.

Section 79AA(2) of the TO(RUM)A provides that the supervisor is in charge of the motor vehicle for the purposes of ss. 79: 'Vehicle offences involving liquor or other drugs' and 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A, and other provisions of the TO(RUM)A applying in relation to any charge, proceedings, conviction or sentence for an offence against ss. 79 and 80.

The definition of 'supervisor' of a learner excludes a person accredited as a driver trainer under a regulation while the person is acting in the person's professional capacity as a driver trainer (see ss. 79AA(4) and 79(2C)(f) of the TO(RUM)A).

7.3.2 The breath test

ORDER

Officers are not to use any type of breath testing device unless they have been trained in the use and maintenance procedures (if any) of that type of breath testing device.

Officers who intend to conduct breath tests are to make the requirement of the subject person as soon as practicable and within 3 hours after the occurrence of the event to which the test relates (see s. 7.3.1: 'Authority to breath test' of this chapter).

Officers are to use a new mouthpiece for each person tested.

When using a breath testing device officers are to:

(i) remove the mouthpiece from the sealed packet and fit it to the testing device in the view of the subject person;

(ii) ensure that a period of 20 minutes has elapsed since the subject person's last drink of liquor or aromatic drink, use of mouth spray, or aerosol type medication before using the device on the subject person. (This delay is not

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to restrict an officer from making the requirement within the 3 hour period restriction imposed by s. 80(4): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A);

(iii) ensure that a period of 5 minutes has elapsed since the subject person's last inhalation of tobacco smoke before the device is used on the subject person;

(iv) make the requirement as outlined in s. 7.3.3: 'The requirement' of this chapter;

(v) ensure there are no obstructions in the mouthpiece prior to use;

(vi) listen carefully to ascertain if the subject person is blowing correctly or not;

(vii) at the conclusion of the roadside test, remove the mouthpiece from the roadside testing device and ensure that used mouthpieces are disposed of properly;

(viii) advise the subject person when the device indicates a result over the relevant limit without stating the exact breath alcohol concentration reading indicated by the test. The following wording should be used:

> 'This test indicates to me that you are over the [no alcohol limit or general alcohol limit, whichever is applicable in the circumstances] and you are required to accompany me to a [state whether a police station, hospital, doctor's surgery, vehicle, vessel or other place] for the purpose of further tests.'

OR

> 'As you have elected not to provide a specimen of your breath as required, I now require you…'

OR

> 'As you have failed to provide a specimen of your breath in the manner directed by me, I now require you…'

OR

> 'As you have declined to wait a reasonable time to enable the test to be carried out, I now require you…'

(ix) record in their official police notebook the time and the result of the breath test; and

(x) if the result of the breath test is not over the relevant limit, thank the subject person tested for cooperating and allow them to leave.

It should be noted however, that a subject person may be affected by substances other than liquor and that the result indicated by the breath test may not be consistent with the subject person's indicia. In such cases and providing that the observable indicia (see s. 7.22: 'Observing the subject person and noting indicia relating to the consumption of liquor/drugs' of this chapter) together with other evidence is sufficient to prove that the subject person is under the influence of liquor or a drug, consideration should be given to arresting (see ss. 365, 376, 377 and 380 of the PPRA) the subject person for:

(i) motor vehicle, tram, train or vessel an offence under s. 79(1): 'Vehicle offences involving liquor or other drugs' of the TO(RUM)A; or

(ii) bicycle (including EPACs) or personal mobility device an offence under s. 79(7A): 'Offence of riding etc. bicycle or personal mobility device while under the influence' of the TO(RUM)A.

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7.3.3 The requirement

ORDER

Officers may require a person to provide a specimen of breath for a breath test, under s. 80(2), (2A), (2AA) or (2AAA): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A and may make the requirement as many times as the officer considers reasonably necessary to carry out the breath test.

When an officer has determined that authority exists to require a person to provide a specimen of breath for a breath test (commonly referred to as a roadside breath test), the officer should make the requirement in the following manner:

> 'You have been stopped for [outline the reason e.g. random breath test]. I now require you to provide a specimen of breath for a breath test.'

The officer should then direct the subject person how to provide the specimen of breath as required in the following manner:

> 'This is a breath testing device. To comply with my requirement, I direct you to place your mouth over the mouthpiece of the device and blow directly and continuously through that mouthpiece until told to stop by me. Commence blowing now.'

7.3.4 Fail to provide a specimen of breath for a breath test

A person commits an offence under s. 80(5A): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A by failing to provide a specimen of breath or failing to provide a specimen of breath in the manner directed by the police officer making the requirement. In normal circumstances the subject person should not be arrested immediately. Instead, the person should be detained for the purpose of making a requirement to provide a specimen of

breath for analysis or specimen of blood for laboratory test pursuant to s. 80(8) of the TO(RUM)A. At the conclusion of such analysis, enforcement action may be taken by way of notice to appear, complaint and summons or where justified, by arrest (see s. 3.5: 'The institution of proceedings' of the OPM).

In the event that subject persons are arrested for an offence against s. 80(5A) of the TO(RUM)A, the arresting officer is to inform them that they are also detained for the purposes of either obtaining a specimen of breath for analysis or a specimen of blood for a laboratory test under s. 80(8) of the TO(RUM)A.

When an officer has required a subject person to provide a specimen of breath for a breath test and the subject person fails to provide or fails to provide a specimen of breath in the manner directed by the police officer, the officer should:

(i) not rely solely on indicator lights or sounds of the testing device to judge whether the subject person is blowing correctly or not;

(ii) note if the subject person may be puffing the cheeks, sucking instead of blowing, placing the tongue over the mouthpiece hole, or is blowing from the side of the mouth;

(iii) test the device with a fresh mouthpiece to ensure it is working correctly;

(iv) advise the subject person that it is an offence not to provide the specimen of breath in the manner directed; and

(v) give the subject person a further opportunity to provide the specimen of breath and further explain to that person how to comply with the requirement.

If the subject person again fails to provide a specimen of breath, fails to provide a specimen of breath in the manner directed by the police officer or declines to wait for such time as is reasonable in the circumstances to allow the test to be carried out satisfactorily, the requiring officer should:

(i) for the purposes of requiring the subject person to provide a specimen of breath for analysis or a specimen of blood for a laboratory test:

(a) detain and take the subject person to a police station, vehicle or vessel, where facilities are available for the analysis by a breath analysing instrument or to a hospital or other place where reasonable grounds for believing that a doctor or nurse is available; and/or

(b) detain the subject person at a police station, vehicle, vessel, hospital or other place authorised under s. 80 of the TO(RUM)A; or

(ii) if the subject person produces a certificate issued under the provisions of s. 80(5B) of the TO(RUM)A excusing the subject person from providing the specimen, detain the subject only where the officer suspects the subject is affected by liquor or a drug because of exhibited external signs and require the subject person to provide a specimen of blood for a laboratory test (see ss. 80(6)(ba) and 80(8) of the TO(RUM)A); and

(iii) proceed by way of notice to appear, complaint and summons or, where justified, by arrest (see s. 3.5: 'The institution of proceedings' of the OPM) as appropriate for an offence against s. 80(5A) of the TO(RUM)A.

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7.3.5 Breath test result below relevant alcohol limit

When the result of a breath test indicates that the concentration of alcohol in the subject person's breath is not over the relevant alcohol limit the subject person cannot be again required to provide a specimen of breath for a breath test nor be required to provide a specimen of breath for analysis or a specimen of blood for a laboratory test based on such breath test.

However, in cases where the officer has formed an opinion that the subject person is under the influence of liquor or drug, the officer may arrest that person. A requirement for the subject person to provide a specimen of breath for analysis or a specimen of blood for a laboratory test should be made resulting from the arrest (see s. 7.17: 'Arrest—no breath test' of this chapter).

7.4 Breath analysis

7.4.1 Authority to require a specimen of breath for analysis

Section 80(8): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A authorises officers to require a person to provide a specimen of breath for analysis by a breath analysing instrument where a person has been:

(i) required to provide a specimen of breath for a breath test (commonly referred to as a roadside breath test) and:

(a) that test has indicated the subject person has a breath alcohol concentration over the relevant limit; or

(b) the subject person has either failed to provide such specimen, failed to provide such specimen in the manner directed or has declined to wait for such time as is reasonable in the circumstances to enable the test to be carried out satisfactorily;

(ii) arrested for an offence against ss. 79: 'Vehicle offences involving liquor or other drugs', 79(7A): 'Offence of riding etc. bicycle or personal mobility device while under the influence' of the TO(RUM)A or 83: 'Careless driving of motor vehicles' of the TO(RUM)A; or

(iii) arrested for any indictable offence in connection with or arising out of the driving of a motor vehicle by the person (including any offence against any provision of s. 328A: 'Dangerous operation of a vehicle' of the CC).

Additionally s. 80(8C) of the TO(RUM)A provides for a requirement to be made of a subject person to provide a specimen of breath for analysis where a person whom a police officer may require under ss. 80(2), (2A), (2AA) or (2AAA) of the TO(RUM)A to provide a specimen of breath for a breath test is at a hospital for treatment. Any such requirement to provide a specimen of breath for breath analysis can only be made subject to the approval of a doctor who is familiar with the subject person's injuries and apparent state of health at the time (e.g. the subject person was the driver of a motor vehicle involved in a traffic crash and is at a hospital being treated for injuries).

ORDER

Officers are not to make a requirement under s. 80(8C) for a specimen of breath for analysis in circumstances where a person is at a hospital for treatment unless it is made as soon as practicable and within 3 hours after the occurrence of the event whereby the officer is authorised under ss. 80(2), (2A), (2AA) or (2AAA) of the TO(RUM)A to require a person to provide a specimen of breath for a breath test (see s. 80(8D) of the TO(RUM)A).

Under normal circumstances when a person is at a hospital for treatment, officers should require the subject person to provide a specimen of blood for a laboratory test and not a specimen of breath for analysis (see s. 7.5: 'Blood analysis' of this Manual).

Relevant assault offences

In accordance with s. 548A: 'Purposes of ch 18A' of the PPRA the taking of specimens of breath, saliva, blood and urine is also authorised from persons suspected of committing a relevant assault offence (see SMD) and to conduct testing and to produce certificates for use as evidence. This occurs through extended application of the provisions of s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A.

7.4.2 The breath analysis

Breath analysing operator who is also the investigating officer

ORDER

The officer who operates a breath analysing instrument may also be the investigating officer who:

(i) required the person to provide the specimen of breath for a breath test or analysis; or

(ii) arrested the person concerned for an offence referred to in s. 80(8): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A,

only in circumstances where the officer holds a current authorisation to operate the relevant breath analysing instrument.

The investigating officer conducting their own breath analysis is to electronically record the breath analysis (see s. 4.4: 'Body worn cameras' of the DERIE).

The breath analysis

Officers who intend to require subject persons to provide a specimen of breath for analysis are to observe such subject persons for a period of twenty minutes prior to the provision of the specimen.

When a subject person is at a station, vehicle, vessel, hospital or other place authorised under s. 80(8) of the TO(RUM)A for the purpose of providing a specimen of breath for analysis, the investigating officer should:

(i) if the subject person is:

(a) a child (see Chapter 5: 'Children' of the OPM); or

(b) a person under disability (see Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' of the OPM),

ensure the person understands the procedure and wherever practicable have an independent person in attendance who may assist the subject person to understand the procedure;

(ii) where the investigating officer is not the operator, inform the operator of the subject's arrival at the location where the breath analysis is to occur;

(iii) wait with the subject person in a designated place for the breath analysis. Where the investigating officer is not the operator, wait for further instructions from the operator;

(iv) advise the subject person not to place anything in the subject's mouth prior to the breath analysis being conducted and ensure the subject person does not place any substance in the subject's mouth;

(v) complete the appropriate sections of the T 64: 'Breath analysis statistical card' prior to the conducting of the breath analysis;

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(vi) where the investigating officer is not the operator, on advice from the operator, enter the breath analysis room/area with the subject person and follow the procedure outlined in s. 7.4.3: 'The requirement' of this chapter;

(vii) remain with the subject person whilst the analysis is being conducted. Where the investigating officer is not the operator, do not intervene in the proceedings unless requested by the operator;

(viii) when shown the original and copy of the certificate of analysis at the conclusion by the operator, ensure they are correct. Investigating officers who are the operator should ensure the original and copy of the certificate are correct;

(ix) where the investigating officer is not the operator, take possession of the original certificate of analysis from the operator, or retain the certificate if also the operator; and

(x) where a subject person is not under arrest, no enforcement action should be taken in respect to that matter until the issue of the breath analysis certificate.

The operator is to:

(i) follow the procedure outlined in s. 7.4.3: 'The requirement' of this chapter;

(ii) ensure the subject person understands the requirement; and

(iii) at the completion of the breath analysis, complete and sign a certificate and, deliver one copy of such certificate to the officer who made the requisition and the other copy to the subject person (or to another person on behalf of the subject person), or if the operator is also the investigating officer, retain a copy of the certificate.

7.4.3 The requirement

An officer may require a person to provide as many specimens of breath as the officer considers reasonably necessary to carry out the analysis (see s. 80(8M): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A).

Breath analysing operator who is not the investigating officer

A requirement made of a subject person for the purpose of obtaining a specimen of breath for analysis should be made in the following manner:

(i) the investigating officer should introduce the operator to the subject person and hand the T 64: 'Breath analysis statistical card' to the operator. The wording of the introduction should be:

'This is [name of the operator], a police officer, authorised to operate an approved breath analysing instrument.'

(ii) the investigating officer should then wait for further advice from the operator. The operator should then question the subject person on issues relating to consumption of liquor or other substances, health etc. All questions and the subject person's answers should be recorded in the operator's official police notebook. The operator should advise the investigating officer once the breath analysing instrument is in proper working order by stating:

'The instrument is in proper working order.'

(iii) the investigating officer should then require the subject person to provide a specimen of breath for analysis using the following words:

'I now require you to provide a specimen of your breath for analysis on this approved breath analysing instrument [indicating the breath analysing instrument to the subject person] and same will be operated by [restate the name of the operator], who has informed me that such instrument is in proper working order.'

(iv) the operator should direct the subject person how to provide a specimen of breath in accordance with s. 80(8F) of the TO(RUM)A using the following words;

'I direct you to place your mouth over the mouthpiece of the instrument and blow directly and continuously (and without escape of breath otherwise) through that mouthpiece into the instrument until told to stop by me. Commence blowing now.'

Breath analysing operator who is also the investigating officer

A requirement made of a subject person by an officer who will also be the breath analysis instrument operator should be made in the following manner:

(i) the requiring officer should re-introduce themselves to the subject person as the operator of the breath analysing instrument. The wording of the introduction should be:

'My name is [state name], a police officer, authorised to operate an approved breath analysing instrument.'

(ii) the officer should then enter all data required into the breath analysing instrument. Once the instrument has satisfactorily performed its internal check the officer is to require the subject person to provide a specimen of breath for analysis using the following words:

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'I now require you to provide a specimen of your breath for analysis on this approved breath analysing instrument [indicating the breath analysing instrument to the subject person] and same will be operated by me and such instrument is in proper working order.'

(iii) the officer should direct the subject person how to provide a specimen of breath in accordance with s. 80(8F) of the TO(RUM)A using the following words:

'I direct you to place your mouth over the mouthpiece of the instrument and blow directly and continuously (and without escape of breath otherwise) through that mouthpiece into the instrument until told to stop by me. Commence blowing now.'

7.4.4 Fail to provide a specimen of breath for analysis

A person who, when required by an officer, fails to provide a specimen of breath for analysis commits an offence under s. 80(11): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A.

ORDER

If a person, when required to provide a specimen of breath for analysis, produces a medical certificate pursuant to s. 80(8E) of the TO(RUM)A excusing the person from providing a specimen of breath, an officer shall not continue to require a specimen of breath from the subject person but shall require a specimen of the subject person's blood for a laboratory test (see s. 7.5: 'Blood analysis' of this chapter).

The breath analysing instrument operator should:

(i) determine when the subject person has failed to provide the required specimen; and

(ii) comply with s. 80(15B) of the TO(RUM)A in relation to the issue and handling of the PT 65: 'Fail to provide specimen of breath certificate'.

7.4.5 Breath analysis certificate by operator

The breath analysing instrument operator should:

(i) determine when the subject person has provided the required specimen; and

(ii) prepare, sign and disseminate two copies of a PT 64BrAC: 'Breath analysis certificate' (available from Supply Services). One copy of the certificate is to be delivered to the:

(a) subject person (or an agent for that person); and

(b) requisitioning officer,

(see s. 80(15): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A).

Where the operator issues a certificate indicating the subject person is:

(i) over the relevant limit or failed to provide a specimen of breath for analysis, enforcement action should be commenced by the investigating officer. The investigating officer is to scan the certificate into QPRIME and the original of the certificate is to be attached to the police prosecutor's copy of the court brief (QP9);

(ii) over the relevant limit where the no alcohol limit applies, but equal to or less than 0.020 grams of alcohol in 210 litres of breath, investigating officers should:

(a) inform the subject person of the result;

(b) not commence proceedings for an offence against s. 79: 'Vehicle offences involving liquor or other drugs' of the TO(RUM)A (see also s. 3.4.10: Drink driving offences' of the OPM);

(c) issue a F4394: 'Notice of Suspension or Disqualification' (available from Supply Services and in QPRIME) pursuant to s. 80(22A) of the TO(RUM)A; and

(d) release the person from police custody, unless the officer believes that the result of the analysis is inconsistent with the subject person's indicia (see s. 7.5.1: 'Authority to require a specimen of blood' of this chapter); or

(iii) not over the relevant limit, the subject person should be informed of the result and released from police custody, unless the officer believes that the result of the analysis is inconsistent with the subject person's indicia (see s. 7.5.1: 'Authority to require a specimen of blood' of this chapter).

7.4.6 Breath analysing instrument location

Section 80(6): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A provides that an officer may take a person to a police station, hospital, other authorised place, vehicle or vessel (where facilities are available for the analysis by breath analysing instrument of a specimen of breath) for the purpose of requiring a specimen of breath for analysis.

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ORDER

Officers responsible for the deployment of breath analysing instruments should ensure that such instruments are located only at places authorised by s. 80(6) of the TO(RUM)A.

7.5 Blood analysis

7.5.1 Authority to require a specimen of blood

Officers may require a person to provide a specimen of blood for a laboratory test in the same circumstances where a specimen of breath may be required of a person, refer to s. 7.4.1: 'Authority to require a specimen of breath for analysis' of this chapter.

Additionally an officer may require a person to provide a specimen of blood for a laboratory test in circumstances where:

(i) the subject person has supplied a specimen of breath for analysis on an approved breath analysing instrument or a specimen of saliva for analysis on an approved saliva analysing instrument and the result is inconsistent with the external signs (indicia) exhibited by the person (see s. 80(9): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A);

(ii) the subject person has been required to provide a specimen of breath for analysis or a specimen of saliva for analysis and the person has provided a specimen that was:

(a) insufficient to enable the analysis to be carried out; or

(b) not provided in a way that enables the objective of the analysis to be satisfactorily achieved; or

(c) provided for analysis by a breath analysing instrument or saliva analysing instrument respectively; but:

- the respective analysing instrument is or becomes defective precluding its satisfactory operation to analyse the specimen; or
- for any reason it is not possible to use or continue using the respective analysing instrument for the purpose of analysing the breath specimen or saliva specimen; or
- in relation to breath analysis, the breath analysing instrument indicates to the authorised police officer operating the instrument that alcohol or some other substance is present in the mouth of the person supplying the breath specimen; or
- for any other reason it is not possible to complete the analysis; (see ss. 80(8L) and 80(8M) of the TO(RUM)A); or

(iii) a person whom a police officer may require under ss. 80(2) or (2A) of the TO(RUM)A to provide a specimen of breath for a breath test or saliva for a saliva test is at a hospital for treatment. Any such requirement can only be made subject to the approval of a doctor who is familiar with the subject person's injuries and apparent state of health at the time (e.g. the subject person was the driver of a motor vehicle involved in a traffic crash and is at a hospital being treated for injuries) (see ss. 80(8C) and 80(8D) of the TO(RUM)A and s. 7.8.1: 'Authority to require a specimen of saliva for analysis' of this chapter); or

(iv) a person whom a police officer may require under ss. 80(2AA) or (2AAA) of the TO(RUM)A to provide a specimen of breath for a breath test at a hospital for treatment. Any such requirement can only be made subject to the approval of a doctor who is familiar with the subject person's injuries and apparent state of health at the time (e.g. the subject person was the driver of a motor vehicle involved in a traffic crash and is at a hospital being treated for injuries) (see ss. 80(8C) and 80(8D) of the TO(RUM)A and s. 7.8.1: 'Authority to require a specimen of saliva for analysis' of this chapter).

An officer may require a doctor or nurse who is attending a person who is at a hospital for treatment to obtain a specimen of the person's blood for a laboratory test if the person is, or apparently is, unconscious or otherwise unable to communicate (see s. 80(10) of the TO(RUM)A and s. 7.5.7: 'Requiring a doctor or nurse to take a specimen of blood from an unconscious person' of this chapter).

ORDER

Officers are not to make a requisition pursuant to s. 80(8C) of the TO(RUM)A unless:

(i) such requirement has the approval of a doctor who is familiar with the subject person's injuries and apparent state of health at the time; and

(ii) it is made as soon as practicable and within three hours after the occurrence of the event whereby the officer is authorised under ss. 80(2), (2A), (2AA) or (2AAA) of the TO(RUM)A to require a person to provide a specimen of breath for a test; or

(iii) it is made as soon as practicable and within three hours after the occurrence of the event whereby the officer is authorised under ss. 80(2), (2A), (2AA) or (2AAA) of the TO(RUM)A to require a person to provide a specimen

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of breath for a breath test, or a specimen of saliva for a saliva test (see ss. 80 (8C) and 80(8D) of the TO(RUM)A); or

(iv) it is made as soon as practicable and within 3 hours after the occurrence of the event whereby the officer is authorised under ss. 80(2AA) or (2AAA) of the TO(RUM)A to require a person to provide a specimen of breath for a breath test (see ss. 80 (8C) and 80(8D) of the TO(RUM)A).

7.5.2 Persons authorised to take specimens of blood

Officers requiring blood specimens pursuant to s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A should use the services of a forensic physician (FP) or a general practitioner government medical officer (GP-GMO), except where:

(i) the person is at a hospital for treatment, in which case the services of a doctor or nurse at the hospital should be used unless that doctor or nurse or a qualified assistant directed by the doctor or nurse is not willing to take the blood from the subject person; or

(ii) time constraints or other exceptional circumstances dictate otherwise; or

(iii) the appropriate FP or GP-GMO is not available; or

(iv) no FP or GP-GMO is appointed to the relevant area.

Where the services of a FP or GP-GMO are not available, the services of another doctor or nurse should be obtained.

Officers should adhere to appointments made with a FP or GP-GMO, and should immediately notify the FP or GP-GMO where any delay occurs.

Officers should be aware that they may require up to three blood sampling kits to ensure that sufficient specimen containers are available for police use and for subject person's and urine specimens if required.

7.5.3 Obtaining a specimen of blood from a conscious/communicative person

An officer who has required a person to provide a specimen of blood for analysis is to remain present while the specimen of blood is being taken by a doctor, nurse or qualified assistant taking the specimen of blood at the direction of a doctor or nurse.

Where a breath test or a breath analysis has been performed prior to the taking of a blood specimen, officers should record the:

(i) breath test/breath analysis result; and

(ii) relevant alcohol limit (i.e. 0.00 or 0.05),

on the green copy of the PT 61A: 'Blood Specimen Certificate'.

Officers requiring a person to provide a specimen of blood for analysis should:

(i) prior to making the requirement, obtain:

(a) one or more blood sampling kit(s) as required i.e. one sample for the investigating officer, and one sample for the subject person if requested (see 'Request for specimen by person' of this section) (available from Supply Services);

(b) a PT 66: 'Failure to Provide Specimen of Blood Certificate' book;

(c) a PT 61A book; and

(d) a needle disposal container (sharps container);

(ii) ensure the correct type of health care professional (HCP) being a doctor, nurse, or qualified assistant is present at the place to take the specimen of blood (see s. 80(8B): 'Person may be taken to particular places for subsections (8)–(8L)' of the TO(RUM)A). Ensuring where the subject person is:

(a) conscious and is at a hospital for medical treatment, a doctor familiar with the person's injuries and apparent state of health at the time of the requirement must first approve the taking of the blood specimen. The blood specimen may be taken by a doctor, nurse, or by a qualified assistant if they have been directed by a doctor or nurse to take the specimen (see s. 80(8C)–(8D) of the TO(RUM)A); or

(b) conscious and either at a hospital **not** receiving medical treatment or has been taken to another place pursuant to s. 80(8B) of the TO(RUM)A, the specimen may be taken by a doctor, nurse, or by a qualified assistant if they have been directed by a doctor or nurse to take the person's specimen; and

(iii) make the requirement for the subject person to provide a specimen of blood or a laboratory test as outlined in s. 7.5.4: 'The requirement to a conscious/communicative person' of this chapter;

(iv) when appropriate, discretely advise the HCP prior to taking a blood specimen of the concise instructions contained in the blood sampling kit and the requirements of s. 178: 'Blood specimens' of the Traffic Regulation;

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(v) ensure the HCP complies with the instructions contained in the blood sampling kit;

(vi) ensure that after taking the specimen:

(a) the HCP completes and signs a PT 61A, including details of any directing or approving doctor or nurse as per (i) and (ii) above;

(b) where there is a suspicion of drugs and a drug analysis is required, the HCP completes the appropriate section on the triplicate copy of the PT 61A;

(c) where a breath test or a breath analysis has been performed prior to taking the specimen, the breath test/breath analysis result and relevant alcohol limit are recorded in the appropriate section on the triplicate copy of the PT 61A; and

(d) the specimen of blood is packaged according to the instructions contained in the blood sampling kit;

(vii) ensure that the specimen of blood is delivered using the approved blood sampling kit as soon as practicable to the forensic property point at Forensic Science Queensland (FSQ) laboratory in accordance with the IATA Regulations (see s. 7.9: 'Handling of blood and urine specimens' of this chapter); and

(viii) record the name of the HCP(s) who authorised and obtained the blood specimen from the subject person as an 'involved person' in the relevant QPRIME occurrence.

Request for specimen by person

Section 80(20): 'Person providing specimen of blood or saliva may request specimen' of the TO(RUM)A allows the person providing the specimen of blood for analysis to request the HCP for a specimen of their blood.

Where a person requests a specimen of their blood an officer requiring to provide a specimen of blood, in addition to the procedure above should:

(i) provide a second blood sampling kit to the HCP;

(ii) ensure the HCP takes two specimens of blood. Officers should note that failure by the HCP to take a second specimen of blood is not an offence (see s. 80(10F) of the TO(RUM)A);

(iii) ensure after taking the specimen:

(a) the same identifying number (from the first blood kit) is placed on each copy of the PT 61A and the blood specimen tube to be given to the officer;

(b) the identifying number (from the second blood kit) that is placed on the blood specimen tube to be given to the subject person is recorded in the requiring officer's official police notebook. The remaining identifying numbers should be destroyed; and

(c) the specimens of blood are packaged according to the instructions contained in the blood sampling kit; and

(iv) give the second sample of blood to the person from whom it was taken as soon as practicable.

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7.5.4 The requirement to a conscious/communicative person

An officer may require a person to provide as many specimens of blood as the officer considers reasonably necessary to carry out the laboratory test (see s. 80(8M): 'Requiring as many specimens as considered reasonably necessary' of the TO(RUM)A).

ORDER

An officer is not to make a requirement for a specimen of blood for a laboratory test to a person receiving treatment at a hospital under provisions of s. 80(8C): 'Police officer may require specimen if person at hospital' of the TO(RUM)A without the approval to take the blood specimen provided by a doctor familiar with the person's injuries and apparent state of health at the time of the requirement (see s. 80(8D) of the TO(RUM)A).

Officers requiring a subject person, who is conscious and able to communicate, to provide a specimen of blood for a laboratory test should use the following wording:

'[Name of subject person], this is Doctor/Nurse [state doctor's or nurse's name]. I now require you to provide a specimen of your blood for a laboratory test. You shall permit this specimen of your blood to be taken by Doctor/Nurse [restate doctor's or nurse's name] or a qualified assistant directed by Doctor/Nurse (restate doctor's or nurse's name) who is authorised by the *Transport Operations (Road Use Management) Act* to take such specimen.'

[If at a hospital for treatment state 'and a doctor who is familiar with your present injuries and state of health approves for you to provide the specimen'.]

The doctor or nurse may direct a qualified assistant to take the specimen (see s. 80(9B) of the TO(RUM)A). If the doctor or nurse intends to direct a qualified assistant to take the specimen of blood, officers should suggest to the doctor or nurse that the direction should be given in the following terms:

'By virtue of the provisions of s. 80(9B) of the *Transport Operations (Road Use Management) Act 1995*, I direct you, (state name of qualified assistant) to take a specimen of blood from (name of person from whom specimen is to be taken if known or indicate person if name is unknown) for a laboratory test.'

Officers making the requirement should ensure that the health care professional taking the specimen of blood directs the subject person to provide the specimen of blood using the following wording:

'[Name of subject person], as you have been required by this police officer to provide a specimen of your blood for a laboratory test, I direct you to extend your [part of body] and permit me to take a specimen of blood from a vein in [part of body] by means of this syringe.'

7.5.5 Fail to provide a specimen of blood

Officers who have made a requirement of a subject person for a specimen of blood for a laboratory test and such person has failed to provide the specimen, should:

(i) ensure that the health care professional who was to take the specimen of blood completes, making such modifications as are necessary due to the designation of the health care professional, and signs a PT 66: 'Failure to Provide Specimen of Blood Certificate';

(ii) compare the original and copy of the issued certificate to ensure they are correct;

(iii) take possession of the original certificate from the health care professional;

(iv) ensure that a copy of the certificate is given to the person who failed to provide the specimen of blood by the health care professional; and

(v) proceed by way of notice to appear, complaint and summons or, where justified, arrest as appropriate for an offence against s. 80(11) of the TO(RUM)A or if the subject person is already under arrest, charge the subject person accordingly if not already charged (see s. 3.5: 'The institution of proceedings' of the OPM).

7.5.6 Certificate by analyst—blood

When a blood analysis certificate (**Certificate by Analyst**) issued by Forensic Pathology and Coronial Services (FPaCS) indicates that a subject person's blood alcohol concentration was over the relevant limit, the investigating officer should:

(i) ensure a copy is uploaded into the relevant QPRIME occurrence;

(ii) take enforcement action as soon as practicable following the receipt of the analyst's certificate;

(iii) attach the original certificate to the police prosecutor's copy of the court brief (QP9); and

(iv) provide a copy of the certificate to the subject person.

When a blood analysis certificate (**Certificate by Analyst**) issued by Forensic Pathology and Coronial Services (FPaCS) indicates the presence of an intoxicating substance in a person's blood a doctor should be consulted to ascertain the effects of the intoxicating substance on a person before making a decision to institute proceedings.

Investigating officers seeking the medical effects of drugs and/or alcohol in a subject person's blood should complete an email addressed to the Chief Medical Officer, Clinical Forensic Medicine Unit (see SMCD) seeking their expert opinion. The email should include:

(i) the subject person's:

(a) full name;

(b) date of birth;

(c) sex;

(d) approximate weight;

(e) displayed indicia;

(ii) the time of alleged offence;

(iii) the nature of alleged offence;

(iv) a copy of analyst's certificate from FPaCS;

(v) the details of the manner of driving;

(vi) the details of any admitted intoxicating substance consumption;

(vii) information regarding any drug matter found on the person or in the vehicle; and

(viii) the details of any drugs administered at hospital.

When taking action by way of arrest, notice to appear or alternatively by way of complaint and summons for an offence against s. 79: 'Vehicle offences involving liquor or other drugs' of the TO(RUM)A or s. 79(7A): 'Offence of riding etc.

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bicycle or personal mobility device while under the influence' of the TO(RUM)A, a copy of the relevant Certificate by Analyst should also be served on the subject person.

If a Certificate by Analyst issued as a result of a laboratory test of a person's blood indicates that no institution of proceedings is required including where the subject person's alcohol concentration is equal to or less than 20 milligrams of alcohol in 100 millilitres of blood, the officer who required the specimen is to inform the subject person of the result of the analysis and deliver a copy of the Certificate by Analyst to the subject person.

Relevant drug present in certificate of analysis

When a specimen of blood for a laboratory test is taken from a person in circumstances where a specimen of breath for breath analysis could have been required, and upon analysis the presence of a relevant drug in the person's blood is detected, but it is not possible to substantiate that the person was under the influence of a drug, officers should consider preferring a charge under s. 79(2AA): 'Offence of driving etc. while relevant drug is present in blood or saliva' of the TO(RUM)A.

When a specimen of blood for a laboratory test is taken from a person in circumstances where a specimen of saliva for saliva analysis could have been required, officers are to only use the results of the Certificate by Analyst from Forensic Pathology and Coronial Services (FPaCS) when instituting proceedings under s. 79(2AA) of the TO(RUM)A in relation to that specimen of blood (see also s. 7.8.1: 'Authority to require a specimen of saliva for analysis' of this chapter). Any reference to alcohol or drugs other than relevant drugs on the blood Certificate by Analyst should not be used.

7.5.7 Requiring a doctor or nurse to take a specimen of blood from a person who is unable to consent

Under s. 80(10): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A, a police officer may require a doctor or nurse who is attending a person who is at a hospital for treatment to obtain a specimen of the person's blood for a laboratory test, if the person:

(i) is a person whom a police officer may require under ss. 80(2) or 80(2A) to provide a specimen of breath for a breath test or a specimen of saliva for a saliva test; and

(ii) is, or appears to be, unable to consent to the taking of the specimen of blood because the person is, or appears to be, unconscious or otherwise unable to communicate.

However, in accordance with ss. 80(10E) and 80(10EA), an officer must not make a requirement under s. 80(10) relating to a person if:

(i) under this section, the person has provided a specimen of breath (the **'analysis specimen'**) for analysis by a breath analysing instrument in relation to the occurrence or event in relation to which the police officer may require a specimen of breath for a breath test as mentioned in s. 80(10)(a); and

(a) the analysis specimen has been analysed by a breath analysing instrument; and

(b) there is a certificate under s. 80(15) for the analysis; or

(ii) under this section, the person has provided a specimen of saliva for saliva analysis in relation to the occurrence or event in relation to which the police officer may require a specimen of saliva for a saliva test as mentioned in s. 80(10)(a); and

(a) the specimen for saliva analysis has been analysed by a saliva analysing instrument; and

(b) there is notice given to the police officer as mentioned in s. 80(15AB)(b)(i) for the analysis.

An officer requiring a doctor or nurse, who is attending a person who is at a hospital for treatment, to obtain a specimen of blood from an unconscious person or a person who is unable to communicate should:

(i) prior to making the requirement of the doctor or nurse, ascertain from the doctor or nurse whether:

(a) the person is, or appears to be, unable to consent to the taking of a specimen of blood because the person is, or appears to be, unconscious or otherwise unable to communicate; and

(b) the doctor or nurse reasonably believes that the taking of a specimen of blood would be prejudicial to the person's treatment, or the doctor or nurse has another reasonable excuse for not taking a specimen of blood from the person (see 'Refusal to take sample' of this section);

(ii) if the doctor or nurse advises that the person is unconscious or unable to communicate and the taking of a specimen of blood would not be prejudicial to the person's treatment, require the doctor or nurse to take a specimen of blood from the person in the following terms:

'By virtue of the provisions of s. 80(10) of the *Transport Operations (Road Use Management) Act 1995*, I require you, (doctor or nurse) (state name of doctor or nurse) to obtain a specimen of blood from (name of person from whom specimen is to be taken if known or indicate person if name is unknown) for a laboratory test.'

The doctor or nurse may direct a qualified assistant to take the specimen (see s. 80(10A) of the TO(RUM)A). If the doctor or nurse intends to direct a qualified assistant to take the specimen of blood, officers should suggest to the doctor or nurse that the direction should be given in the following terms:

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'By virtue of the provisions of s. 80(10A) of the *Transport Operations (Road Use Management) Act 1995*, I direct you, (state name of qualified assistant) to take a specimen of blood from (name of person from whom specimen is to be taken if known or indicate person if name is unknown) for a laboratory test.'

(iii) provide the health care professional with:

(a) two blood sampling kits i.e. one sample for the investigating officer and one sample for the subject person (available from Supply Services); and

(b) a PT 61A: 'Blood Specimen Certificate' book;

(iv) when appropriate, advise the health care professional prior to taking a blood specimen of the concise instructions contained in the blood sampling kit, s. 80(10C) of the TO(RUM)A and ss. 178 and 183 of the Traffic Regulation;

(v) ensure the health care professional takes two specimens of blood. Officers should note that failure by the health care professional to take a second specimen of blood is not an offence (see s. 80(10F) of the TO(RUM)A);

(vi) ensure after taking the specimen:

(a) the same identifying number (from the first blood kit) is placed on each copy of the PT 61A and the blood specimen tube to be given to the officer;

(b) the identifying number (from the second blood kit) that is placed on the blood specimen tube to be given to the subject person is recorded in the requiring officer's official police notebook;

(c) the health care professional completes and signs a PT 61A for the specimen to be given to the officer. A PT 61A is not completed in relation to the specimen given to the person;

(d) where there is a suspicion of drugs and a drug analysis is required, the health care professional completes the appropriate section on the triplicate copy of the PT 61A; and

(e) the specimens of blood are packaged according to the instructions contained in the blood sampling kit;

(vii) advise the health care professional that one sample of blood is to be given to the person from whom it was taken as soon as practicable;

(viii) ensure the specimen of blood given to the officer is delivered using the approved blood sampling kit as soon as practicable to the Queensland Health Forensic and Scientific Services laboratory in accordance with the IATA Regulations (see s. 7.9: 'Handling of blood and urine and saliva specimens' of this chapter);

(ix) send a notification to the OIC, Specialist Programs, RPG via email to 'Specialist Programs RPG' providing:

(a) advice that a blood specimen was taken from a person who was unable to consent;

(b) the requiring officer's name, rank and station;

(c) the name of the hospital at which the specimen was taken; and

(d) the name of the health care professional taking the specimen; and

(x) record the name of the health care professional(s) who authorised and obtained the blood specimen from the subject person as an 'involved person' in the relevant QPRIME occurrence.

Refusal to take sample

When a doctor or nurse:

(i) refuses to take a blood specimen for a laboratory test (e.g. due to the medical condition of the person); or

(ii) fails to ensure that a specimen of blood is taken by a qualified assistant,

the officer making the requirement should note the name of the doctor or nurse and any reason given for their refusal. Officers should note that a refusal to take a specimen of blood, or ensure that a specimen of blood is taken by a qualified assistant, is not an offence (see s. 80(10F) of the TO(RUM)A).

7.6 Urine analysis

7.6.1 Authority to require a specimen of urine

Officers may only require a person to provide a specimen of urine after a specimen of blood has been obtained from the subject person, and the subject person has previously provided a specimen of breath for analysis on an approved breath analysing instrument or a specimen of saliva for analysis on approved saliva analysing instrument and the result of such analysis is inconsistent with the person's indicia (see s. 80(9): 'Breath and saliva tests, and analysis and laboratory tests of the TO(RUM)A).

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The officer making the requirement for a specimen of urine may detain the person, at the place where the breath analysis was conducted or where a specimen of blood was taken, for a period of time that is reasonable in the circumstances to enable a doctor to attend there in connection with the provision by the person of a specimen of urine (see s. 80(9A) of the TO(RUM)A).

Officers may not take a person to any place for the purpose of obtaining a specimen of urine. Though in the circumstance where a specimen of blood and urine may be required, it is permissible to take a person to a place where an officer reasonably believes that a doctor or nurse is available for the purpose of the provision by the person of a specimen of the person's blood (see s. 80(9A) of the TO(RUM)A).

A person may not be detained to enable a nurse to attend a police station, vehicle, vessel, hospital or other place authorised under s. 80 of the TO(RUM)A in connection with the provision of a specimen of urine.

Prior to requiring a person to provide a specimen of urine for analysis an officer is to first require the subject person to provide a specimen of blood for analysis.

Prior to requiring a person to provide a specimen of urine for analysis the investigating officer is to consult with the doctor or nurse as to the necessity for such a specimen. The necessity to take a urine specimen is determined by the assistance such a specimen will provide in identifying any drugs used by the subject person.

7.6.2 The requirement—urine

Either a doctor or a nurse is authorised under s. 80(9): 'Breath and saliva tests, and analysis and laboratory tests of the TO(RUM)A to take a specimen of urine.

Officers requiring a subject person to provide a specimen of urine should use the following wording:

> 'This is Doctor/Nurse… [state doctor's/nurse's name]. I now require you to provide a specimen of your urine for a laboratory test. You shall provide such specimen when and as directed by Doctor/Nurse … [state doctor's/nurse's name].'

Officers making the above requirement should ensure that the doctor/nurse taking the specimen of urine directs the subject person to provide the specimen of urine using the following wording:

> 'I am Doctor/Nurse … [state name] I direct you to provide a specimen of your urine as required by… [name of officer] by urinating into this receptacle.'

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7.6.3 Obtaining a specimen of urine

Officers requiring a person to provide a specimen of urine for analysis should:

(i) prior to making the requirement, obtain:

(a) a blood sampling kit (available from Supply Services); and

(b) a PT 61A: 'Blood Specimen Certificate' book;

(ii) when using the blood sampling kit for a urine sample, discard the blood specimen tube (opaque cap) and use the primary receptacle (smaller of two tubes with white closure), for the urine specimen;

(iii) for the purpose of identifying the urine specimen use a PT 61A: 'Blood Specimen Certificate'. The PT 61A does not have any evidentiary value in the case of a urine sample and is used as an identifying document only;

(iv) ensure that a doctor or nurse is present;

(v) make the requirement for the subject person to provide a specimen of urine for a laboratory test as outlined in s. 7.6.2: 'The requirement—urine' of this chapter;

(vi) ensure that the same identifying number is placed on each of the copies of the PT 61A: 'Blood Specimen Certificate' as is placed on the urine specimen tube to be given to the officer;

(vii) ensure that after taking the specimen the doctor or nurse completes and signs the PT 61A: 'Blood Specimen Certificate', making any necessary alterations to the form to indicate that it relates to a urine specimen;

(viii) ensure that:

(a) the specimen of urine is delivered as soon as practicable to the Queensland Health Forensic and Scientific Services laboratory in accordance with the IATA Regulations (see s. 7.9: 'Handling of blood and urine specimens' of this chapter); and

(b) any specimen of urine being forwarded by Registered Post is packed using the approved blood sampling kit (available from Supply Services).

7.6.4 Fail to provide a specimen of urine

A person does not commit an offence by failing to provide a specimen of urine.

7.7 Saliva test

A saliva test (see SMD) may be conducted as a result of a roadside interception or as part of an investigation into a relevant assault offence (see SMD).

When conducting a saliva test, officers are to only use a device approved for the saliva test as defined in s. 186: 'Device approved for Act, s 80(1), definition *saliva test*' of the Traffic Regulation.

Officers are to ensure the saliva testing device is within the expiry date and to only use such devices in accordance with the manufacturer's instructions and Service policy.

Officers are not to use a saliva testing device if the expiry date has been exceeded.

7.7.1 Authority to saliva test

Section 80(2): 'Breath and saliva tests, and analysis and laboratory tests of the TO(RUM)A provides the authority for an officer to require a person to provide a specimen of saliva for a saliva test if the officer has found such person, or suspects on reasonable grounds that such person, was during the last preceding three hours:

(i) driving a motor vehicle, tram or train on a road or elsewhere;

(ii) attempting to put in motion a motor vehicle, tram or train on a road or elsewhere;

(iii) in charge of a motor vehicle, tram or train on a road or elsewhere; or

(iv) driving or in charge of or attempting to put in motion a vessel being used or apparently about to be used in navigation.

Section 80(2A) of the TO(RUM)A provides an officer may require a person to provide a specimen of saliva for a saliva test where a motor vehicle, tram, train or vessel is involved in an incident resulting in injury to or death of any person or damage to property if the officer suspects, on reasonable grounds, that such person was:

(i) driving or attempting to drive the motor vehicle, tram or train on a road or elsewhere;

(ii) in charge of the motor vehicle, tram or train on a road or elsewhere; or

(iii) driving or in charge of or attempting to drive the vessel;

at the time of the incident.

Officers may require a person to provide as many specimens of saliva as the officer considers reasonably necessary to carry out the saliva test (see s. 80(1A), (2B) and (2C) of the TO(RUM)A). Circumstances in which officers may require a person to provide more than one specimen of saliva for a saliva test include circumstances where:

(i) the specimen has not been sufficient to enable the test to be carried out;

(ii) the specimen is not provided in a way that enables the objective of the test to be satisfactorily achieved;

(iii) the device used for the test is or becomes defective precluding its satisfactory operation;

(iv) for any reason it is not possible to use or continue using the device to conduct the saliva test; and

(v) for any reason it is not possible to complete the saliva test.

Section 80(4) of the TO(RUM)A provides that a requirement shall not be made under s. 80(2) or 80(2A) of the TO(RUM)A unless it is made as soon as practicable and within three hours after the occurrence of the event whereby the police officer is authorised by that section to make such a requirement.

No authority exists to require a specimen of saliva for a saliva test when investigating an offence against s. 79(7): 'Vehicle offences involving liquor or other drugs' of the TO(RUM)A, i.e. being in charge of a horse or bicycle etc. whilst under the influence of liquor or drugs. An officer may however require a specimen of breath for breath analysis, saliva for saliva analysis or blood for a laboratory test once a subject person has been arrested for such offence (see also s. 80(8)(a) of the TO(RUM)A).

Where a subject person is at a hospital for treatment and it is intended to require that person to provide a specimen of saliva for a saliva test (as distinct from a specimen of saliva for analysis) the requirement should be made only with the approval of the doctor who is familiar with the person's injuries and apparent state of health at the time.

Relevant assault offences

In accordance with s. 548A: 'Purposes of ch 18A' of the PPRA the taking of specimens of breath, saliva, blood and urine is also authorised from persons suspected of committing a relevant assault offence (see SMD) and to conduct testing and to produce certificates for use as evidence. This occurs through extended application of the provisions of s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A.

Saliva testing the supervisor of a learner driver

Section 79AA: 'Provisions applying to supervisor of a learner' of the TO(RUM)A applies to a person who is the supervisor of a learner, while the learner is driving a motor vehicle under the direction of the supervisor.

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Section 79AA(2) of the TO(RUM)A provides that the supervisor is in charge of the motor vehicle for the purposes of ss. 79: 'Vehicle offences involving liquor or other drugs' and 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A, and other provisions of the TO(RUM)A applying in relation to any charge, proceedings, conviction or sentence for an offence against ss. 79 and 80.

The definition of 'supervisor' of a learner excludes a person accredited as a driver trainer under a regulation while the person is acting in the person's professional capacity as a driver trainer (see ss. 79AA(4) and 79(2C)(f) of the TO(RUM)A).

7.7.2 The saliva test

ORDER

Officers are not to use any type of saliva testing device unless they have been trained in the use and maintenance procedures (if any) of that type of saliva testing device.

Officers who intend to conduct saliva tests are to make the requirement of the subject person as soon as practicable and within three hours after the occurrence of the event to which the test relates (see s. 7.7.1: 'Authority to saliva test' of this Manual).

Officers are to use a new saliva collection device for each person tested.

When using a saliva testing device officers are to:

(i) remove the saliva collection device from the sealed packet in the view of the subject person;

(ii) make the requirement as outlined in s. 7.7.3: 'The requirement—saliva test' of this Manual;

(iii) ensure there are no obstructions or defects present in the saliva collection device prior to use;

(iv) observe carefully to ascertain if the subject person is providing a saliva specimen or not;

(v) ensure that used saliva collection device is disposed of properly;

(vi) advise the subject person when the device indicates the presence of a relevant drug. The following wording should be used:

'This test indicates to me that there may be present in your saliva a relevant drug and you are required to accompany me to a [state whether a police station, hospital, doctor's surgery, vehicle, vessel or other place] for the purpose of further tests.'

OR

'As you have elected not to provide a specimen of your saliva as required, I now require you…'

OR

'As you have failed to provide a specimen of your saliva in the manner directed by me, I now require you…'

OR

'As you have declined to wait a reasonable time to enable the test to be carried out, I now require you…'

(vii) record with a QLiTE device a negative drug test/street check occurrence with the time and date of the negative result of the roadside saliva test. Where the QLiTE device does not work, the relevant information, (e.g. subjects name, licence number and vehicle registration number) should be recorded in the officer's official police notebook until the QLiTE device is working, so a negative drug test/street check occurrence can then be created in QPRIME; or

(viii) record with a QLiTE device a positive roadside saliva test with the time and date of the positive result of the roadside saliva test. Where the QLiTE device does not work, the relevant information, (e.g. subjects name, licence number and vehicle registration number) should be recorded in the officer's official police notebook until the QLiTE device is working, so a QPRIME occurrence can then be created; and

(ix) if the result of the saliva test does not indicate the presence of a relevant drug, thank the subject person tested for cooperating and allow them to leave.

Officers involved in saliva testing operations for a relevant assault offence are to ensure that, where practicable, a breath test is conducted of a person before a saliva test (see s. 7.3: 'Breath test' of this Manual), see SMD.

Where the subsequent breath analysis fails to support the commencement of a proceeding for a circumstance of aggravation for a relevant assault offence, officers should conduct a saliva test of the person with a view to commencing a proceeding where sufficient evidence exists.

7.7.3 The requirement—saliva test

Officers may require a person to provide a specimen of saliva for a saliva test, under s. 80(2) or (2A): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A and may make the requirement as many times as the officer considers reasonably necessary to carry out the saliva test (see s. 80(2C) of the TO(RUM)A).

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ORDER

When an officer has determined that authority exists to require a person to provide a specimen of saliva for a saliva test, the officer is to make the requirement in the following manner:

> 'This is a saliva collection device. I require you to provide a specimen of your saliva for a saliva test in the manner directed by me.'

The officer is to then direct the subject person how to provide the specimen of saliva as required in the following manner:

> 'I direct you to rotate your tongue around the inside of your mouth three times and then place this collection device inside your mouth and wipe it down your tongue. Commence now.'

After the subject person has complied with the direction, the officer is to secure the return of the saliva collection device.

At the completion of the saliva test the officer is to:

> (i) take a photograph of the saliva collection device used for the test which captures the result window including both the test and control lines of the device. The photograph is to be taken whether the test result shows an indication of the presence of a relevant drug or not; and
>
> (ii) upload a copy of the image to the QPRIME Occurrence report relating to the saliva test.

7.7.4 Fail to provide a specimen of saliva for a saliva test

A person commits an offence under s. 80(5A): 'Breath and saliva tests, and analysis and laboratory tests of the TO(RUM)A by failing to provide a specimen of saliva or failing to provide a specimen of saliva in the manner directed by the police officer making the requirement. The person should be detained for the purpose of making a requirement to provide a specimen of saliva for analysis or specimen of blood for laboratory test pursuant to s. 80(8) of the TO(RUM)A. Upon receipt of Certificate by Analyst from Queensland Health Forensic and Scientific Services, enforcement action may be taken by way of notice to appear, complaint and summons or, where justified, by arrest (see s. 3.5: 'The institution of proceedings' of the OPM).

In the event that subject persons are arrested for an offence against s. 80(5A) of the TO(RUM)A, the arresting officer is to inform them that they are also detained for the purposes of either obtaining a specimen of saliva for analysis or a specimen of blood for a laboratory test under s. 80(8) of the TO(RUM)A.

When an officer has required a subject person to provide a specimen of saliva for a saliva test and the subject person fails to provide or fails to provide a specimen of saliva in the manner directed by the police officer, the officer should:

> (i) note if the subject person may be preventing the collection of the saliva specimen by the manner in which they use the saliva collection device;
>
> (ii) advise the subject person that it is an offence not to provide the specimen of saliva in the manner directed; and
>
> (iii) give the subject person a further opportunity to provide the specimen of saliva and further explain to that person how to comply with the requirement.

If the subject person again fails to provide a specimen of saliva, fails to provide a specimen of saliva in the manner directed by the police officer or declines to wait for such time as is reasonable in the circumstances to allow the test to be carried out satisfactorily, the requiring officer should:

> (i) for the purposes of requiring the subject person to provide a specimen of saliva for analysis or a specimen of blood for a laboratory test:
>
> > (a) detain and take the subject person to a police station, vehicle or vessel, where facilities are available for the analysis by a saliva analysing instrument or to a hospital or other place where reasonable grounds for believing that a doctor or nurse is available; and/or
> >
> > (b) detain the subject person at a police station, vehicle, vessel, hospital or other place authorised under s. 80 of the TO(RUM)A; or
>
> (ii) if the subject person produces a certificate issued under the provisions of s. 80(5B) of the TO(RUM)A excusing the subject person from providing the specimen, detain the subject only where the officer suspects the subject is affected by liquor or a drug because of exhibited external signs, require the subject person to provide a specimen of blood for a laboratory test (see ss. 80(6)(ba) and 80(8) of the TO(RUM)A); and
>
> (iii) proceed by way of notice to appear, complaint and summons or, where justified, by arrest (see s. 3.5: 'The institution of proceedings' of the OPM) as appropriate for an offence against s. 80(5A) of the TO(RUM)A.

7.8 Saliva analysis

A saliva analysis may be conducted as a result of a positive indication from a saliva test resulting from a roadside interception or investigation into a relevant assault offence.

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When conducting a saliva analysis authorised officers are to only use a collection unit as prescribed in s. 187: 'Prescribed collection unit—Act, s 80' of the Traffic Regulation.

Authorised officers are to ensure the collection unit is within the expiry date and only use the collection unit in accordance with the manufacturer's instruction and Service policy.

Officers are not to use a collection unit if the expiry date has been exceeded.

7.8.1 Authority to require a specimen of saliva for analysis

Section 80(8): 'Breath and saliva tests, and analysis and laboratory tests of the TO(RUM)A authorises officers to require a person to provide a specimen of saliva for analysis by a saliva analysing instrument where a person has been:

(i) required to provide a specimen of saliva for a saliva test and the:

(a) test has indicated the subject person has a relevant drug in their system; or

(b) subject person has either failed to provide such specimen, failed to provide such specimen in the manner directed or has declined to wait for such time as is reasonable in the circumstances to enable the test to be carried out satisfactorily;

(ii) arrested for an offence against ss. 79: 'Vehicle offences involving liquor or other drugs' or 83: 'Careless driving of motor vehicles' of the TO(RUM)A; or

(iii) arrested for any indictable offence in connection with or arising out of the driving of a motor vehicle by the person (including any offence against any provision of the CC, s. 328A: 'Dangerous operation of a vehicle').

Relevant assault offences

In accordance with s. 548A: 'Purposes of ch 18A' of the PPRA the taking of specimens of breath, saliva, blood and urine is also authorised from persons suspected of committing a relevant assault offence (see SMD) and to conduct testing and to produce certificates for use as evidence. This occurs through extended application of the provisions of s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A.

Inability to provide specimen of saliva for analysis

Persons may physically be unable to provide a sufficient specimen of saliva for saliva analysis, for example a person may have a dry mouth. In such cases s. 80(8)(f) of the TO(RUM)A provides that where a specimen of saliva for saliva analysis can be required, a specimen of the person's blood for a laboratory test can also be required.

Where a specimen of blood for a laboratory test is taken from a person pursuant to s. 80(8)(f) of the TO(RUM)A as a result of the person being unable to provide a sufficient specimen of saliva for a saliva analysis, officers are to only use the results of the blood Certificate by Analyst in relation to relevant drugs. Any reference to alcohol or drugs other than relevant drugs on the blood Certificate by Analyst should not be used.

Specimen of saliva for analysis at a hospital

Section 80(8C) of the TO(RUM)A provides for a requirement to be made of a subject person to provide a specimen of saliva for analysis where a person whom a police officer may require under ss. 80(2) or 80(2A) of the TO(RUM)A to provide a specimen of saliva for a saliva test is at a hospital for treatment. Any such requirement to provide a specimen of saliva for saliva analysis can only be made subject to the approval of a doctor who is familiar with the subject person's injuries and apparent state of health at the time (e.g. the subject person was the driver of a motor vehicle involved in a traffic crash and is at a hospital being treated for injuries).

Persons may physically be unable to provide a sufficient specimen of saliva for saliva analysis whilst they are at a hospital for treatment or there may not be a saliva analysing instrument available for use at the hospital. In such cases s. 80(8C)(b) of the TO(RUM)A provides that where a specimen of saliva for saliva analysis can be required, a specimen of the person's blood for a laboratory test may alternatively be taken (see s. 7.5: 'Blood analysis' of this Manual). In such cases, the three hour time limitation period from the time of the event that authorises the officer to make the authorising requirement will apply to the taking of a specimen of a person's blood for a laboratory test (see ss. 80(8C) and 80(8D) of the TO(RUM)A).

ORDER

Officers are not to make a requirement under s. 80(8C) for a specimen of saliva for analysis in circumstances where a person is at a hospital for treatment unless:

(i) a doctor who is familiar with the person's injuries and apparent state of health at the time of the requirement first approves of the person providing a specimen; and

(ii) the authorising requirement for the specimen of saliva is made as soon as practical and within three hours of the event that authorises the police officer to make the authorising requirement under ss. 80(2) or 80(2A) of the TO(RUM)A to require a person to provide a specimen of saliva for saliva analysis (see s. 80(8D) of the TO(RUM)A).

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Where a specimen of blood for a laboratory test is taken from a person pursuant to s. 80(8C)(b) of the TO(RUM)A, officers are to only use the results of the blood Certificate by Analyst in relation to relevant drugs. Any reference to alcohol or drugs other than relevant drugs on the blood Certificate by Analyst should not be used.

Under normal circumstances when a person is at a hospital for treatment, officers should require the subject person to provide a specimen of blood for a laboratory test and not a specimen of saliva for saliva analysis. In such cases the authorising requirement for the specimen of blood is to be made as soon as practical and within three hours of the event that authorises the police officer to make the authorising requirement see s. 7.5.1: 'Authority to require a specimen of blood' of this Manual.

7.8.2 The saliva analysis

Saliva analysing operator who is also the investigating officer

The officer who operates a saliva analysing instrument may also be the investigating officer who:

(i) required the person to provide the specimen of saliva for a saliva test or analysis: or

(ii) arrested the person concerned for an offence referred to in s. 80(8): 'Breath and saliva tests, and analysis and laboratory test' of the TO(RUM)A.

Officers must hold a current authorisation to operate the relevant saliva analysing instrument.

Where the investigating officer is also the officer who operates the saliva analysing instrument, the investigating officer is to electronically record the saliva analysis on a body worn camera (see s. 4.4: 'Body worn cameras' of the DERIE).

Investigating officer's procedures

An officer who intends to require a subject person to provide a specimen of saliva for analysis is to observe the subject persons for a period of at least ten minutes prior to the provision of the specimen.

When a subject person is at a station, vehicle, vessel, hospital or other place authorised under s. 80(8) of the TO(RUM)A for the purpose of providing a specimen of saliva for analysis, the investigating officer should:

(i) if the subject person is:

(a) a child (see Chapter 5: 'Children' of the OPM); or

(b) a person under disability (see Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' of the OPM),

ensure the person understands the procedure and wherever practicable have an independent person attend to assist the subject person to understand the procedure;

(ii) inform the operator of the subject's arrival at the location where the saliva analysis is to occur;

(iii) wait with the subject person in a designated place for further instructions from the operator;

(iv) advise and ensure the subject person does not place any substance in the subject's mouth;

(v) on advice from the operator, enter the saliva analysis room/area with the subject person and follow the procedure outlined in s. 7.8.3: 'The requirement—saliva analysis' of this Manual;

(vi) remain with the subject person whilst the analysis is being conducted and do not intervene in the proceedings unless requested by the operator;

(vii) ensure the original and copy of the applicable QP 0779: 'Saliva analysis notice (Traffic Offence)' or QP 1009: 'Saliva analysis notice (Relevant assault offence)' are both correct;

(viii) take possession of the applicable QP 0779 notice or QP 1009 from the operator;

(ix) where a subject person is not under arrest relating to an investigation into traffic offences, no enforcement action is to be taken until the issue of the Certificate by Analyst from Queensland Health Forensic and Scientific Services. Subject persons for relevant assault offences are to be dealt with in accordance with the provisions of s. 2.32.4: 'Obtaining breath, saliva, blood or urine specimens for relevant assault offences' of the OPM; and

(x) the specimen of saliva is to be sent to Queensland Health Forensic and Scientific Services in accordance with the provisions of s. 7.9: 'Handling of blood, urine and saliva specimens' of this Manual.

An operator who is the investigating officer is to comply with (i), (iv), (vii), (ix) and (x) of this subsection.

Operator's procedures

The operator should:

(i) follow the procedure outlined in s. 7.8.3: 'The requirement—saliva analysis' of this Manual;

(ii) ensure the subject person understands the requirement; and

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(iii) at the completion of the saliva analysis, complete and sign a QP 0779 or QP 1009 (as applicable), retain a copy personally, and deliver:

(a) if not also the investigating officer, the original notice and a copy to the officer who made the requisition; and

(b) a copy to the subject person (or to another person on behalf of the subject person).

7.8.3 The requirement—saliva analysis

Saliva analysing operator who is not the investigating officer

An officer may require a person to provide as many specimens of saliva as the officer considers reasonably necessary to carry out the analysis (see s. 80(8M): 'Requiring as many specimens as considered reasonably necessary' of the TO(RUM)A).

A requirement made of a subject person to provide a specimen of saliva for analysis should be made in the following manner:

(i) the investigating officer (IO) should introduce the operator to the subject person. The wording of the introduction should be:

'This is [name of the operator], a police officer, authorised to operate an approved saliva analysing instrument.'

(ii) the IO should wait for further advice from the operator. The operator should question the subject person about consumption of drugs or other substances, health etc (see s. 5.3.4: 'Saliva Test' of the TEH). All questions and answers should be recorded in the operator's official police notebook. The operator should advise the IO once the saliva analysing instrument is in proper working order by stating:

'The instrument is in proper working order.'

(iii) the IO is to require the subject person to provide a specimen of saliva for analysis using the following words:

'I now require you to provide a specimen of your saliva for analysis on this approved saliva analysing instrument [indicating the saliva analysing instrument to the subject person] and same will be operated by [restate the name of the operator], who has informed me that such instrument is in proper working order.'

(iv) the operator is to direct the subject person how to provide a specimen of saliva in accordance with s. 80(8FA) of the TO(RUM)A using the following words;

'I direct you to place this saliva collection unit into your mouth and move it around in a continuous motion so that it contacts the inside of your mouth or tongue or both until told to stop by me, commence now.'

Saliva analysing operator also the investigating officer

A requirement made of a subject person by an officer who will also be the saliva analysing instrument operator should be made in the following manner:

(i) the requiring officer should re-introduce themselves to the subject person as the operator of the saliva analysing instrument. The wording of the introduction should be:

'My name is [state name], a police officer, authorised to operate an approved saliva analysing instrument'.

(ii) once the instrument has satisfactorily performed its internal check, the officer is to require the subject person to provide a specimen of saliva for analysis using the following words.

'I now require you to provide a specimen of your saliva for analysis on this approved saliva analysing instrument [indicating the saliva analysing instrument to the subject person] and same will be operated by me and such instrument is in proper working order'.

(iii) the officer is to direct the subject person how to provide a specimen of saliva in accordance with s. 80(8FA): 'Providing a specimen of saliva' of the TO(RUM)A using the following words:

'I direct you to place this saliva collection unit in your mouth and move it around in a continuous motion so that it contacts the inside of your mouth or tongue or both until told to stop by me, commence now'.

7.8.4 Fail to provide a specimen of saliva for analysis

A person who, when required by an officer, fails to provide a specimen of saliva for analysis commits an offence under s. 80(11): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A.

ORDER

If a person, when required to provide a specimen of saliva for analysis, produces a medical certificate pursuant to s. 80(8E) of the TO(RUM)A excusing the person from providing a specimen of saliva, an officer shall not continue to require a specimen of saliva from the subject person but shall require a specimen of the subject person's blood for a laboratory test.

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The saliva analysing instrument operator should:

(i) determine when the subject person has failed to provide the required specimen; and

(ii) comply with s. 80(15B) of the TO(RUM)A in relation to the issue and handling of the QP 0778: 'Fail to provide a specimen of saliva certificate' regarding the failure to provide a specimen of saliva.

7.8.5 Issuing saliva analysis certificate or notice and the commencement of proceedings

Saliva analysis certificate or notice by operator

Upon a person providing a saliva specimen for analysis, as directed by an analysing instrument operator (see ss. 80(15AB) and 80(15AC): 'Breath and saliva tests, and analysis and laboratory tests of the TO(RUM)A), the operator will issue, for a:

(i) positive or negative saliva analysis test, a QP 0779: 'Saliva Analysis (Traffic) Notice' or QP 1009: 'Saliva Analysis (Relevant Assault Offence) Notice; or

(ii) failure to provide specimen of saliva, a QP 0778: 'Fail to Provide Specimen of Saliva Certificate'.

A copy of the notice or certificate is to be given to the person who provided the sample and the original to the investigating officer.

Commencement of proceedings

Enforcement action should be commenced upon an offender being issued with a:

(i) QP 0778, by instituting proceedings; or

(ii) QP 0779 or QP 1009 by:

(a) forwarding the remaining saliva specimen to the Queensland Health Forensic and Scientific Services for analysis (see s. 7.9: 'Handling of blood, urine and saliva specimens' of this chapter); and

(b) instituting proceedings (a notice to appear is to have an appearance date 8 weeks from the issue date of the saliva analysis notice); or

(c) instituting proceedings upon receipt of a certificate of analysis from the Queensland Health Forensic and Scientific Services (Health Services Support Agency) indicating a person had a relevant drug present in their saliva.

The original of the analyst certificate or fail to provide specimen of saliva certificate is to be attached to the prosecutor's copy of the court brief (QP9). A copy of the analyst certificate is to be provided to the defendant.

For a negative test result the investigating officer is to:

(i) inform the subject person of the result of the negative analysis and that no further action will be taken; or

(ii) if the officer believes that the result of the analysis is inconsistent with the subject person's indicia, consider taking a blood sample (see s. 7.5.1: 'Authority to require a specimen of blood' of this chapter).

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7.8.6 Certificate of Analysis—saliva

When a saliva analysis certificate (**'Certificate of Analysis'**) issued by Queensland Health Forensic and Scientific Services indicates a subject person's saliva contained the presence of a relevant drug, the investigating officer is to ensure:

(i) a copy of the certificate is uploaded on the relevant QPRIME occurrence;

(ii) complete a PIR2 report online to solve the QPRIME report with the relevant drug identified or 'No Drugs Detected';

(iii) take enforcement action as soon as practicable following the receipt of the certificate; and

(iv) attach the certificate to the police prosecutor's copy of the court brief (QP9).

A Certificate of Analysis stating the presence of a relevant drug in a person's saliva is proof in itself that the subject person had the presence of a relevant drug in their saliva. There is no need to consult a doctor to ascertain the effects of the drug on a person before making a decision to institute proceedings against a person under s. 79(2AA): 'Offence of driving etc. while relevant drug is present in blood or saliva' of the TO(RUM)A.

When taking action by way of arrest, notice to appear or alternatively by way of complaint and summons for an offence against s. 79: 'Vehicle offences involving liquor or other drugs' of the TO(RUM)A, or if a circumstance of aggravation applies to a relevant assault offence in accordance with s. 108B: 'When community service order must be made' of the *Penalties and Sentences Act*, a copy of the relevant Certificate of Analysis should also be served on the subject person.

If a Certificate of Analysis issued as a result of a laboratory test of a person's saliva indicates that no institution of proceedings is required, the officer who required the specimen is to inform the subject person of the result of the analysis and deliver a copy of the certificate to the subject person.

ORDER

Where there is insufficient evidence of an offence against s. 79(1): 'Offence of driving etc. while under the influence' of the TO(RUM)A and a Certificate of Analysis issued by Queensland Health Forensic and Scientific Services indicates that a subject person's saliva contained the presence of a relevant drug, officers are to only consider charges against s. 79(2AA): 'Offence of driving etc. while relevant drug is present in blood or saliva' of the TO(RUM)A and not an offence against s. 79(1) of the TO(RUM)A.

7.8.7 Saliva analysing instrument location

Section 80(6): 'Breath and saliva tests, and analysis and laboratory tests of the TO(RUM)A provides that an officer may take a person to a police station, hospital, other authorised place, vehicle or vessel (where facilities are available for the analysis by saliva analysing instrument of a specimen of saliva) for the purpose of requiring a specimen of saliva for analysis.

ORDER

Officers responsible for the deployment of saliva analysing instruments should ensure that such instruments are located only at places authorised by s. 80(6) of the TO(RUM)A.

7.8.8 Limitation on use of saliva for saliva test or saliva analysis

ORDER

A specimen of saliva for a saliva test or for saliva analysis obtained under s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A from a person must not be used for:

(i) DNA analysis to help decide whether or not the person may be a suspect in relation to an offence; or

(ii) for a purpose stated in s. 537: 'Purpose of ch 18' of the PPRA.

7.9 Handling of blood, urine and saliva specimens

Blood, saliva and urine specimens other than if personally delivered must be dispatched in accordance with International Air Transport Association Dangerous Goods Regulations (see s. 183: 'Delivery of blood, saliva and urine specimens' of the Traffic Regulation) and are classified as 'biological substances category B'.

Blood and/or urine specimen laboratory tests

ORDER

Officers who have required and obtained specimens of blood and/or urine for laboratory tests are to:

(i) use the blood sampling kit from Supply Services for specimens of blood and urine obtained in connection with prosecutions; and

(ii) ensure the relevant copy of the PT61A: 'Blood specimen certificate' issued by the health care professional is forwarded with the specimen.

Saliva specimen laboratory tests

ORDER

Officers who have required and obtained a sample of saliva for analysis are to:

(i) use the saliva sampling kit from Supply Services for saliva specimens obtained in connection with prosecutions; and

(ii) ensure a copy of the applicable QP 0779: 'Saliva analysis (traffic offence) notice' or QP 1009: 'Saliva analysis (relevant assault offence) notice' issued by the saliva analysing instrument operator is forwarded with the specimen.

Dispatch of specimens

ORDER

Officers are to dispatch all specimens to the analyst in a timely manner and in accordance with s. 183 of the Traffic Regulation. Either by:

(i) delivering specimens personally to the analyst, or having another officer deliver it if the original officer is unable to do so; or

(ii) if not able to deliver it personally, sending the specimens via tracked postage (i.e. express post) to the Forensic Toxicology section at Forensic Services Queensland (FSQ) campus (see SMCD).

Retention and disposal of specimens

Upon receipt at FSQ specimens will be retained for a period of 12 months from the date of analysis. In circumstances where a specimen is required beyond the 12 month retention period, the reporting officer is to advise FSQ or the OIC,

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Specialist Programs, Road Policing Group of the need and reason to retain the specimen prior to its scheduled disposal date.

7.10 Twenty-four hours suspension endorsement—driver licence

Section 80(22): 'Application of subsection (22AA)' and 80(22AA): 'Suspension of driver licence for 24 hours in particular circumstances' of the TO(RUM)A provide for a twenty-four hour suspension of a person's driver licence after a person has been required to provide a specimen of breath or saliva for analysis or a specimen of blood for a laboratory test subject to the provisions of ss. 79B(1) and 79B(6): 'Immediate suspension or disqualification' of the TO(RUM)A.

When a person has been charged with an offence to which s. 79B of the TO(RUM)A applies, the authority to suspend a person's driver licence under s. 79B will supersede any provisions for a twenty-four hour suspension of a person's driver licence (see s. 7.11: 'Immediate suspension or disqualification of high risk drink and drug drivers' of this chapter).

ORDER

Officers who require a specimen of breath or saliva for analysis or a specimen of blood for a laboratory test, in accordance with s. 80(22A): 'Police officer to give statement of suspension' of the TO(RUM)A, are to sign and deliver to the subject person a copy of a F4394: 'Notice of Suspension or Disqualification' (available in QPRIME and from Supply Services) stating that the person's driver licence is suspended for a period of twenty-four hours from the time:

(i) of the breath analysis;

(ii) of the saliva analysis on a saliva analysing instrument;

(iii) where a blood specimen has been taken pursuant to s. 80(8): 'Particular persons under arrest or detained may be required to provide specimen' of the TO(RUM)A and the person has not been charged, the requiring officer shall require the subject person to provide a second specimen of breath for a breath test or a specimen of saliva for a saliva test to obtain an indication of whether the subject person:

(a) is over the relevant alcohol limit; or

(b) has a relevant drug present in their saliva,

for the purpose of suspending the subject person's driver licence. If the person:

(a) fails to provide such specimen, the suspension commences at the time of the requirement; or

(b) provides a specimen of:

- breath, and the concentration of alcohol in their breath is over the relevant limit, the suspension commences from the time when the breath test was carried out; or
- saliva, and the device indicates a relevant drug is present in their saliva, the suspension commences from the time when the saliva test was carried out;

(iv) the certificate in writing is given by the doctor or nurse. Where a blood specimen has been taken pursuant to s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A and the person has not been charged, a person's driver licence may be suspended for twenty-four hours if the doctor or nurse taking the blood specimen issues a QP 1025: 'Proper case for 24 hours suspension certificate' (available in the PT 61A: 'Blood specimen certificate' book);

(vi) the person was arrested for an offence under s. 79(1): 'Offence of driving etc. while under the influence' of the TO(RUM)A, but had not been required by a police officer to provide a specimen of breath for analysis or a specimen of blood for a laboratory test under ss. 80(8): 'Particular persons under arrest or detained may be required to provide specimen' or 80(8C): 'Police officer may require specimen if person at hospital' of the TO(RUM)A because:

(a) the person was violent;

(b) of the external signs exhibited by the person, the police officer reasonably believed the person was so affected by alcohol or a drug as to be unable to provide the specimen; or

(c) of the remoteness of the area:

- a breath analysing instrument was not available to analyse a specimen of the person's breath; or
- a doctor or nurse was not available to take a specimen of blood from the person for a laboratory test or to direct a qualified assistant to take the specimen.

Officers who have delivered a copy of the F4394 to a person are to:

(i) complete the service details on the form;

(ii) prior to the completion of the officer's shift create a QPRIME occurrence and ensure a flag is created against the person in QPRIME indicating the twenty-four hour suspension of the person's driver licence; and

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(iii) attach a copy of the form to the prosecution copy of the Court Brief (QP9).

If the F4934 was:

(i) completed in QPRIME, after serving the form on the person, the service details and electronic signature are to be completed; or

(ii) not completed within QPRIME, a copy of the signed form is to be scanned into the relevant occurrence.

See also s. 7.11: 'Immediate suspension or disqualification of high risk drink drug drivers' of this chapter.

7.11 Immediate suspension or disqualification of high risk drink and drug drivers

Section 79B: 'Immediate suspension or disqualification' of the TO(RUM)A provides the power to immediately suspend or disqualify the driving privileges of high risk drink and drug drivers, who have committed offences outlined in s. 79B(1) of the Act.

A person who commits an offence outlined in s. 79B(1) of the TO(RUM)A, and:

(i) holds:

(a) a Queensland driver licence, the driver licence is suspended; or

(b) a driver licence issued in another jurisdiction, the authority to drive on a Queensland road is suspended,

from the time:

(a) the person is charged, if the person is arrested for the offence;

(b) a notice to appear is issued and served on the person for the offence; or

(c) a complaint and summons is served on the person for the offence,

until the immediate suspension ends when:

(a) the charge is dealt with by a court or is withdrawn or otherwise discontinued; or

(b) the person has successfully made application to have that suspension lifted and a replacement licence under s. 79F: 'Replacement licence if there is an order under s. 79E' of the TO(RUM)A, is issued to that person; or

(ii) does not hold a driver licence, the person is disqualified from obtaining a Queensland driver licence until the charge is dealt with by a court or is withdrawn or otherwise discontinued.

(See Appendix 7.1 'Drink and Drug Driving Flowchart' of this chapter.)

An immediate licence suspension under s. 79B of the TO(RUM)A will supersede any existing twenty-four hour licence suspension under the existing s. 80(22AA) of the TO(RUM)A.

Where a person's driver licence has been suspended for twenty-four hours under the provisions of s. 80(22AA) of the TO(RUM)A, and:

(i) a F4394: 'Notice of Suspension or Disqualification' has not been given to the person; and

(ii) that person's driver licence is later suspended under s. 79B of the TO(RUM)A when the person is charged with a s. 79B(1) offence;

the F4394 (available from Supply Services and in QPRIME) should be given only for the suspension under s. 79B(6) of the TO(RUM)A.

Prior to an officer charging a person under ss. 79(2), (2AA), (2A), (2B), (2J), (2K) or (2L) of the TO(RUM)A, the officer is to ensure inquiries are made to determine if the person has:

(i) been previously charged with another ss. 79(2), (2AA), (2A), (2B), (2J) (2K) or (2L) offence that has not been dealt with by a court, or withdrawn or otherwise discontinued; or

(ii) committed the ss. 79(2), (2AA), (2A), (2B), (2J), (2K) or (2L) offence after a replacement licence under s. 79F had been issued and whilst a s. 79E order applied to the person.

(See Appendix 7.1: 'Drink and drug driving flowchart' of this chapter.)

ORDER

Officers who charge a person with a drink or drug driving offence to which s. 79B: 'Immediate suspension or disqualification' of the TO(RUM)A applies are to ensure:

(i) prior to the release of the subject person from custody, a copy of the F4394 is served and explained to the subject person;

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(ii) the service details on the F4394 are completed;

(iii) prior to the completion of the officer's shift:

(a) a QPRIME occurrence is created;

(b) a flag is created against the person in QPRIME indicating the immediate suspension/disqualification;

(c) a task is sent to Policelink operations (Org Unit [1227]), requesting the TRAILS traffic history be updated; and

(iv) a copy of the F4394 with service details is attached to the prosecution copy of the Court Brief (QP9).

If the F4934 was:

(i) completed in QPRIME, after serving the form on the person, the service details and electronic signature are to be completed; or

(ii) not completed within QPRIME, a copy of the signed form is to be scanned into the relevant occurrence.

Application by a person to lift their immediate suspension

A person whose Queensland driver licence is suspended under s. 79B(2) of the TO(RUM)A can apply, if eligible, to a court under s. 79E: 'Court may allow particular person whose licence is suspended under s. 79B to drive' of the TO(RUM)A to have the suspension lifted.

The suspension of such a person's Queensland driver licence ends when the first of the following happens:

(i) a replacement licence is issued to the person under s. 79F of the TO(RUM)A; or

(ii) the charge is dealt with by a court or is withdrawn or otherwise discontinued.

Prosecutor's responsibility, s. 79B(1) offences

The suspension or disqualification under s. 79B(2), (3) or (4) of the TO(RUM)A ends when:

(i) the charge is dealt with by a court or is withdrawn or otherwise discontinued; or

(ii) the court issues an order under s. 79E of the TO(RUM)A, to conditionally authorise the person to continue to drive a motor vehicle.

ORDER

The prosecutor in a proceeding for a s. 79B(1) of the TO(RUM)A offence that:

(i) has been dismissed by the court in any way; or

(ii) is withdrawn; or

(iii) is otherwise discontinued;

prior to the completion of their shift, is to:

(i) update QPRIME; and

(ii) expire the flag on the person's record.

As soon as reasonably practicable thereafter, the relevant prosecutor is to ensure that a QPRIME task is sent to Policelink operations (Org Unit [1227]), requesting the TRAILS traffic history be updated.

Breaching an immediate suspension or disqualification under s. 79B

The following information will appear on the TRAILS traffic history of a person that has been immediately suspended or disqualified under the provisions of s. 79B of the TO(RUM)A:

(i) immediate suspension: 'SUSP—IMSU';

(ii) immediate suspension of a person's authority to drive under a non-Queensland driver licence: 'SUSP—IMWA';

(iii) immediate disqualification: 'DISQ—IMDA'.

An officer who suspects a person of driving a motor vehicle whilst their driver licence has been immediately suspended, or the person is disqualified from obtaining or holding a Queensland driver licence under the provisions of s. 79B of the TO(RUM)A, is to:

(i) make inquiries of the relevant QPRIME occurrence, relevant prosecutions office or court house to determine if the immediate suspension or disqualification has ended. (Note: the suspension or disqualification has ended if the relevant offence has been dealt with by a court, is withdrawn or otherwise discontinued); and

(ii) investigate the incident with a view to commencing a proceeding (see s. 78: 'Driving of motor vehicle without a driver licence prohibited' of the TO(RUM)A).

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7.11.1 Eight Hour Prohibition from riding a Bicycle, EPAC or PMD

Section 80(22AC): 'Application of subsection (22AD)' and 80(22AD): 'Prohibition from riding bicycle or personal mobility device' of the TO(RUM)A provides that a person is prohibited from riding a bicycle or personal mobility device for a period of 8 hours from when a person has been required to provide a specimen of breath or saliva for analysis or a specimen of blood for a laboratory test.

ORDER

Officers who require a specimen of breath or saliva for analysis or a specimen of blood for a laboratory test, in accordance with s. 80(22AE): 'Police officer to give notice of prohibition' of the TO(RUM)A, are to sign and deliver to the subject person a copy of a F 4394: 'Notice of Suspension, Disqualification or Prohibition' (available in QPRIME, Form Select and from Supply Services) stating that the person is prohibited from riding a bicycle or personal mobility device for a period of 8 hours from the time:

(i) of the breath analysis;

(ii) of the saliva analysis on a saliva analysing instrument;

(iii) fails to provide the specimen as prescribed under s. 80(8) to (8L) of the TO(RUM)A;

(iv) fails to provide the specimen as prescribed under s. 80(9) of the TO(RUM)A;

(v) arrested for an offence under s. 79(7A) of the TO(RUM)A but had not been required by a police officer to provide a specimen of breath for analysis or a specimen of blood for a laboratory test under ss. 80(8): 'Particular persons under arrest or detained may be required to provide specimen' or 80(8C): 'Police officer may require specimen if person at hospital' of the TO(RUM)A because:

(a) the person was violent;

(b) of the external signs exhibited by the person, the police officer reasonably believed the person was so affected by alcohol or a drug as to be unable to provide the specimen; or

(c) of the remoteness of the area;

(vi) a person who is required by a police officer under a relevant provision to provide a specimen of the person's blood for a laboratory test permits a specimen of the person's blood to be taken for that purpose and the police officer then requires the person to provide a specimen of breath for a breath test, or saliva for a saliva test, by the officer, and:

(a) is over the general alcohol limit;

(b) has a relevant drug present in their saliva; or

(c) the person fails to provide a specimen of breath or saliva;

(vii) Where a blood specimen has been taken pursuant to s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A and the person has not been charged, a person's driver licence may be prohibited from riding for 8 hours if the doctor or nurse taking the blood specimen issues a QP 1025: 'Proper case for 24 hours suspension certificate' (available in the PT 61A: 'Blood Specimen Certificate' book).

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When serving the F 4394 to a person officers should explain that the 8 hour prohibition is a temporary prohibition on riding a bicycle, EPAC and PMD and does not suspend or disqualify the person's driver licence.

Officers who have delivered a copy of the F 4394 to a person are to:

(i) complete the service details on the form;

(ii) prior to the completion of the officer's shift, create a QPRIME occurrence and ensure a flag is created against the person in QPRIME indicating the person is subject to an 8 hour prohibition from riding;

(iii) ensure a copy of the served F 4394: 'Notice of Suspension, Disqualification or Prohibition' is uploaded to the QPRIME occurrence; and

(iii) attach a copy of the form to the prosecution copy of the Court Brief (QP9).

If the F 4934 was:

(i) completed in QPRIME, after serving the form on the person, the service details and electronic signature are to be completed; or

(ii) not completed within QPRIME, a copy of the signed form is to be scanned into the relevant occurrence.

See also s. 7.11: 'Immediate suspension or disqualification of high risk drink and drug drivers' of this chapter.

Breaching an 8 hour prohibition

An '8 hour PMD/EPAC/Bicycle riding prohibition' flag will be created in QPRIME for the 8 hour period.

Where an officer suspects a person is riding in contravention of a prohibition imposed under s. 80(22AD) of the TO(RUM)A, the officer is to make inquiries of the relevant QPRIME occurrence and investigate the incident with a view to commencing a proceeding.

7.12 Breath and saliva analysing instrument operators

7.12.1 Operators' authority

An officer is to only perform duties as a breath or saliva analysing instrument operator where:

(i) they are the holder of a current relevant instrument of authority to operate a breath or saliva analysing instrument; and

(ii) their authority to operate a breath or saliva analysing instrument has not been withdrawn.

A superintendent or above can authorise breath and saliva analysing instrument operators as being competent to operate the relevant instrument (see Delegation D 25.3 and s. 80(8G): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A).

An approved instructor is a member who holds a current approval from the Officer in Charge, Specialist Programs, Road Policing Group (OICSPRPG), RPG. To train authorised breath analysing instrument operators, approved instructors are to have:

(i) a current breath operator qualification; and

(ii) successfully completed Ignite course code QC1611.

At the completion of each instructor's training course, the OICSPRPG is to approve successful participants as approved instructors. RPG is responsible for all training and approval of instructors.

7.12.2 Training of operators

Breath and saliva analysing instruments

The relevant education and training office, Recruiting and Development Command (see ETO Network SharePoint page) is responsible for:

(i) coordinating the delivery of courses in the operation of breath and saliva analysing instruments;

(ii) maintaining records of training courses conducted and authorised operators;

(iii) recommending to the authorised delegate (see Delegation D 25.3) an officer who has successfully completed training in the operation of a breath or saliva analysing instrument, is competent to operate a breath or saliva analysing instrument and should be authorised to operate a breath or saliva analysing instrument; and

(iv) organising courses in the training of instructors for breath and saliva analysing operators.

Reporting the outcome of training courses

Members conducting training courses in the operation of a breath or saliva analysing instrument should furnish a report, to the relevant superintendent (district or group).

The report should contain the:

(i) name of the members responsible for conducting the course;

(ii) type of instrument subject of the training;

(iii) start and finish dates of the course;

(iv) type of instruction given;

(v) type of assessment made of participants; and

(vi) full name, rank, registered number and station or establishment of participants who were successful at the course, and who as a result of the course are to be recommended to the Commissioner's delegate to be authorised as operators.

7.12.3 Operator's responsibility

ORDER

Operators are to operate breath and saliva analysing instruments strictly in accordance with their training.

Unless otherwise directed by the OIC, the senior operator at a station where a breath or saliva analysing instrument is allocated, should:

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(i) be responsible for the care and servicing of that breath or saliva analysing instrument, ensuring that it is properly maintained in accordance with the operator's training manual and that the room in which it is housed is kept in a clean and tidy condition; and

(ii) maintain an adequate supply of consumables for the breath or saliva analysing instrument(s).

7.12.4 Withdrawal of operator's Instrument of Authority

Generally, it is a requirement that officers authorised as breath or saliva analysis instrument operators will continue to undertake duties as operators regardless of their station or establishment. However, there may be circumstances where the officer cannot perform such duties due to transfer, promotion, ill health etc. In these cases, officers should make application to have their 'Instrument of Authority to Operate a Breath or Saliva Analysing Instrument' withdrawn.

Officers who can no longer perform duties as a breath or saliva analysis instrument operator should complete a report with the reasons for no longer continuing as an operator and forward it through the chain of command, to their relevant superintendent for consideration of approval.

The superintendent should forward written advice to the applicant officer that the instrument of authority has or has not been withdrawn. On withdrawal, the officer ceases to be an authorised breath or saliva analysis instrument operator.

7.13 Random breath and saliva testing

Random roadside drug driving testing is commonly referred to as random saliva testing (RST). Random breath testing (RBT) and RST operations maximise the public perception that there is a high risk that drivers and riders affected by liquor or drugs will be apprehended by police thereby deterring the incidence of such activity.

RBT and RST are to be conducted by officers as an integral part of the Queensland Police Service campaign against road trauma.

Drivers or riders of vehicles intercepted at RBT and RST interception sites or as a result of other traffic enforcement activities should be required to provide a specimen of breath for a breath test and, where available and authorised, a specimen of saliva for a saliva test.

7.13.1 Authority to conduct random breath testing and random saliva testing

Officers may require the person in control of a vehicle, other than a train or aircraft, to stop the vehicle for the purpose of conducting breath tests or saliva tests, as authorised under s. 60: 'Stopping vehicles for prescribed purposes' of the *Police Powers and Responsibilities Act* (PPRA).

7.13.2 Site selection

Officers in command of random breath or saliva testing interception sites should comply with the provisions of Chapter 3: 'Interception by police' of this Manual. When targeting eMobility devices officers in command of random breath should also comply with the provisions of s. 10.3: 'Interception of eMobility devices' of this Manual.

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7.14 Statistical returns and calibration for breath analyses and breath tests

7.14.1 Statistical returns for breath tests

ORDER

OICs of stations/establishments where roadside breath testing devices are located are to ensure the statistical data on the roadside breath testing devices is downloaded weekly or more regularly as required during specified periods.

OICs of stations/establishments are to ensure that:

(i) the statistical data is downloaded using the dedicated computer program;

(ii) if a breath testing device is not used during the previous week, a 'Training' test is to be conducted prior to downloading the stored data at the end of the week;

(iii) prior to forwarding a device to the QPS Calibration Laboratory for routine servicing or repairs, if possible, the statistical data of the device is to be downloaded using the dedicated computer program; and

(iv) if required for administrative or operational reasons, statistical data regarding the use of breath testing devices is downloaded daily.

The downloading procedures for roadside breath testing devices are published on the RPG SharePoint page.

7.14.2 Biannual Calibration of roadside breath testing devices

ORDER

OICs of stations/establishments where roadside breath testing devices are located are to ensure the biannual calibration of devices.

OICs of stations/establishments are to ensure that:

(i) Roadside breath testing devices are calibrated on a biannual basis, using dry gas 'in field' calibration where available;

(ii) Where a roadside breath testing device is unable to be calibrated using dry gas 'in field' calibration, then it is to be returned to the Calibration Laboratory, RPG; and

(iii) prior to forwarding a device to the Calibration Laboratory, RPG for calibration, routine servicing or repairs, if possible, the statistical data of the device is to be downloaded using the dedicated computer program.

7.15 Breath or saliva analysing instrument not to be produced in court

Officers are not to produce to a court a breath or saliva analysing instrument unless ordered by a court.

Officers who have been ordered by a court to produce to the court a breath or saliva analysing instrument should advise the Officer in Charge, Specialist Programs, Road Policing Group and the OIC QPS Calibration Laboratory.

7.16 Servicing of breath or saliva analysing instruments

OICs of stations/establishments where breath analysing instruments are located should, when any such instrument requires repair or memory downloading, send advice to the QPS Calibration Laboratory.

The advice should include:

(i) the station/establishment where the breath or saliva analysing instrument is located;

(ii) the serial number of the breath or saliva analysing instrument; and

(iii) the type of action requested regarding the breath or saliva analysing instrument and if the breath or saliva analysing instrument has malfunctioned, a description of the fault.

The OIC of the QPS Calibration Laboratory should make all necessary arrangements for the routine servicing, repair or memory downloading of Service breath analysing instruments.

The Officer in Charge, Specialist Programs, Road Policing Group should make all necessary arrangements for the routine servicing, repair or memory downloading of Service saliva analysing instruments.

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7.17 Arrest—no breath test

An officer may arrest a person for an offence against s. 79(1): 'Vehicle offences involving liquor or other drugs' of the TO(RUM)A or s. 79(7A): 'Offence of riding etc. bicycle or personal mobility device while under the influence' of the TO(RUM)A based solely on the officer's observations (see Appendix 7.3: 'Observation sheet' of this chapter) of the person (indicia alone). The officer must have formed an opinion that the person was under the influence of liquor or a drug prior to requiring the person to provide a specimen of breath for analysis or a specimen of blood for a laboratory test (see s. 80(8): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A).

Where an analysis of breath or blood is conducted to determine the person's alcohol concentration, despite the provisions of s. 79(4) of the TO(RUM)A, if the result shows the subject person had an alcohol concentration which:

(i) is over the high alcohol limit, the officer should continue the prosecution;

(ii) is over the no alcohol limit, general alcohol limit or middle alcohol limit as applicable but is not over the high alcohol limit, the officer should consider whether:

(a) sufficient evidence to continue the original prosecution is available (see ss. 3.4.3: 'Factors to consider when deciding to prosecute' and 3.4.4: 'Withdrawal of charges' of the OPM); and

(b) if the original prosecution is not to be continued, a proceeding for any offence relating to the breath or blood alcohol concentration found in the subject person should be commenced.

Where an analysis of blood is conducted to determine the concentration of drugs in the person's blood, if the result of the analysis together with the opinion of a doctor (see s. 7.5.6: 'Certificate of analysis—blood' of this chapter) does not indicate that the subject person was under the influence of a drug, officers should consider whether sufficient evidence to continue the original prosecution is available (see ss. 3.4.3: 'Factors to consider when deciding to prosecute' and 3.4.4: 'Withdrawal of charges' of the OPM).

ORDER

When persons are suspected of committing an offence under ss. 79(7) or 79(7A) of the TO(RUM)A (such as a person riding a bicycle or a horse whilst under the influence of liquor or a drug) no authority exists to require that such persons provide a specimen of breath for a breath test. However following the arrest of such persons a requirement may lawfully be made for the subject persons to provide a specimen of breath for analysis or a specimen of blood for a laboratory test.

Where a person has been arrested for an offence under ss. 79(7) or 79(7A) of the TO(RUM)A and upon requirement made and direction given that person fails to provide a specimen of breath for analysis or a specimen of blood for a laboratory test, no charge should be preferred against that person for the offence under s. 80(11) of the TO(RUM)A.

7.18 Exculpatory provisions (defences)

Persons charged with offences under the provisions of s. 79: 'Vehicle offences involving liquor or other drugs' and s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A may have available to them a number of defence provisions which may exculpate them. However there are a number of provisions which are specifically provided for within the TO(RUM)A.

7.18.1 The Criminal Code

Section 79(12): 'Vehicle offences involving liquor or other drugs' of the TO(RUM)A provides that s. 24: 'Mistake of Fact' of the CC does not apply to an offence under s. 79 of the TO(RUM)A.

7.18.2 Persons in charge of motor vehicles

Officers should be aware that s. 79(6): 'Vehicle offences involving liquor or other drugs' of the TO(RUM)A, which relates to offences committed whilst being in charge of motor vehicles, provides that:

> 'If on the hearing of a complaint of an offence against subsection (1)(c), (1F)(c), (2)(c), (2AA)(c), (2B)(c), (2J)(c), (2K)(c) or (2L)(c) in respect of a motor vehicle the court is satisfied beyond reasonable doubt by evidence on oath that at the material time—
>
> (a) the defendant—
>
> (i) by occupying a compartment of the motor vehicle in respect of which the offence is charged other than the compartment containing the driving seat of that motor vehicle; or
>
> (ii) not being in that motor vehicle, by some action;
>
> had manifested an intention of refraining from driving that motor vehicle whilst the defendant was under the influence of liquor or a drug, as the case may be, whilst the defendant was over the general alcohol limit or, if at the material time the defendant was a person to whom subsection (2A), (2B), (2J), (2K) or (2L) referred, the defendant was over the no alcohol limit; and
>
> (b) the defendant—
>
> (i) was not under the influence of liquor or a drug to such an extent; or as the case may be;
>
> (ii) was not, by virtue of the concentration of alcohol in the defendant's blood or breath influenced thereby to such an extent;
>
> as to be incapable of understanding what the defendant was doing or as to be incapable of forming the intention referred to in paragraph (a); and
>
> (c) the motor vehicle in respect of which the offence is charged was parked in such a manner as not to constitute a source of danger to other persons or other traffic; and
>
> (d) the defendant had not previously been convicted of an offence under subsection (1), (1F), (2), (2AA), (2B), (2D), (2J), (2K) or (2L) within a period of 1 year prior to the date in respect of which the defendant is charged;
>
> the court shall not convict the defendant of the offence charged.'

7.19 Presence of legal representatives during blood sampling, breath or saliva analysis tests

Where a legal representative is in the company of a person required to provide a specimen of breath or saliva for analysis or a specimen of blood for a laboratory test, the legal representative may be permitted to remain for the duration of the procedure.

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When a request is made for the services of a legal representative by a person who is at a police station or authorised place for the purpose of providing a specimen of breath or saliva for analysis or a specimen of blood for a laboratory test under the provisions of the TO(RUM)A, the provisions of ss. 3.18: 'Judges Rules' and 3.20: 'Whereabouts of persons being interviewed to be disclosed' of the Digital Electronic Recording of Interviews and Evidence Manual apply.

Normal procedures for obtaining a specimen of breath or saliva for analysis or a specimen of blood for a laboratory test are to be followed and no delays should occur simply because the subject person's legal representative has not arrived.

The investigating officer should ensure that a legal representative is aware of the mandatory requirements placed on the subject person by the provisions of the TO(RUM)A.

Where the operator is of the opinion that a legal representative is hindering or obstructing the process, such operator should advise the legal representative that any continued hindrance or obstruction may result in the legal representative's removal.

Where a specimen of blood is to be required and the investigating officer is of the opinion that a legal representative is hindering or obstructing a health care professional who is to take the specimen of blood and/or urine, the officer making the requirement should advise the legal representative that any continued hindrance or obstruction may result in the legal representative's removal and prosecution under s. 80A: 'Obstructing the taking of a blood specimen' of the TO(RUM)A.

If at a hospital, officers have no right to remove a legal representative from an examination room, cubicle, etc., such right is vested in the hospital staff of the particular hospital. Likewise when in a doctor's surgery, the doctor or the staff at that doctor's surgery has that right.

7.20 Private medical examination

Where a person has been arrested for an offence against ss. 79: 'Vehicle offences involving liquor or other drugs' or 80: 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A and the person requests a private medical examination, a doctor of the subject person's choice should be permitted to examine the person in cases where the person is to be detained in custody.

See s. 16.12.10: 'Requests by prisoners or legal representatives for attendance of doctor at watch-house' of the OPM.

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7.21 Analysis challenged by defence

In accordance with s. 80(26): 'Breath and saliva tests, and analysis and laboratory tests' of the TO(RUM)A, a defendant may give notice in writing to the complainant or arresting officer where that defendant proposes to lead evidence to prove that the:

(i) breath analysing instrument was defective or not properly operated;

(ii) result of a laboratory test of a specimen of blood or saliva was not a correct result; or

(iii) signature or other matter in a certificate issued by a:

(a) health care professional;

(b) authorised police officer; or

(c) analyst,

was not correct.

When officers are served with any such notice they should notify the prosecutor responsible for the case. When notice is received in relation to a breath analysis matter, the prosecutor responsible for the case should notify and liaise with the Officer in Charge, Specialist Programs, Road Policing Group as soon as possible regarding the matter/s outlined in the notice so that any required expert witnesses may be called to give evidence.

7.22 Observing the subject person and noting of indicia relating to the consumption of liquor/drugs

Observed indicia associated with, and resulting from, the consumption of liquor and/or drugs may, in some circumstances, be explained by a subject person. However without any explanation and subject to acceptance by a court, evidence of indicia alone may be sufficient to prove that a subject person was under the influence of liquor and/or drugs. Officers should observe a subject person to form an opinion as to whether or not that person is under the influence of liquor and/or a drug. Observations should include:

(i) manner of driving:

(a) observe the subject person's manner of driving; and

(b) if it is necessary for police to drive the subject person's vehicle, note the vehicles performance compared to that when driven by the subject (e.g., steering, road handling);

(ii) physical appearance and condition:

(a) demeanour before and after arrest;

(b) appearance before and after arrest;

(c) state of dress (whether tidy or untidy, vomit on clothing, buttons undone or wrongly fastened);

(d) eyes (whether bloodshot, watery, glassy, pupils dilated or pin pointed, or nystagmus which is where eyes are seen to move more or less in a rhythmical manner either from side to side or up and down from a point of fixation);

(e) face—flushed, pallid, otherwise abnormal;

(f) hair—untidy or tidy;

(g) smell of liquor on breath and/or clothing; and

(h) excessive salivation on mouth;

(iii) behaviour—talkative, abusive, insolent, excited, sullen, cooperative, uncooperative, lively, aggressive, hostile, sleepy;

(iv) speech—slurred, grossly mispronounced, thick, etc.;

(v) coordination swaying, manner of walking, need for support etc.;

(vi) memory: can the subject person remember:

(a) the date and day of the week;

(b) place of residence; and

(c) movements prior to interception by police;

(vii) handwriting—if possible, obtain a specimen of the subject person's handwriting for comparison purposes; and

(viii) health:

(a) has the subject person recently:

- suffered any injury or illness;
- received medical treatment and if so what treatment was received, when, where and by whom. Has the subject person taken any medicine and if so, what type, how long since last dose, quantities taken; and
- received dental treatment; and

(b) is the subject person a diabetic and if so, what medication has been administered. How long since the subject person's last dose;

(ix) conduct at watch-house and at any other time including at court—has the subject person's conduct changed when compared to prior conduct; and

(x) in cases where a specimen of blood for a laboratory test is taken by a doctor or when a doctor present, seek the doctor's opinion.

Questioning of the subject person should include:

(i) consumption of liquor/drugs;

(ii) where was the liquor/drugs consumed;

(iii) type of liquor/drugs consumed;

(iv) size of drinks;

(v) quantity consumed;

(vi) times of first and last drink;

(vii) meals taken and time of last meal;

(viii) has the subject person been exposed to any chemicals;

(ix) what explanation has the subject person for the manner of driving and all of the indicia observed; and

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(x) has the subject person been involved in a traffic crash, and if so, what liquor/drugs has the subject consumed before and after the traffic crash.

A subject person suffering from a medical condition such as brain injury, skull fracture, concussion, other head injury, low blood pressure, shock, diabetes, epilepsy and other pathological conditions may exhibit similar symptoms to a person under the influence of liquor and/or a drug.

A checklist of indicia associated with the consumption of liquor is contained in Appendix 7.3: 'Observation sheet' of this chapter.

7.23 Children

Questioning of children in relation to drink driving should be done in the presence of an independent adult (see s. 7.4.2: 'The breath analysis' of this chapter).

See ss. 1.9: 'Powers of arrest' and 1.7: 'General prosecution policy for traffic related offences' of this Manual and Chapter 5: 'Children' of the OPM.

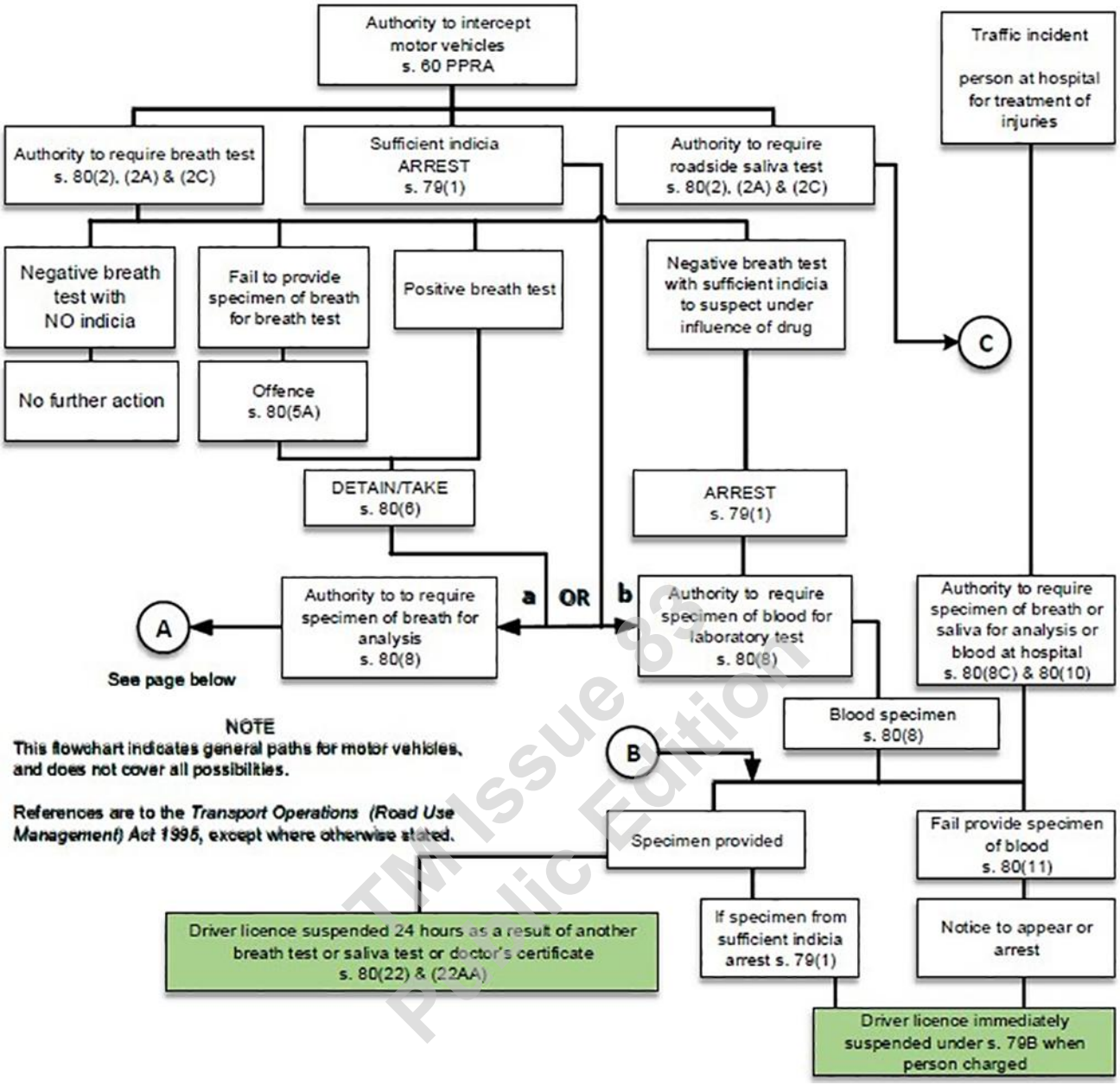
7.24 Diplomatic and consular immunity

See s. 14.4: 'Diplomatic immunity and consular immunity for traffic offences' of this Manual and s. 11.8: 'Diplomatic Privileges and Immunities Act' of the OPM.

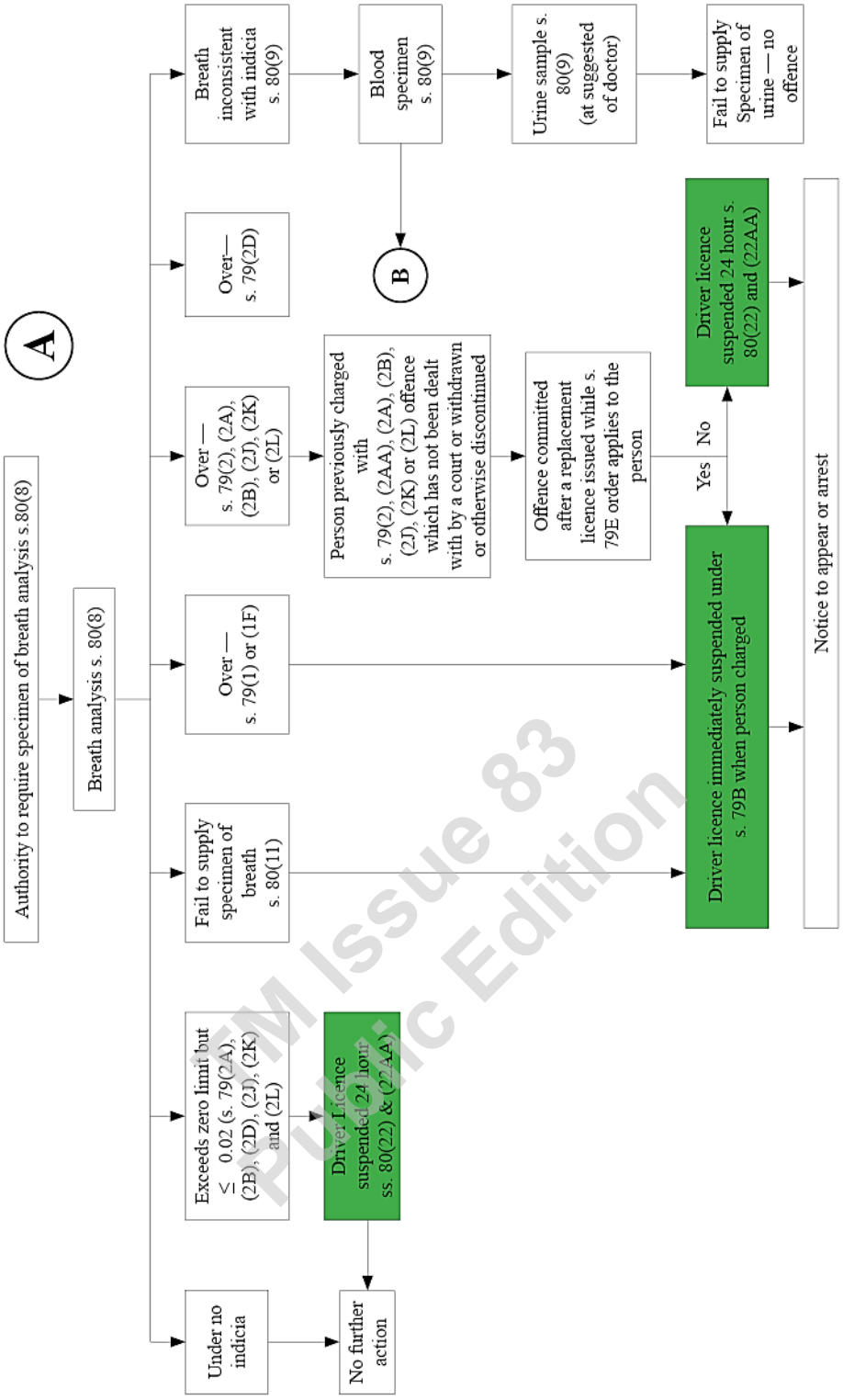
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Appendix 7.1 Drink and drug driving flowchart

(s. 7.11)



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Section 79(1): Under the influence of liquor or a drug;

Section 79(1F): Over middle alcohol limit of 0.10% BAC but not over the high alcohol limit;

Section 79(2): General alcohol limit of 0.05% BAC but not over the middle alcohol limit;

Section 79(2AA): Relevant drug present in blood or saliva;

Section 79(2A): Holder of learner, or probationary, provisional or not the holder of a licence, is over no alcohol limit but not over the general alcohol limit;

Section 79(2B): Over no alcohol limit but not over general alcohol limit re specified vehicles (refer s. 79(2C));

Section 79(2D): Over no alcohol limit but not over general alcohol limit re tram, train or a vessel (refer s. 79(2E));

Section 79(2J): Restricted licence, or replacement licence under s. 79F, over no alcohol limit, but not over general alcohol limit.;

Section 79(2K): Over no alcohol limit but not over general alcohol limit re class RE licence, unless the person has held a valid class RE licence for a period of 1 year during the previous 5 year period (refer s. 79(2M));

Section 79(2L): Over no alcohol limit but not over general alcohol limit re class RE licence if learning to ride a class R motorbike (refer s. 79(2M));

A replacement licence is a form of licence that is the same kind, class or description as the licence suspended under s. 79B except for the inclusion of the X4 code (see s. 79F);

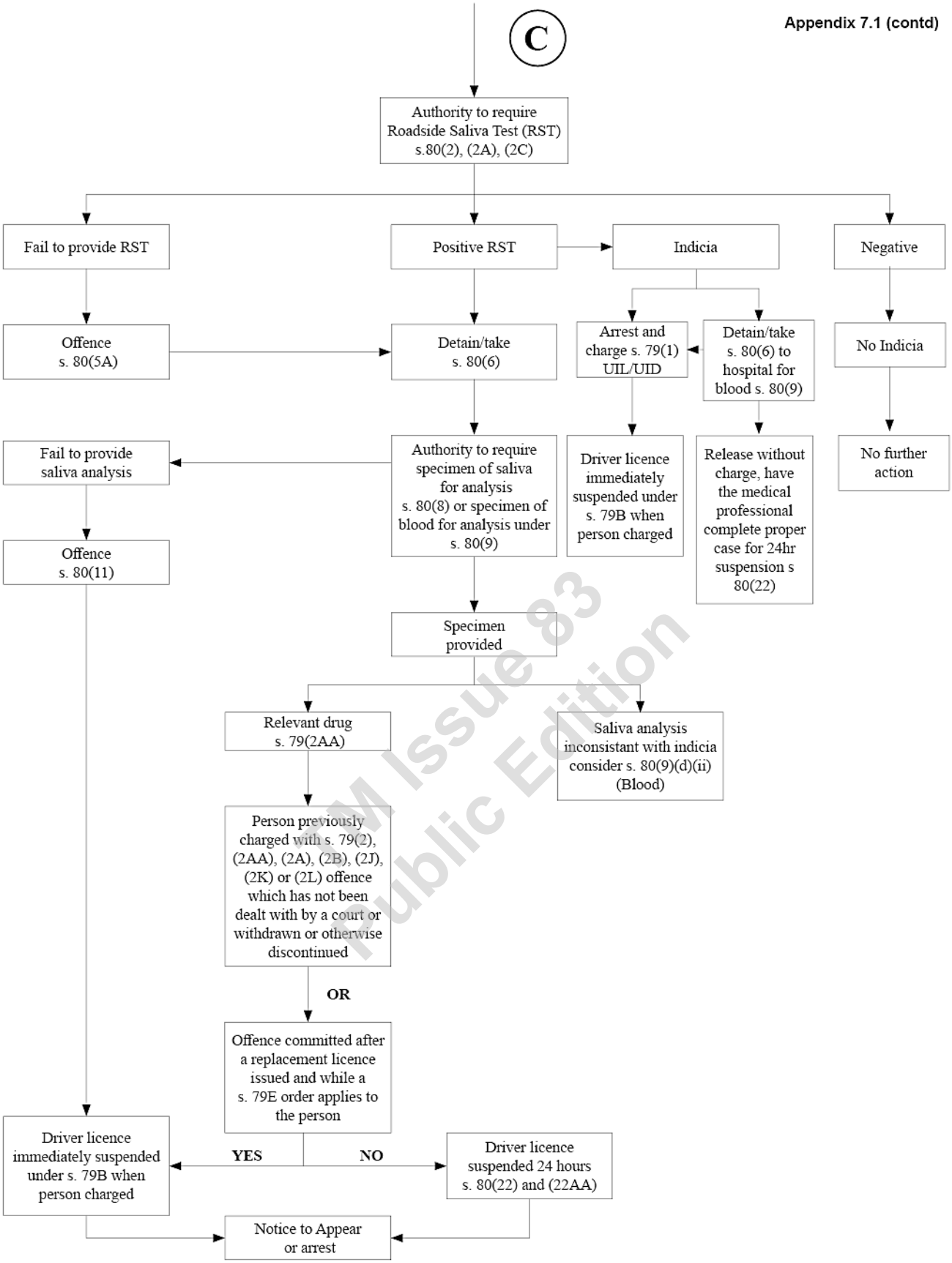
A section 79E order is a court order allowing a particular person whose Queensland driver licence is suspended under s. 79B(2) to drive (see s. 79E).

If a person does not hold a driver licence and s. 79B(1) applies, the person is immediately disqualified from obtaining or holding a Queensland driver licence when charged.

If person is charged under the CC s. 328A(1) or (4) with dangerous operation of a motor vehicle, when accompanied by the circumstance of aggravation that at the time of committing the offence the person was adversely affected by an intoxicating substance, the person's driver licence is immediately suspended in accordance with s. 79B(1)(d).

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Appendix 7.1 (contd)



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Appendix 7.2 Deleted

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Appendix 7.3 Observation sheet

(ss. 7.15, 7.22)

BREATH: Smell of intoxicating liquor
☐ Nil ☐ Slight ☐ Strong

FACE COLOUR: ☐ Flushed ☐ Pale ☐ Other:

SKIN: ☐ Pale ☐ Needle marks ☐ Ulcers ☐ Abcesses
☐ Excessive perspiration ☐ Other:

CLOTHING: ☐ Orderly ☐ Soiled ☐ Disarranged ☐ Other:

ATTITUDE: ☐ Co-operative ☐ Talkative ☐ Anxious ☐ Dreamy
☐ Excited ☐ Relaxed ☐ Indifferent ☐ Sedated
☐ Hallucinating ☐ Hostile ☐ Irritable ☐ Cocky
☐ Antagonistic ☐ Depressed ☐ Unable to follow instructions
☐ Other:

ACTIONS: ☐ Swearing ☐ Hiccuping ☐ Belching ☐ Vomiting
☐ Fighting ☐ Drooling ☐ Restless ☐ Runny nose
☐ Itching ☐ Constant scratching
☐ Loss of emotional control ☐ Other:

EYES: ☐ Watery ☐ Glazed ☐ Bloodshot ☐ Nystagmus
☐ Pupils enlarged ☐ Pinpoint ☐ Eyelids drooping
☐ Reaction to light ☐ Other:

BREATHING: ☐ Normal ☐ Short ☐ Jerky ☐ Rapid
☐ Slow ☐ Shallow ☐ Slow ☐ Other:

SPEECH: ☐ Incoherent ☐ Clear ☐ Slurred ☐ Confused
☐ Fast ☐ Slow ☐ Other

BALANCE: ☐ Unsteady ☐ Swaying ☐ Sagging ☐ Falling
☐ Staggering ☐ Other:

MOVEMENTS: Manner of walking: ☐ Need for support ☐ Jerky
Overall performance of actions:
☐ Clumsy ☐ Sluggish ☐ Tremor ☐ Other:

OPINION (based on observations as to insobriety):
☐ Slightly ☐ Moderately ☐ Well affected
Due to: ☐ Liquor and/or ☐ Drug

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8.1 Deleted

8.2 Infringement notice

An infringement notice is a notice under the *State Penalties Enforcement Act* which offers the person to whom it is issued an opportunity to have the offence alleged in the notice dealt with without having to appear at court by paying an amount specified in the notice.

An infringement notice fine is the amount specified as payable in relation to the offence for which it was issued.

The Service is responsible for the issue of infringement notices to persons committing traffic offences, other transport Acts offences and specific offences under other Acts.

Definition

For the purpose of this chapter, unless otherwise described 'infringement notice' includes a PT 56: 'Infringement notice' and a QNotices infringement notice.

ORDER

OICs of stations and establishments are responsible for the safe keeping, issue and accountability of personally issued infringement notice books to members of the Service under their control.

Infringement notices are accountable forms. Officers are responsible for the safekeeping of infringement notice books issued to them.

8.3 Offences for which infringement notices may be issued

In accordance with Part 3 Division 1: 'Service of infringement notices' of the *State Penalties Enforcement Act*, infringement notices may be issued for offences outlined in the State Penalties Enforcement Regulation (SPE Regulation).

Offences committed by children are dealt with differently (see s. 8.6.1: 'Infringement notice issued to a child (person under age of 18 years)' of this chapter).

An officer may issue an infringement notice to a person for an offence:

(i) which is outlined in the SPE Regulation; and

(ii) for which the Service has published an infringement notice code (see Operational Policy and Improvement SharePoint page or the OPStore SharePoint page),

subject to other Service policy to the contrary or advice from the Superintendent, Road Policing Group (see s. 8.12: 'Suspension of the use of infringement notices for specific offences' of this chapter).

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8.3.1 Issuing infringement notices for careless driving of motor vehicles

An officer may issue an infringement notice to a person for an offence under s. 83(1)(c): 'Careless driving of motor vehicles' of the TO(RUM)A.

Officers may issue an infringement notice for the offence of careless driving where:

(i) the issuing complies with:

(a) s. 5.7.1: 'Issuing of infringement notices for traffic crash investigations';

(b) s. 8.6.1: 'Infringement notice issued to a child (person under age of 18 years)'; and

(c) s. 8.6.2: 'Infringement notices not issued where other offences detected not able to be issued with infringement notice',

of this Manual;

(ii) the person has no previous convictions for similar offences in the last 5 years (e.g. careless driving, dangerous operation of a vehicle);

(iii) they reasonably believe that upon conviction for the offence the manner of driving will not render the person liable to disqualification by a court order; and

(iv) the offence was not committed during the operational period of a suspended term of imprisonment (determined by reviewing the person's criminal history report).

8.4 Infringement notice system

Infringement notices are issued under the provisions of the State Penalties Enforcement Act. This process places an onus on alleged offenders to inform the relevant authorities if an offence will be contested in a magistrates court and provides avenues for the enforcement of infringement notice fines.

8.4.1 The role of each department

The Offence Processing Department, Queensland Revenue Office (QRO) is the data collection agency and payment receipt authority for infringement notices. The QRO will refer a notice to the State Penalties Enforcement Registry (SPER) approximately 28 days after the issue of the infringement notice.

SPER will issue an Enforcement Order requiring the payment of the infringement notice fine and include an additional fee. QRO is responsible for securing payment of the infringement notice fine up to and including the issue of a warrant by registrar of SPER.

8.4.2 The options open to the recipient of an infringement notice

After receiving an infringement notice an alleged offender may:

(i) pay the infringement notice fine;

(ii) complete a statutory declaration in relation to the infringement notice;

(iii) lodge a complaint in writing to the OIC of the issuing officer (see s. 8.10: 'Complaints concerning the issue of infringement notices' of this Manual).

(iv) make a voluntary instalment plan application;

(v) elect in writing to have the matter determined in a Magistrates Court; or

(vi) take no action, which will result in referral to SPER.

8.4.3 Payment of infringement notice penalties received by mail

ORDER

OICs of stations and establishments who receive payments for infringement notice fines by mail are to:

(i) check QPRIME to establish the status of that infringement notice; and

(ii) return payment to the alleged offender, of the penalty associated with an infringement notice where the status is:

(a) Notice Issued, with a letter stating that payment cannot be accepted by the Service and advising the alleged offender to make the payment to the QRO; or

(b) SPER or SPER Finalised, with a letter stating that payment cannot be accepted by the Service and advising the alleged offender to make the payment to SPER directly.

Payments by cash or cheques made payable to the Service which are to be returned to the alleged offender are to be banked in accordance with local arrangements and a refund cheque is to be issued for the amount received from the alleged offender.

Payments by cheques made payable to the QRO or cheques which cannot be banked to the Queensland Police Service Collections Bank Account and which are to be returned to the alleged offender are to be dealt with as irregular in accordance with s. 4.6.2: 'Receipting Practice' of the Financial Management Practice Manual.

To ensure the recipient has adequate time to redirect their payment to the QRO and prevent the infringement notice from being referred to SPER, the payment due date of the infringement notice is to be extended by an additional 28 days. This extension should be processed in TRAILS at a designated TRAILS adjudication point.

8.4.4 Transport offence titles, codes and penalties

A current list of transport offence titles, codes and penalties for traffic and transport offences outlined in the State Penalties Enforcement Regulation is available:

(i) on the 'Operational support' webpage on the Service Intranet; and

(ii) in PDF format through the QPS OPStore.

The Superintendent, Road Policing Group is responsible for the maintenance of 'Infringement notice offence codes and penalties'.

Officers are to use the current transport offence titles, codes and penalties when issuing infringement notices.

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8.5 Lost or misplaced PT 56: 'Infringement notices'

Action by officers to whom PT 56: 'Infringement notices' are on issue

When PT 56: 'Infringement notices' on issue to officers are lost, stolen or damaged, officers should, at the first available opportunity, furnish a report to their OIC outlining the circumstances under which the loss, theft or damage occurred, and in the case of:

(i) a damaged notice, attach all available copies of the notices; or

(ii) in the case of a lost or stolen notice, furnish an occurrence report in QPRIME.

Action by officer in charge

OICs, who are of the rank of sergeant and above, who receive a report concerning damaged, lost or stolen PT 56 should

(i) review the contents of the report thoroughly and arrange a meeting with the officer involved to discuss the matter. This will help identify any contributing factors and assist with implementing measures to minimise the risk of similar occurrences in the future; and

(ii) ensure that particulars of the cancelled notices are forwarded to a TRAILS adjudication point in accordance with local procedures for entry into TRAILS.

OICs, below the rank of sergeant, who receive a report concerning damaged, lost or stolen PT 56 should:

(i) comment on how the notices were damaged, lost or stolen;

(ii) forward such report together with copies of the damaged notices to a commissioned officer with a suitable report recommending cancellation of the damaged or missing notices; and

(iii) comment on the action taken to locate the missing notices.

Upon receipt of approval from a commissioned officer to cancel the PT 56, OICs should:

(iv) retain the report granting approval for cancellation of the notices for inspection by the Auditor; and

(v) ensure that particulars of the cancelled notices are forwarded to a TRAILS adjudication point in accordance with local procedures for entry into TRAILS.

Action by commissioned officer

A commissioned officer, after due consideration of all the circumstances, may give approval to cancel lost, stolen or damaged PT 56.

The commissioned officer may direct procedures to be implemented to minimise any future occurrences of this nature pursuant to Chapter 3: 'Risk Management' of the MSM.

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8.6 Manner of issuing infringement notices

Officers should not issue an infringement notice in relation to an offence later than 8 months after the date upon which the offence occurred. In these cases a proceeding should be commenced by way of complaint and summons, NTA or arrest, where appropriate.

The issue of infringement notices to an alleged offender is restricted to a maximum of 3 infringement notices for offences against the TO(RUM)A and TO(RUM–RR)R at any one time. If more than 3 offences against the TO(RUM)A and TO(RUM–RR)R are detected for which an infringement notice can be issued, the officer may determine, dependant on each circumstance, to either:

(i) issue 3 infringement notices and provide a verbal caution for all the other offences (see s. 8.8: 'Verbal cautions' of this chapter); or

(ii) proceed by way of notice to appear for all the offences detected.

Where a verbal caution is given for an offence no other enforcement action is to be taken for that particular offence.

8.6.1 Infringement notice issued to a child (person under age of 18 years)

In accordance with s. 68: 'Infringement notices' of the YJA, and infringement notice may be issued to a child (person under the age of 18 years).

Section 5: 'Act has limited application to children' of the *State Penalties Enforcement Act* (SPEA) provides that the SPEA does not apply to a child (person under the age of 18 years) except to the extend it allows a child to pay a fine stated in an infringement notice. Except in regards to 16 and 17 year olds in the matter of prescribed transport offences.

Infringement notices issued to a child, except to 16 and 17 year olds for prescribed transport offences, which remain unpaid will be entered on to a prosecutions pending list by the DTMR (see s. 8.11: 'Prosecutions Pending List' of this chapter).

Infringement notices are only to be issued to children in cases where the commencement of a proceeding would be justified in accordance with s. 11: 'Police officer to consider alternatives to proceeding against child' of the YJA.

Prescribed transport offences for 16 and 17 year olds

Section 5 of the SPEA provides if a child aged at least 16 years is served with an infringement notice for a prescribed transport offence, the Act applies to the child in relation to the offence in the same way it applies to an adult.

The prescribed transport offences are:

(i) a transport demerit points offence; or

(ii) an offence against any of the following provisions of the TO(RUM)A—

(a) s. 78(1): 'Driving of motor vehicle without a driver licence prohibited';

(b) s. 78B: 'Riding electrically power-assisted cycle or personal mobility device without valid licence prohibited';

(c) s. 79(2AAA): 'Offence of riding bicycle or personal mobility device while over middle alcohol limit but not over high alcohol limit';

(d) s. 79(2AAB): 'Offence of riding bicycle or personal mobility device while over general alcohol limit but not over middle alcohol limit';

(e) s. 80(22DA): 'Offence of riding bicycle or personal mobility device while prohibited under subsection (22AD)';

(f) s. 84: 'Dangerous driving of vehicles (other than motor vehicles), to the extent the offence involves a bicycle or personal mobility device';

(g) s. 84AA: 'Riding particular vehicles without due care and attention on road-related areas';

(h) s. 84B: 'Riding prohibited bikes in public'; and

(i) s. 93: 'Duties of drivers involved in crashes—stopping and providing information'; or

(iii) an offence against either of the following provisions of the Transport Operations (Road Use Management—Road Rules) Regulation—

(i) s. 151: 'Riding a motorbike, bicycle or personal mobility device alongside more than 1 other rider';

(ii) pt 15: 'Additional rules for bicycle and personal mobility device riders', other than ss. 246(2) and 256(2).

ORDER

Before issuing an infringement notice to a child, officers must consider alternatives to this course of action (see s. 8.3: 'Offences for which infringement notices may be issued' of this chapter and s. 5.3.1: 'Diversion options' of the OPM).

Officers to consider appropriate action

When determining what course of action is appropriate, officers should consider:

(i) the 'Sufficiency of Evidence' and 'Public Interest' tests (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of the OPM) and determine whether court proceedings should be commenced in the interests of justice and community safety;

(ii) the circumstances and seriousness of the offence;

(iii) the age and cognitive development of the offender;

(iv) whether the child's previous history indicates a caution may divert the child from the criminal justice system or further offending;

(v) whether the application of demerit points will have an adverse impact (e.g. loss of driver's licence for first time offending);

(vi) whether the course of action will sufficiently hold the child to account; and

(vii) if the child meets the legislative criteria for a caution and the offence is one for which the child can be cautioned, the child should be cautioned (see s. 5.4: 'Authority to caution' of the OPM).

Unpaid infringement notice issued to a child

Unpaid infringement notices issued to 16 and 17 year olds for prescribed transport offences will be deferred to SPER as per s. 5 of the SPEA.

An officer who has issued an infringement notice to a child, except for a prescribed transport offence, which subsequently is not paid, should consider a further course of action in conjunction with their OIC (see s. 11: 'Police officer to consider alternatives to proceeding against child' of the YJA). Officers should determine the course of action appropriate in regard to the above considerations.

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In determining an appropriate course of actions, officers may consider;

(i) to take no further action (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of the OPM);

(ii) issuing a verbal caution for certain traffic offences (see s. 8.8: 'Verbal cautions and formal warning notices' of this Manual);

(iii) administering a caution to the child pursuant to the YJA (see s. 5.5 'Cautioning process' of the OPM);

(iv) referral to restorative justice conferencing pursuant to s. 22: 'When police officer may refer offence for restorative justice' of the YJA (see s. 5.6: 'Restorative justice process' of the OPM)

(v) commencing a proceeding by way of NTA (see ss. 382: 'Notice to appear may be issued for offence', 383: 'Notice to appear must be served discreetly on a child' of the PPRA, and s. 12: 'Preferred way of police officer to start proceedings' of the YJA).

Should an officer elect to commence proceedings by way of prosecution, this information should be included in the QP9 to support the action being taken (see s. 5.5.12: 'Children's Court may dismiss a charge if caution should have been administered or no action taken' of the OPM).

Contested infringement notice issued for prescribed offences for 16 and 17 year olds

If a child aged at least 16 years elects to contest an infringement notice for a prescribed transport offence, the officer must consider alternatives in accordance with s. 11: 'Police officer to consider alternatives to proceeding against child' of the YJA, regardless of any considerations undertaken prior to issuing the infringement notice. If, following consideration to s. 11 of the YJA the officer determines that an alternative diversion from the court system is not appropriate, the officer should proceed by way of issuing a NTA (see s. 5.9.2: 'Proceedings against a child by notice to appear' of the OPM).

8.6.2 Infringement notices not issued where other offences detected not able to be issued with infringement notice

An infringement notice should not be issued for an offence which is detected in conjunction with another offence which is not included in the State Penalties Enforcement Regulation (e.g. disqualified driving and speeding). In this case, a notice to appear should be furnished for all the offences detected.

If an infringement notice has already been issued to an alleged offender prior to an officer detecting an additional offence for which an infringement notice cannot be issued the particulars of the infringement notice should be noted on the court brief (QP9).

8.6.3 Certain particulars on PT 56: 'Infringement notice' not to be altered

Details contained on a PT 56: 'Infringement notice' should not be altered.

If any error is made during the completion of a PT 56 which can be neatly ruled through and initialled leaving enough space to insert the correct details this may be done. If this cannot be done, another infringement notice should be completed and issued for that same offence (see s. 8.7.2: 'Action by officers—errors on infringement notices' of this chapter).

8.6.4 Procedure for issuing infringement notices

Unless specifically stated otherwise, officers may issue either a PT 56: 'Infringement notice' or a QNotice infringement notice.

PT 56: 'Infringement notice'

Officers issuing a PT 56 should ensure:

(i) notices are issued in consecutive order;

(ii) a ball point pen is used;

(iii) all entries are legible on all copies;

(iv) full and correct names of persons are inserted;

(v) the alleged offender's correct residential address is recorded. If an address is given which is different to the residential address, such as a temporary address, lot number address, etc., such address is to be recorded on the rear of the pink copy;

(vi) all details relating to the offence are completed;

(vii) the correct offence title, code and fine amount are entered into the infringement notice regarding the offence;

(viii) if applicable, the appropriate box indicating the infringement notice was issued:

(a) to an unattended vehicle;

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(b) by mail;

(c) due to an offence identified at a traffic crash; or

(d) in conjunction with a F4890: 'Defect notice',

is ticked;

(ix) the reverse side of the prosecution copy is accurately completed in sufficient detail for evidentiary purposes (see s. 8.13: 'Evidentiary notes required for particular offences' of this chapter);

(x) all notices are signed and dated; and

(xi) their name, registered number and station details are inserted in a legible manner in the appropriate spaces.

When giving a copy of an infringement notice to a person, officers are to advise the person that the method of payment and procedure for having the alleged offence dealt with by a court are clearly outlined on the rear of the infringement notice.

QNotice infringement notice

ORDER

All 'queued' QNotices are to be submitted to QPRIME by the issuing officer as soon as practicable and prior to the termination of the shift when the infringement was issued.

Officers creating a QNotice infringement notice should ensure:

(i) the alleged offender's QPRIME person record is selected when available or their full and correct name is entered;

(ii) the alleged offender's current residential address (do not use 'No fixed place of abode', P.O. Box addresses or similar) and:

(a) postal address; and/or

(b) e-service address (i.e. email address or mobile telephone number),

are recorded;

(iii) all details relating to the offence are entered, including the date of the offence and date of issue (as appropriate);

(iv) the correct offence title and fine amount are selected for the offence;

(v) the QNotice is accurately completed in sufficient detail for evidentiary purposes (see s. 8.13: 'Evidentiary notes required for particular offences' of this chapter); and

(vi) the completed infringement submission is received by QPRIME. Where the QNotice is unable to be submitted (e.g. QPRIME/QLiTE server unavailability), the officer should consider issuing a PT 56 to the offender immediately.

Officers should:

(i) ask the alleged offender whether they are willing to volunteer their email address or mobile phone number for the purposes of serving the infringement notice and where provided enter the details in the appropriate sections of the QNotice infringement notice; and

(ii) select the alleged offender's preferred method for receiving the infringement notice (email, MMS or mail). Where the offender does not indicate a preferred method of service the QNotice infringement notice should be served by post.

Officers are to advise the person that they will be sent an infringement notice by their preferred method and that the method of payment or procedure for having the alleged offence dealt with by a court are clearly outlined on the notice.

Where a QNotice infringement notice is to be issued to the owner of an unattended vehicle officers should take a photograph of the vehicle within its immediate surroundings and upload to the QPRIME occurrence.

High speed suspension fact sheet

Chapter 8: 'Suspension for driving more than 40km/h over speed limit' of the TO(RUM–DL)R provides where a person is convicted of exceeding the speed limit by more than 40km/h, the person's driver licence is suspended for 6 months. To inform drivers of the high speed suspension provisions, a QP 0949: 'Speeding Suspension Fact Sheet' has been prepared.

Where a person is intercepted for exceeding the speed limit by more than 40km/h the intercepting officer should, whenever practicable, provide the person with a QP 0949.

8.6.5 Identified problems

Officers should take care to ensure that when issuing an infringement notice it is checked to ensure that:

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(i) if a driver licence is produced, that the licence number and particulars thereof are correctly entered on it;

(ii) the current residential address of the alleged offender is correctly entered i.e. no fixed place of abode is not acceptable;

(iii) the dates are correct i.e. date of birth, date of offence, date of issue; and

(iv) identifying particulars (short title) of the offence are included.

In addition, officers issuing a PT 56: 'Infringement notice' are to ensure:

(i) it is properly numbered;

(ii) it is correctly printed;

(iii) copies are similar to the originals;

(iv) all copies are legible.

8.6.6 Interstate residents or overseas visitors committing traffic offences

Overseas visitors and interstate residents who commit traffic offences when visiting Queensland should not be treated any differently to Queensland residents.

Officers who detect overseas residents committing traffic offences may consider issuing a caution in accordance with s. 8.8: 'Verbal cautions' of this chapter.

In some serious cases officers may consider commencing a prosecution by issuing a notice to appear or making an arrest if justified.

Officers who issue infringement notices to interstate residents should ensure that the person's name, address and date of birth are accurately entered on the infringement notice. SPER is unable to process infringement notices issued to interstate residents which do not contain a date of birth.

Officers who issue an infringement notice to an overseas visitor should:

(i) where possible, show the alleged offender's current Australian address on the face of the notice; and

(ii) indicate on the prosecution copy of the notice the alleged offender's usual residential address and the date the alleged offender is due to leave Australia.

For offences not dealt with by the SPER, this information will assist if the infringement notice is returned unpaid to indicate whether the notice may be waived without the need for a report from the issuing officer.

Officers should be mindful of the contents of ss. 11.8: 'Diplomatic Privileges and Immunities Act' and 16.7: 'Foreign nationals' of the OPM.

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8.6.7 Officers in charge to forward issued PT 56: 'Infringement notices' to Offence Processing Department (OPD), Queensland Revenue Office (QRO)

OICs of stations and establishments should ensure that, in respect of PT 56: 'Infringement notices' issued by officers under their control:

(i) all infringement notices are checked for accuracy and completeness. Both pink and green copies should be received together and should be checked to ensure that both copies contain identical information. If the pink and green copies do not contain identical information the infringement notice should be considered for waiving (see also s. 8.6.4: 'Certain particulars on infringement notice not to be altered' of this chapter);

(ii) a list of infringement notices issued is compiled in duplicate on a QP 0252A: 'Accountable forms acknowledgement slip for completed infringement notices to QRO daily, where possible;

(iii) all green copies of issued infringement notices, together with a copy of the completed QP 0252A are forwarded to the QRO daily, where possible;

(iv) one copy of the completed QP 0252A is retained at the station or establishment; and

(v) all pink copies are to be filed in sequential numerical order for prosecution purposes.

The QRO will email the completed QP 0252A certified as to the receipt of the listed infringement notices. The returned copy of the QP 0252A is to be filed replacing the station copy of the relevant form.

Where errors on infringement notices or incomplete infringement notices are detected prior to being forwarded to the QRO, members should:

(i) ensure that action is taken to waive the infringement notice and issue another PT 56 (see also s. 8.7.2 'Action by officers – errors on infringement notices' of this chapter); and

(ii) not insert information on the front of the pink or green copy of the infringement notice which was not included on the alleged offender's copy of the infringement notice.

8.7 Waiving and cancellation of infringement notices

There are a number of issues which officers authorised to cancel or waive an infringement notice may be required to consider prior to authorising the cancellation or waiving of an infringement notice.

For the purposes of this section:

(i) a PT 56: 'Infringement notice' can only be cancelled when all the copies of the notice are retained by the issuing officer. Exceptions to this requirement occur when:

(a) lost, stolen or damaged notices are to be cancelled (see s. 8.5: 'Lost or misplaced infringement notices' of this chapter);

(b) both the pink and green copies of an infringement notice have been lost in transit or otherwise misplaced;

(c) an infringement notice is returned by the Offence Processing Department (OPD), Queensland Revenue Office (QRO) for cancellation because it cannot be entered on to TRAILS because of an error in the notice; or

(d) a QNotice infringement notice was issued;

(ii) a QNotice infringement notice can only be waived where:

(a) incorrect information has been entered into a QNotice, e.g. incorrect person, offence type or vehicle selected; or

(b) a QPRIME and/or TRAILS record has been created and a QPRIME task has subsequently been received by the issuing officer advising of a technical issue in the submission of a QNotice. The officer has two options to address the issue:

- the officer should review the occurrence and if an infringement notice was created but not sent, they should promptly mail or email a copy of the infringement notice to the alleged offender. All actions taken should be documented within the Occurrence Enquiry Log (OEL) and appropriately recorded within the relevant task; or
- if there was a technical issue and the infringement notice was not issued successfully, the officer should waive the original infringement notice as per s. 8.7.2 'Action by officers – errors on infringement notices, issue a replacement infringement notice and link the two occurrences; and

(iii) an infringement notice can only be waived (not cancelled) after the infringement notice has been issued and a copy of the infringement notice has been supplied to the person. Waiving refers to the discontinuance of enforcement action in relation to an offence through the withdrawal of an infringement notice.

Section 8.7.1: 'Suitability of infringement notice for cancellation or waiving' of this chapter identifies some issues which should be considered by prescribed officers.

OICs of stations and establishments receiving cancelled or waived infringement notices for:

(i) PT 56: 'Infringement notices' at establishments which have a TRAILS adjudication point should maintain an Adjudication Register) and ensure a record is kept in the Adjudication Register of all actions taken at the TRAILS adjudication point involving the suspending, cancelling, waiving or continuing action in respect of infringement notices on TRAILS; or

(ii) QNotice infringement notices: after action is taken on TRAILS for all actions involving the suspending, cancelling, waiving or continuing action in respect of QNotices, these actions should be recorded within the relevant QPRIME occurrence.

8.7.1 Suitability of infringement notice for cancellation or waiving

If it should come to the notice of the OIC of a station or establishment an infringement notice contains one or more of the errors listed below that infringement notice should be considered for cancellation or waiving:

(i) incorrect name or address or date of birth of the alleged offender;

(ii) no time of offence;

(iii) no date of offence;

(iv) no location of offence;

(v) no penalty inserted;

(vi) no offence title or code inserted;

(vii) incorrect infringement notice fine amount inserted;

(viii) incorrect offence title or code inserted;

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(ix) incorrect location (vastly different suburbs or areas—kilometres apart);

(x) incorrect day of offence;

(xi) incorrect date of offence in respect of allegation section only. An incorrect date of issue on the infringement notice on the same line as the issuing officer's particulars does not invalidate the infringement notice;

(xii) expiration of limitation of proceedings;

(xiii) more than one offence inserted (PT 56: 'Infringement notice' notices only);

(xiv) parking offences where the vehicle is registered to a business or company and such business or company has been de-registered or is in liquidation;

(xv) issued to an overseas visitor and the prosecution copy of the infringement notice shows the alleged offender has since departed;

(xvi) where a local authority parking officer has issued a similar notice regarding a similar offence as indicated on the infringement notice (see s. 8.12.2: 'Infringement notices for parking offences' of this chapter);

(xvii) where a technical error has occurred during the submission of a QNotices infringement notice; and

(xviii) where a PT 56: 'Infringement notice' or QNotices infringement notice was issued at the time instead of the original notice type attempted.

In making a determination as to whether or not to cancel/waive an infringement notice consideration should be given as to whether a prosecution action instigated before a court would be likely to fail due to the apparent defect in the infringement notice subject of the determination.

8.7.2 Action by officers—errors on infringement notices

PT 56: 'Infringement notice'

Officers who detect an error in a PT 56: 'Infringement notice' prior to issue to a person, which cannot be rectified in the manner outlined in s. 8.6.4: 'Certain particulars on infringement notice not to be altered' of this chapter, are to:

(i) retain all copies including the alleged offender's copy;

(ii) issue another correctly completed infringement notice to the alleged offender if appropriate in the circumstances;

(iii) report on the retained infringement notice to their OIC, including whether another infringement notice was issued in lieu and the number of such infringement notice; and

(iv) attach original and all copies of the infringement notice containing the error.

Officers who detect an error in an infringement notice which has been issued to an alleged offender who has departed from the scene are to report the circumstances to their OIC and attach the original and remaining copies of the infringement notice containing the error.

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Errors detected on PT 56: 'Infringement notice' by Offence Processing Department, Queensland Revenue Office (QRO)

QRO staff who detect an error on an infringement notice will enter the infringement onto TRAILS and immediately suspend the infringement. QRO staff will then send advice, including a copy of the infringement notice, via email, to the relevant issuing officer's OIC for attention.

OICs who receive email notification regarding infringement notices containing errors identified by the QRO are to ensure:

(i) the infringement notice is actioned in accordance with s. 8.7.4: 'Action by officers in charge—errors on infringement notices' of this chapter; and

(ii) details of any action taken are advised by return email to QRO (opu@treasury.qld.gov.au).

QNotice infringement notices

Officers who:

(i) detect an error in a QNotice infringement notice which has been issued to an alleged offender who has departed from the scene;

(ii) detect a technical error when submitting a QNotice infringement notice; or

(iii) receive a QPRIME task advising of a technical issue in the submission of a QNotice,

are to:

(i) add an Occurrence Enquiry Log entry in the relevant QPRIME occurrence outlining the circumstances of the error;

(ii) obtain approval from their OIC to cancel or waive the QNotice infringement notice and, if applicable, obtain approval to issue a replacement infringement notice and include the approval in the QPRIME occurrence;

(iii) submit a PIR2 Supplementary Report to Policelink; and

(iv) forward a task to their OIC for attention.

8.7.3 Action to be taken after waiving of an infringement notice containing an error

When an infringement notice is found to contain an error and is waived, the prescribed officer who waived the relevant infringement notice should consider whether further enforcement action for the particular offence is appropriate and if so recommend that enforcement action is commenced by issuing another infringement notice, complaint and summons or notice to appear (see ss. 28: 'Administering authority may withdraw infringement notice' and 32: 'Proceedings after cancellation of infringement notice' of the *State Penalties Enforcement Act*).

8.7.4 Action by officers in charge—errors on infringement notices

OICs who receive a report concerning an error in an infringement notice or who detect a previously undetected error in an infringement notice and furnish a report in compliance with s. 8.7.2: 'Action by officers—errors on infringement notices' of this chapter should comply with the relevant instructions for the infringement notice type.

PT 56: 'Infringement notice'

Where an error exists on a PT 56: 'Infringement notice' OICs should:

(i) if the notice is to be considered for cancellation, forward a report to a prescribed officer containing a recommendation that the infringement notice should be cancelled and attach the original and remaining copies of the infringement notice containing the error to the report;

(ii) if the infringement notice has been issued to an alleged offender but the notice has been returned by the Offence Processing Department (OPD), Queensland Revenue Office (QRO) advising that there is an error (see s. 8.7.2: 'Action by officers—errors on infringement notices' of this chapter):

(a) forward a report to a prescribed officer containing a recommendation that the infringement notice should be waived if the OIC is below the rank of Sergeant;

(b) attach the copy of the infringement notice containing the error and the email advice from the QRO to the report; and

(c) send a letter to the alleged offender advising that no further action is required in regard to the infringement notice until further advised; or

(iii) if the notice is to be considered for waiving:

(a) ensure the infringement notice is promptly batched within the Traffic Infringement Notice Management System (TINMS) and mailed to OPD, QRO (see SMCD) and also email a copy of the notice to the OPD, QRO (opu@treasury.qld.gov.au) requesting the notice be added to TRAILS so that it can be actioned therein;

(b) action on the infringement notice is to be suspended at a TRAILS adjudication point in accordance with local procedures;

(c) commence a 'Status report' and enter into the Adjudication Register;

(d) send a letter to the alleged offender advising the infringement notice has been suspended and that no further action is required in regard to the infringement notice until further advised (unless matter will be finalised that day);

For OICs below the rank of sergeant:

(e) forward a report to a prescribed officer containing a recommendation as to whether or not the infringement notice should be waived; and

(f) attach the email from QRO containing advice of the error, the letter to the alleged offender and the status report to the recommendation report.

QNotice infringement notice

Where an error, including data conflict errors, exists on a QNotice infringement notice OICs should, if the notice is considered for:

(i) cancellation: complete an Occurrence Enquiry Log containing their recommendations within the relevant QPRIME occurrence and forward a task to a prescribed officer for their attention and recording in TRAILS; or

(ii) waiving:

(a) action on the infringement notice is to be suspended at a TRAILS adjudication point in accordance with local procedures;

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(b) commence a Status report and enter into the Adjudication Register;

(c) send a letter to the alleged offender advising the infringement notice has been suspended and no further action is required in regard to the infringement notice until further advised;

(d) complete an Occurrence Enquiry Log within the relevant QPRIME occurrence and forward a task to a prescribed officer containing a recommendation as to whether or not the infringement notice should be waived; and

(e) upload the letter to the alleged offender into the relevant QPRIME occurrence.

8.7.5 Action by officers in charge—cancelling or waiving infringement notices

OICs who receive advice to cancel an infringement notice from a prescribed officer are to:

(i) retain a copy of the report containing the advice for filing:

(a) for a PT 56: 'Infringement notice', together with all the copies of the infringement notice; or

(b) for a QNotice infringement notice, as an Occurrence Enquiry Log entry in the relevant QPRIME occurrence;

(ii) ensure that particulars of the cancelled infringement notice are forwarded to a TRAILS adjudication point in accordance with local procedures for entry into TRAILS; and

(iii) in the case of an issued PT 56: 'Infringement notice' in which an error was identified by the Offence Processing Department (OPD), Queensland Revenue Office (QRO), forward a letter to the person who received the infringement notice advising:

(a) the infringement notice is waived;

(b) withdrawal of the infringement notice does not prevent a proceeding for the offence being taken against the alleged offender nor prevent the issue of another infringement notice in respect of the alleged offence (see ss. 28: 'Administering authority may withdraw infringement notice' and 32: 'Proceedings after cancellation of infringement notice' of the *State Penalties Enforcement Act*);

(c) whether further prosecution or enforcement action will be considered in respect of the alleged offence. If another infringement notice is to be issued for the alleged offence it should be enclosed with the letter and sent by regular mail; and

(iv) in the case of a QNotice infringement notice where a QPRIME occurrence is to be cancelled due to a technical issue resulting in the infringement notice not being issued, in addition to the processes above, OICs should ensure the QPRIME occurrence is modified accordingly.

OICs who receive advice to waive an infringement notice from a prescribed officer are to:

(i) ensure the infringement notice is waived (WAIV) on TRAILS at a TRAILS adjudication point in accordance with local procedures. Such waiving on TRAILS is only to be performed on a fully entered infringement notice and not on a SKEL which only refers to the receipt of a payment;

(ii) forward a letter to the person who received the infringement notice advising:

(a) the infringement notice is waived;

(b) any enforcement action taken against the person by State Penalties Enforcement Registry (SPER) will cease and any payments made by the alleged offender will be refunded;

(c) withdrawal of the infringement notice does not prevent a proceeding for the offence being taken against the alleged offender nor prevent the issue of another infringement notice in respect of the alleged offence (see ss. 28 and 32 of the *State Penalties Enforcement Act*);

(d) whether further prosecution action will be considered or whether another infringement notice will be issued in respect of the alleged offence. If another infringement notice is to be issued for the alleged offence it should be enclosed with the letter and sent by regular mail;

(iii) in the case of PT 56, ensure the green copy of the infringement notice has been batched in Traffic Infringement Notice Management System (TINMS) and forwarded to the OPD, QRO;

(iv) where the infringement notice fine has been paid prior to the infringement notice being waived and it is to be reissued, seek approval from the initial recipient of the infringement notice first, then forward an email to the QRO (opu@treasury.qld.gov.au) or SPER (sper@treasury.qld.gov.au), depending on which agency received payment, requesting the fine payment be matched to the new infringement notice. Otherwise, the payment will automatically be refunded to the initial recipient of the initial infringement notice; and

(v) retain a copy of the report containing the advice for filing together with the retained copies of the infringement notice, the letter to the alleged offender and any emails to the QRO or SPER. Where a QNotice infringement

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notice has been waived, the relevant reports and emails are to be retained within the relevant QPRIME occurrence.

8.8 Verbal cautions and formal warning notices

Cautions for minor traffic offences where the lives of persons are not endangered are an integral part of traffic management and policing. Officers may issue such cautions in cases where they believe that such a course of action is appropriate having regard to the severity of the offence, consistency of approach and the ultimate aim of deterring a repetition of the offence.

Life endangering offences not to be subject to cautions

Verbal cautions or formal warning notices should not be issued where a life endangering offence is detected (see Appendix 1.1: 'Life Endangering Offences' of this Manual).

Records to be kept of verbal cautions

ORDER

Officers are not to issue infringement notices as verbal cautions.

When officers issue verbal cautions for any offence, they should:

(i) obtain the alleged offender's name, address, driver licence particulars and vehicle details; and

(ii) where practicable, submit a street check in QPRIME to record the full particulars of the alleged offender together with the time, date, location, type of offence and any other relevant particulars. Where a street check cannot be submitted on a QLiTE device at the time of the interception, officers should record the particulars of the offender and the offence in their official police notebook or patrol log for later entry.

Formal warning notices for heavy vehicles

A formal warning notice may be issued for certain breaches of the *Heavy Vehicle National Law Act* under s. 590: 'Formal warning' of the Act, where a person operating a heavy vehicle has contravened the law and has taken reasonable steps to prevent the contravention and was unaware of the contravention.

When an officer issues a formal warning for any offence they should:

(i) complete all the details on the formal warning notice;

(ii) ensure a copy is issued to the alleged offender (buff copy);

(iii) forward a copy to DTMR for recording.

When an alleged offender has previously been issued a formal warning notice for the same or similar offence, the officer issuing the formal warning notice must decide if it is more appropriate to issue an infringement notice or complete a Transport Breach Report (see s. 8.18: 'Transport Breach report' of this chapter).

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8.9 Defect Notices

The Service has a responsibility to ensure that vehicles being driven on roads are in a roadworthy condition and comply with the TO(RUM–VSS)R and the *Heavy Vehicle National Law*.

A direction may be given on a F4890: 'Defect notice' to:

(i) require either the:

(a) owner of the vehicle; or

(b) registered operator for the vehicle (see SMD);

to produce the vehicle for inspection at a reasonable time and place (see s. 65: 'Power to require vehicle inspections' of the PPRA); and/or

(ii) require the owner of a vehicle to take stated reasonable action to ensure the person's vehicle is not defective; and/or

(iii) if an officer reasonably suspects a vehicle is unsafe or defective, require either the:

(a) owner of the vehicle; or

(b) the registered operator;

not to use, or permit the use of, the vehicle on a road until:

(a) the vehicle is inspected at a stated reasonable place and found to comply with the TO(RUM)A; or

(b) stated reasonable action is taken to ensure the vehicle complies with the TO(RUM)A.

(See s. 66: 'Power to prohibit use of vehicles' of the PPRA).

8.9.1 Classes of vehicle defects

Section 7: 'When is a light vehicle defective' of the TO(RUM–VSS)R defines when a vehicle is considered to be defective.

There are four classes of vehicle defects:

(i) self-clearance defect—any defect that does not significantly affect the overall safety of the vehicle, e.g. inoperable number plate light, inoperable windscreen wipers detected when it is not raining, cracked tail light or brake light lens, inoperable warning device, inoperable headlight detected during daylight hours, etc. which does not require that any repairs or rectification be inspected;

(ii) minor defect—any defect which does not significantly affect the overall safety of the vehicle but which requires that any repairs or rectification be inspected;

(iii) major defect—any defect which renders the vehicle unsafe, e.g. excessive body rust, steering mechanism, brakes, etc.; and

(iv) major dangerous defect—any defect which renders the vehicle unsafe to such an extent that it is necessary to immediately prohibit the use of the vehicle on a road.

When determining the class of a vehicle's defect(s), officers should consider all relevant factors that may contribute to the safety risk posed by the vehicle. Some factors that contribute to traffic crashes include but are not limited to the:

(i) type of road;

(ii) posted speed limit;

(iii) road features (bends, intersections, etc.);

(iv) traffic density;

(v) weather conditions;

(vi) lighting conditions;

(vii) type of vehicle;

(viii) distance of trip; and

(ix) nature of load carried by the vehicle.

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Additionally, officers should consider the effect of the defect should the vehicle be involved in a traffic crash. For example, occupants of a vehicle with no or faulty seat belts are more likely to suffer injury or death than the occupants of the same vehicle if the occupants were wearing properly fitted and functioning seatbelts.

8.9.2 Cautions and issue of Defect Notices—self-clearance and minor defects

Officers may issue a verbal caution for self-clearance and minor vehicle defects.

Officers should not issue a caution for self-clearance or minor defects where:

(i) there is obvious evidence that the defects are long standing; or

(ii) there are other major or dangerous defects present.

When self-clearance or minor defects are observed a F4890: 'Defect notice' may be given without the issue of an infringement notice.

Where a caution is considered appropriate officers should, where the:

(i) owner or registered operator (see SMD) is driving the vehicle:

(a) give a verbal caution; or

(b) complete a F4890: 'Defect notice'; and

(c) give the buff copy of the F4890: 'Defect notice' to the owner or the registered operator;

(ii) owner or registered operator is present but not driving the vehicle:

(a) give a verbal caution; or

(b) complete a F4890: 'Defect notice'; and

(c) give the buff copy of the F4890: 'Defect notice' to the owner or the registered operator;

(iii) driver (who is not the owner or the registered operator whether the owner or the registered operator is present or not) of the vehicle is present, give a verbal caution; or

(iv) owner or registered operator is not present:

(a) obtain the particulars of the owner or the registered operator from the driver and conduct QPRIME inquiries to obtain the current vehicle registration records;

(b) issue a F4890: 'Defect notice' without the issue of an infringement notice to the owner or the registered operator; and

(c) forward the buff copy F4890: 'Defect notice' to the owner or the registered operator by registered post.

ORDER

Officers are not to issue a F4890: 'Defect notice' to an unattended vehicle.

8.9.3 Issuing of infringement notices regarding defective vehicles

Officers issuing infringement notices for vehicle defects where a caution is not considered appropriate should, where the:

(i) owner or registered operator (see SMD) is driving the vehicle:

(a) issue an infringement notice to the owner or the registered operator;

(b) complete a F4890: 'Defect notice'; and

(c) give the buff copy of the F4890: 'Defect notice' to the owner or the registered operator;

(ii) owner or registered operator is present but not driving the vehicle:

(a) issue an infringement notice to the owner or the registered operator for permitting the driving of the defective vehicle;

(b) complete a F4890: 'Defect notice'; and

(c) give the buff copy of the F4890: 'Defect notice' to the owner or the registered operator;

(iii) driver (who is not the owner or the registered operator whether the owner or the registered operator is present or not) of the vehicle is present:

(a) issue infringement notice to the driver for driving the defective vehicle;

(iv) owner or registered operator is not present:

(a) obtain the particulars of the owner or the registered operator from the driver and conduct QPRIME inquiries to obtain the current vehicle registration records;

(b) interview the owner or the registered operator and, if appropriate, issue an infringement notice for permitting driving;

(c) complete a F4890: 'Defect notice'; and

(d) give the buff copy of the F4890: 'Defect notice' to the owner or the registered operator.

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ORDER

Officers are not to issue an infringement notice for a vehicle defect to an unattended vehicle.

8.9.4 Completing the Defect Notice and Defective Vehicle Label

Information to be recorded on all defect notices

The following information should be entered on each F4890: 'Defect notice' by the issuing officer:

(i) the details of the vehicle and its owner or registered operator (see SMD) (insert 'PDV' in the space marked 'Inspection type');

(ii) marking the appropriate general items of equipment which require replacement, repairs or alteration and write the details of the defect in the space provided;

(iii) completing the declaration of service, the officer's registered number is placed in the 'Auth. number' space; and

(iv) inviting the person to whom the notice is given to sign in the appropriate space.

Where there is insufficient space to record number of defects identified on the vehicle on the original notice, officers should use the 'Defect notice continuation' form, ensuring the original defect notice number is recorded on the form.

The remainder of the form should be completed in accordance to defect type listed below. Categories of defects are described in s. 8.9.1: 'Classes of vehicle defects' of this chapter.

The issuing officers are to submit the pink and green copies of the F4890: 'Defect notice' to their OIC at the termination of the shift where the notice was issued.

Self-clearance defects

Officers should direct owners or registered operators to complete the owner's declaration on the rear of the buff copy of the F4890: 'Defect notice' and either mail or present the relevant notice to a nominated police station, near the owner's or the registered operator's home or business address within a specified time considered appropriate by the officer.

If the vehicle is not registered consideration may be given to the issuing of a F3612: 'Permit to Move an Unregistered Vehicle' (see s. 11.9.3: 'Permit to use intercepted unregistered vehicle on road' of this Manual).

In addition to the information to be entered on all defect notices, when acting on a self-clearance defect, officers are to:

(i) mark the box 'Self clearance' under 'Defect classification'; and

(ii) mark the box 'Post or present the Defect Clearance Declaration, as detailed on the reverse side of this notice with any associated documentation by (insert the nominated date that allows enough time for the owner or the registered operator to repair the vehicle) to (insert address of the nominated police station)'.

Minor defects

Officers should direct owners or registered operators of motor vehicles with minor defects to produce the vehicle for inspection at a nominated police station near the owner's or the registered operator's home or business address within a specified time considered appropriate by the officer.

If the vehicle is not registered consideration may be given to the issuing of a F3612: 'Permit to Move an Unregistered Vehicle' (see s. 11.9.3: 'Permit to use intercepted unregistered vehicle on road' of this Manual).

In addition to the information to be entered on all defect notices, when acting on a minor defect, officers are to:

(i) mark the box 'Produce the vehicle for further inspection of the defects set out below at/to, (insert address of the nominated police station) at/by (insert time and date that the vehicle must be produced at/to the nominated police station)';

(ii) mark the 'Post or present the Defect Clearance Declaration, as detailed on the reverse side of this notice with any associated documentation by (insert the nominated date that allows enough time for the owner or the registered operator to repair the vehicle) to (insert address of the nominated police station)'.

Major defects

Officers should direct owners or registered operators of motor vehicles with major defects to produce the vehicle for inspection at:

(i) an Approved Inspection Station authorised to inspect the type of vehicle if the vehicle is not a registered bus or taxi and is a:

(a) vehicle with a GVM of less than 16 tonnes; or

(b) trailer or caravan with an ATM of less than 10 tonnes; or

(ii) a DTMR Motor Vehicle Inspection Centre near the owner's or the registered operator's home or business address if the vehicle is a:

(a) heavy vehicle with a GVM of 16 tonnes or greater;

(b) trailer with an ATM of 10 tonnes or greater; or

(c) registered bus or taxi.

If the vehicle owner's or registered operator's home or business address is in a locality where there are no DTMR Motor Vehicle Inspection Centres or Approved Inspection Stations and the defect is of such a nature that its rectification can be adequately inspected by a police officer, officers should direct owners or registered operators of vehicles to produce the vehicle to a police station for inspection.

If a defective vehicle is required to be inspected at an Approved Inspection Station the officer should nominate a police station near the owner's or the registered operator's home or business address at which the completed 'Defect Clearance Declaration (other than Self Clearance)' on the rear of the buff copy of the F4890: 'Defect notice' is to be posted or presented.

A F3612: 'Permit to Move an Unregistered Vehicle' should not be issued to an unregistered vehicle with identified major defects (see s. 11.9.3: 'Permit to use intercepted unregistered vehicle on road' of this Manual).

In addition to the information to be entered on all defect notices, when acting on a major defect, officers are to:

(i) mark the box 'major' under 'Defect classification';

(ii) mark the box 'Cease using the vehicle after (specified time and date) until replacements, repairs or alterations set out below have been carried out.';

(iii) mark the one of the boxes:

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(a) 'Produce the vehicle for further inspection of the defects set out below at/to' and writing in the appropriate space the address of the nominated DTMR Motor Vehicle Inspection Centre and the date and time by or at which the vehicle is to be produced for inspection by a Transport Inspector; or

(b) 'Produce the vehicle for a full Certificate of Inspection/Safety Certificate inspection at an Approved Inspection Station'; and

(iv) mark the box 'Post or present the Defect Clearance Declaration, as detailed on the reverse side of this notice with any associated documentation by (insert nominated date) to (insert the address of the nominated police station).

Major dangerous defects

Officers should direct owners or registered operators of motor vehicles with major dangerous defects to produce the vehicle for inspection at:

(i) an Approved Inspection Station authorised to inspect the type of vehicle if the vehicle is not a registered bus or taxi and is a:

(a) vehicle with a GVM of less than 16 tonnes; or

(b) trailer or caravan with an ATM of less than 10 tonnes; or

(ii) a DTMR Motor Vehicle Inspection Centre near the owner's or the registered operator's home or business address if the vehicle is a:

(a) heavy vehicle with a GVM of 16 tonnes or greater,

(b) trailer with an ATM of 10 tonnes or greater; or

(c) registered bus or taxi.

If the vehicle owner's or registered operator's home or business address is in a locality where there are no DTMR Motor Vehicle Inspection Centres or Approved Inspection Stations and the defect is of such a nature that its rectification can be adequately inspected by a police officer, officers should direct owners or registered operators of vehicles to produce the vehicle to a police station for inspection.

If a defective vehicle is required to be inspected at an Approved Inspection Station the officer should nominate a police station near the owner's or the registered operator's home or business address at which the completed 'Defect Clearance Declaration (other than Self Clearance)' on the rear of the buff copy of the F4890: 'Defect notice' is to be posted or presented.

In addition to the information to be entered on all defect notices, when acting on a major dangerous defect, officers are to:

(i) mark the box 'Major (dangerous)—label affixed' under 'Defect details';

(ii) mark the box 'Cease using the vehicle after (specified time and date) until replacements, repairs or alterations set out below have been carried out';

(iii) mark either box:

(a) 'Produce the vehicle for further inspection of the defects set out below at/to' and writing in the appropriate space the address of the nominated DTMR Motor Vehicle Inspection Centre and the date and time by or at which the vehicle is to be produced for inspection by a Transport Inspector; or

(b) 'Produce the vehicle for a full Certificate of Inspection/Safety Certificate Inspection at an Approved Inspection Station';

(iv) mark the box 'Post or present the Defect Clearance Declaration, as detailed on the reverse side of this notice with any associated documentation by (insert nominated date) to (insert the address of the nominated police station);

(v) complete the yellow Defective Vehicle Label by:

(a) writing the registration number of the defective vehicle in the appropriate space;

(b) writing the relevant defect notice number in the appropriate space;

(c) writing the appropriate time and date after which the vehicle is not be used on a road;

(d) signing the label and printing the officer's name in the appropriate spaces;

(e) writing the officer's registered number in the space marked 'Authorisation no.';

(f) writing the officer's station or establishment in the space marked 'Station/office'; and

(g) dating the label in the appropriate space; and

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(vi) apply the label to the inside of the defective vehicle's windscreen on the passenger side in a position that does not impair the forward field of vision of the vehicle's driver.

After issuing the F4890: 'Defect Notice' the issuing officer should write the following details on the rear of the pink original of the notice:

(i) the serial number of any infringement notice issued in relation to the defective vehicle;

(ii) if no infringement notice was issued, the time date and place at which the defective vehicle was located and a brief outline of the circumstances under which the vehicle was located;

(iii) any relevant conversation relating to the issue of the F4890: 'Defect Notice'; and

(iv) if the F4890: 'Defect Notice' was given to a person at a place other than where the vehicle was located, details of the place at which the person was given the notice.

8.9.5 Department of Transport and Main Roads Motor Vehicle Inspection Centres and Approved Inspection Stations

The owner/driver should be advised to telephone the applicable DTMR Motor Vehicle Inspection Centre or Approved Inspection Station within the time required for an appointment to inspect the motor vehicle.

The owner/driver should be advised that:

(i) a motor vehicle inspection fee will be charged by the DTMR or the Approved Inspection Station at the time of inspection; and

(ii) where a vehicle is inspected by the DTMR, any defects found, not specified on the F4890: 'Defect Notice' could result in the issue of another infringement notice.

8.9.6 Lighting on vehicles

Officers should pay particular attention to the following types of defects on motor vehicles and where necessary institute appropriate enforcement action:

(i) one headlamp;

(ii) improper focusing headlamp;

(iii) broken lens cover, particularly tail lamps and indicator lamps; and

(iv) unlit lamps of all kinds.

Officers should be mindful that cases can occur where a lamp on a vehicle ceases to function due to a blown bulb or accidental disconnection of wiring.

Where an officer detects a vehicle with any unlit lamp and:

(i) there is no obvious evidence that the defect is of long standing; and

(ii) no other defect(s) are present,

such officer should not issue an infringement notice but should issue a F4890: 'Defect Notice' for a self-clearance defect.

Where one of a pair of lamps in a flashing turn signalling system fails, the system malfunctions on the side to which the lamp is fitted. In cases of this kind where the defect occurs in respect to the turn right lamps, the driver is also to be instructed that until the system is made functional, the driver is to give appropriate stop and turn right hand signals.

8.9.7 Inspection of vehicles issued with Defect Notices

OICs of stations and establishments should ensure that a record is kept of all vehicles and buff copies of F4890: 'Defect Notices' posted or presented to their station or establishment by owners or registered operators (see SMD) of defective vehicles (station register of vehicle inspections).

OICs should ensure that the following details are recorded:

(i) F4890: 'Defect Notice' number;

(ii) vehicle type, make and model, and registration;

(iii) owner's or registered operator's name and address;

(iv) result of inspection (e.g. 'Defect Clearance Certificate' completed, 'Owner's Declaration—Minor Defect Clearance Certificate (Self Clearance)' produced, 'Defect Clearance Certificate' produced or defects not corrected); and

(v) date and place of inspection or receipt of documents.

Officers to whom the owner or registered operator of a motor vehicle produces a vehicle for inspection and completion of the Defect Clearance Certificate on a F4890: 'Defect Notice' should:

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(i) inspect the vehicle to confirm all defects specified on the F4890: 'Defect Notice' have been rectified;

(ii) complete the 'Defect Clearance by DTMR or Qld Police' on the buff copy of the F4890: 'Defect Notice' and return the notice to the OIC of the originating station or establishment if the nominated defects have been corrected;

(iii) if the nominated defect has not been corrected, decline to complete the 'Defect Clearance by DTMR or Qld Police' and advise the owner or registered operator to correct the defect and represent the vehicle for inspection. Officers should advise the owner or registered operator that if the vehicle is produced for inspection after the date nominated on the F4890: 'Defect Notice' the owner or registered operator may be liable to a penalty;

(iv) take appropriate action if defects other than the defects nominated on the F4890: 'Defect Notice' are detected during the inspection; and

(v) complete the station register of vehicle inspections.

Officers to whom an 'Owner's Declaration—Self Clearance' or a 'Defect Clearance Declaration' is produced should:

(i) record the details in the station register of vehicle inspections;

(ii) remove the Defective Vehicle Label from the vehicle, if the label was placed on the vehicle and is still affixed;

(iii) forward the buff copy of the F4890: 'Defect Notice' to the OIC of the issuing station or establishment.

OICs who have a vehicle presented at their station or establishment for inspection and the buff copy of the F4890: 'Defect Notice' is not produced should ensure that:

(i) an attempt is made to establish the reason for presentation of the defective vehicle;

(ii) efforts to identify the police officer who issued the F4890: 'Defect Notice' and the station to which the officer is attached are made;

(iii) an inspection of the vehicle is conducted and the details are recorded in the station register of vehicle inspections, including a notation of the defects inspected as advised by the vehicle's owner or registered operator; and

(iv) if possible, a report is furnished to the originating station or establishment containing the information outlined above.

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8.9.8 Processing and finalising Defect Notices

OICs who receive the pink original and green copy of the F4890: 'Defect Notice' from issuing officers should:

(i) ensure that the F4890: 'Defect Notice' has been completed correctly;

(ii) hold the green copy in a pending file for follow up action; and

(iii) file the pink original at the owning station or establishment.

OICs of stations or establishments receiving:

(i) buff copies of F4890: 'Defect Notice'; or

(ii) reports on vehicle inspections where the buff copy of the relevant Defect Notice (F4890) was not produced,

should ensure that the buff copy of the F4890: 'Defect Notice' or the report is attached to the relevant green copy and is filed with the pink original. The matter is then considered finalised.

Action where the vehicle or defect notice is not produced as directed

Where a buff copy of the F4890: 'Defect Notice' or appropriate report is not received by the OIC of the originating station or establishment within a reasonable time after the defective vehicle or appropriate documentation was to be produced, the OIC of the originating station or establishment should detail the green copy of the F4890: 'Defect Notice' to the issuing officer for further attention.

The issuing officer should make, or cause to be made, inquiries with the OIC of the station or establishment or the DTMR Motor Vehicle Inspection Centre at which the vehicle or document was to be produced to establish whether the vehicle or document was produced as required.

If inquiries reveal that the vehicle or document was not produced, the issuing officer should make, or cause to be made, inquiries with the owner or registered operator of the defective vehicle relating to the failure to:

(i) produce the vehicle for inspection at the specified date and place; or

(ii) rectify the defects.

If the owner or registered operator of the defective vehicle resides outside the officers division, the officer should forward the green copy of the F4890: 'Defect Notice' with a covering report to the OIC of the division in which the owner or registered operator resides.

If inquiries reveal that the owner or registered operator produced the vehicle for inspection and/or rectified the defects as required no action should be taken against the owner or registered operator for failing to produce documentation (i.e. 'Owner's declaration for Minor Defects (Self Clearance)' or 'Clearance Certificate for Major and Dangerous Defects') at a particular place.

When an officer is satisfied that a breach of ss. 65: 'Power to require vehicle inspections' or 66: 'Power to prohibit use vehicles' of the PPRA or s. 9: 'Issue of defect notice' of the TO(RUM–VSS)R has been committed, the officer should:

(i) issue and serve a notice to appear on the owner or registered operator; or

(ii) submit a PT 57A: 'Traffic Breach Report',

as appropriate.

8.9.9 Extension of time to clear defect notice

Officers who receive inquiries from an owner or registered operator (see SMD) of a vehicle requesting an extension of time to clear defect notice should advise the owner or registered operator of the vehicle to forward a written request to the OIC of the station to which the issuing officer is attached. The owner or registered operator of the vehicle should be advised to include in the written request, the reasons for the request.

OICs of stations or establishments who receive written requests from an owner or registered operator of a vehicle for an extension of time to clear a defect notice should detail the request to the officer who issued the defect notice in question for consideration.

Officers detailed with a written request for an extension of time to clear a defect notice should consider the reasons outlined in the request. If satisfied with the reasons outlined, in accordance with s. 14: 'Extension of period for complying with defect notice—authorised officer' of the TO(RUM–VSS)R, the officer may cause an extension of time to clear the defect notice to be granted to the owner or registered operator of the vehicle.

Officers should not grant more than one extension of time to clear a defect notice to the owner or registered operator of a vehicle.

In order to grant the owner or registered operator of a vehicle an extension of time to clear a defect notice, officers should:

(i) complete another F4890: 'Defect Notice' including the new requirements and dates;

(ii) prepare a letter to the owner or registered operator of the vehicle (see the 'Transport Products Home' webpage on the RPG webpage on the Service Intranet for a draft letter);

(iii) send the letter and the buff copy of the new defect notice to the owner or registered operator of the vehicle by post; and

(iv) file the written request from the owner or registered operator of the vehicle together with a copy of the letter to the owner or registered operator of the vehicle and the pink original of the new defect notice with the pink original copy of the initial defect notice.

If the officer is not satisfied with the reasons provided with the request, the officer should:

(i) prepare and send a letter to the owner or registered operator of the vehicle (see the 'Transport Products Home' webpage on the RPG webpage on the Service Intranet for a draft letter); and

(ii) file a copy of the letter to the owner or registered operator of the vehicle with the pink original of the initial defect notice.

ORDER

Extensions of time to clear a defect notice must not exceed two months.

8.10 Complaints concerning the issue of infringement notices

When an alleged offender lodges a complaint about the circumstances surrounding the issue of an infringement notice, the complaint should be assessed by a prescribed officer. A complaint which raises a reasonable suspicion a member may have committed a ground for discipline, is to be dealt with in accordance with the Complaint Resolution Guidelines available on the ESC SharePoint page.

If the alleged offender denies committing the offence, requests leniency, or alleges any defect in the completion of the infringement notice, the prescribed officer receiving the complaint should determine whether an investigation into the issue of the infringement notice is warranted. It is not necessary for the issuing officer to be required to provide a full report in every instance where an alleged offender makes a complaint about the issue of an infringement notice.

At the conclusion of any investigation into the issue of an infringement notice, a prescribed officer may waive the infringement notice or continue action.

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If, as a result of an error by the Service, processing of an infringement notice has progressed to the stage where a registration fee is added by SPER to the original infringement notice fine while the issue of the infringement notice is still under investigation, a prescribed officer may allow an offender the opportunity to pay only the original infringement notice fine. The infringement notice is to be recalled from SPER at the TRAILS adjudication point. Once recalled from SPER it cannot be returned. If the alleged offender is unable to pay the penalty in full, the original infringement is to be waived, and a replacement infringement notice issued.

Members are not to advise persons, wishing to dispute the issue of an infringement notice, to seek redress through the DTMR unless the notice was issued by an officer of that department.

8.10.1 Procedure on receipt of telephone complaint

Members who receive a telephone complaint from a member of the public concerning the issue of an infringement notice by an officer should:

(i) if the complaint relates only to the clarification of a particular such as penalty, demerit points, a section of relevant legislation, etc. attempt to satisfy the inquiry; or

(ii) where there are no allegations of a ground for discipline or misconduct, advise the person making the complaint to write to the OIC of the station in the area where the alleged offence occurred.

8.10.2 Procedure on receipt of complaint when issuing an infringement notice

Officers issuing infringement notices who receive a complaint from a member of the public, concerning the issue of that infringement notice, should advise the person that:

(i) they have the right to contest the matter in a Magistrates Court in accordance with the information outlined on the notice;

(ii) if they do not wish to contest the matter, details for payment of the infringement notice are recorded on the notice; and

(iii) any other inquiry in relation to the infringement notice is to be directed to the OIC of the station in the area where the alleged offence occurred.

8.10.3 Procedure for letters of complaint

When a letter or email of complaint concerning the issue of an infringement notice by a police officer is received, OICs of stations or establishments should:

(i) enter details into unit adjudication register;

(ii) forward a letter of acknowledgement to the alleged offender;

(iii) check the status of the infringement notice on TRAILS and ensure that action is taken to suspend (HOLD) the notice on TRAILS at a TRAILS adjudication point unless the infringement is already at State Penalties Enforcement Register (SPER):

(a) if no record of the infringement notice exists on TRAILS, ensure that the infringement notice is promptly entered into TRAILS by:

- emailing a copy of the infringement notice to Offence Processing Department (OPD), Queensland Revenue Office (QRO) requesting the infringement be entered onto TRAILS;
- if not already batched in the Traffic Infringement Notice Management System (TINMS), then batch in TINMS and mail the completed 'Acknowledgement of infringement to be entered on TRAILS by QRO' and a copy of the notice to the QRO; and
- upon receipt of advice that the Infringement notice has been entered on to TRAILS, check the status of the infringement notice and take the appropriate action;

(b) if the infringement notice has not been paid, action to suspend the infringement notice is to be taken; and

(c) if the infringement notice is at SPER do not recall/suspend until the investigation has been finalised;

(iv) commence an 'Adjudication status report'; and

(v) forward the letter of complaint and status report to a prescribed officer. For QNotices, create a task for the issuing officer in QPRIME.

A prescribed officer receiving a letter of complaint should:

(i) determine whether an investigation into the issue of the infringement notice is required;

(ii) conduct any required investigations;

(iii) decide what further action is to be taken in respect of the infringement notice; and

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(iv) advise the OIC of the relevant station or establishment of the decision; or

(v) in the case of an infringement notice issued by the OIC of the relevant station or establishment, take the action which would normally be taken by an OIC of a station or establishment as set out in the remainder of this section.

After the issue of an infringement notice has been considered and a decision is made to continue a prosecution, OICs of stations or establishments should:

(i) determine whether to allow the alleged offender a further period of time within which to pay the infringement notice fine amount. Generally the alleged offender should be allowed a further period (up to a maximum of 28 days from the date of the letter advising the alleged offender of the extended period). It may be appropriate in some cases, such as repeated complaints from an alleged offender about the issue of an infringement notice which has already been considered and decided upon, not to allow a further period in which to pay the infringement notice fine amount. If full payment of the infringement notice fine amount has already been made the alleged offender should be advised that no further payment is required;

(ii) ensure that the TRAILS record for the relevant infringement notice is modified at a TRAILS adjudication point to reflect any further period allowed within which to pay the infringement notice fine amount:

(a) if a further period is to be allowed, ensure that the period within which payment of the infringement notice fine amount may be made is extended (EXTD) for the relevant Infringement notice on TRAILS at a TRAILS adjudication point in accordance with local procedures; or

(b) if no further period is to be allowed, ensure that processing of the infringement notice is continued (CONT) on TRAILS at a TRAILS adjudication point in accordance with local procedures;

(iii) if the prescribed officer has decided to allow payment of the original infringement notice fine amount only, ensure that the infringement notice has been recalled (RCAL) from SPER. Note, once recalled from SPER, the infringement notice cannot be returned. Ascertain if the alleged offender is able to pay the infringement notice fine in full, if not, the original infringement notice is to be waived and a replacement infringement notice issued. The period within which payment of the infringement notice fine amount may be made is extended (EXTD) on TRAILS at a TRAILS adjudication point in accordance with local procedures;

(iv) send a letter to the alleged offender containing the following advice:

(a) the infringement notice will not be waived;

(b) whether payment of only the original infringement notice fine amount is required;

(c) the date by which payment of the infringement notice fine amount may be made, except where payment has already been made or the relevant infringement notice has progressed to SPER and it is not intended to allow payment of the infringement notice fine amount only; and

(d) if the infringement notice has progressed to SPER and it is not intended to allow payment of the infringement notice fine amount only, the alleged offender should contact SPER to arrange payment of the prescribed penalty; and

(v) file a copy of the letter to the alleged offender together with the advice from the prescribed officer, the original complaint letter, status report and any other documents relating to the matter.

If it is decided to waive an infringement notice, OICs of stations or establishments should ensure that appropriate action is taken in accordance with s. 8.7.5: ‘Action by officers in charge—cancelling or waiving infringement notices’ of this chapter.

8.10.4 Letters of complaint regarding infringement notices which have been returned to the Service for prosecution

Certain officers may withdraw prosecutions arising from the issue of infringement notices. In determining whether to exercise this discretion such officers should be guided by the considerations set out in s. 3.4.3: ‘Factors to consider when deciding to prosecute’ of the OPM.

Members who receive letters of complaint regarding the issuing of infringement notices which have been returned to the Service for prosecution should refer those letters to the appropriate officer authorised by s. 3.4.4: ‘Withdrawal of charges’ of the OPM to withdraw or offer no evidence in relation to a charge.

Officers authorised by s. 3.4.4 of the OPM to withdraw or offer no evidence in relation to a charge, who receive letters of complaint regarding the issue of an infringement notice which has been included on a Prosecutions Pending List, should ascertain whether a summons or NTA has been issued in respect of the infringement notice.

If no summons or NTA has been issued in respect of the infringement notice, the officer should ensure that a summons or NTA is not issued prior to a decision being made on whether to proceed with the prosecution.

If a summons or NTA has been issued in respect of the infringement notice, the officer should liaise with the appropriate police prosecutions corps to have the matter adjourned until such time as a determination is made whether or not to proceed with the prosecution.

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Officers authorised by s. 3.4.4 of the OPM to withdraw or offer no evidence in relation to a charge should, at the appropriate times, inform alleged offenders by letter of:

(i) receipt of their complaint;

(ii) any intention to seek an adjournment in relation to the matter; and

(iii) a final decision on whether prosecution of the matter will be continued.

8.10.5 Complaints regarding infringement notices for camera detected offences

Members who receive complaints relating to the issue of infringement notices for camera detected offences should:

(i) forward such complaints to the Offence Processing Department , Queensland Revenue Office (QRO); and

(ii) send a letter to the alleged offender advising that their complaint has been forwarde

8.11 Prosecutions pending list

The Prosecutions Pending List is provided by the DTMR to the district or establishment from which an infringement notice was issued in respect of some types of unpaid infringement notices.

It is important that an entry be made against each infringement notice included on the Prosecutions Pending List to indicate what action, if any, has been taken against the alleged offender.

The Prosecutions Pending List is an accountable document and provides part of the system of auditing infringement notices.

ORDER

OICs are to use the Prosecutions Pending List provided by the DTMR to record details of prosecution action in relation to infringement notices.

OICs are to ensure that the place and date of the alleged offender's appearance is placed on the side of the Prosecutions Pending List when a matter is set down for court. Court results are also to be shown on the side.

If a matter is not prosecuted for some reason, the OIC is to ensure that the reason for the decision, the date the decision is made, and the file reference number relating to the authority not to prosecute, is noted on the side of the Prosecutions Pending List, next to the alleged offender's name. In this circumstance, the word withdrawn is to be inserted and a line drawn through the entry from the Day issued column to the Name column.

OICs are to ensure that:

(i) entries made on the Prosecutions Pending List are legible and written in ink;

(ii) the Prosecutions Pending List is retained for audit purposes pursuant to the Financial Management Practice Manual; and

(iii) the Prosecutions Pending List is filed in sequence using the date created entry at the top of the list as a reference.

OICs are to ensure that completed prosecution files are forwarded to the DTMR so that records are updated and, where appropriate, advice is also forwarded in cases where prosecutions are withdrawn.

8.12 Suspension of the use of infringement notices for specific offences

From time to time, the issuing of infringement notices relating to a specific offence may be suspended for various reasons including:

(i) the amending or repeal of legislation; or

(ii) the alteration of administrative requirements by other government departments or the Service.

When the use of an infringement notice for a specific offence is suspended, the Superintendent, RPG is to ensure that a computer report is forwarded to all stations and establishments. This report is to include:

(i) the code of the offence;

(ii) the offence title;

(iii) the penalty;

(iv) action to be taken by officers when detecting a similar offence, e.g. issue and serve a notice to appear on the offender, furnish a breach report to OIC of station/establishment, furnish breach report to Prosecution Section, the DTMR;

(v) the date on which the suspension was commenced; and

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(vi) action to be taken regarding any infringement notices issued after that particular date.

8.12.1 Infringement notices for parking offences

If an infringement notice has been issued by a police officer and a local government parking officer has also issued an infringement notice for the same parking offence, then the infringement notice issued by the police officer is to be withdrawn.

ORDER

Where a local government parking officer has issued an infringement notice to a vehicle for a parking offence, a police officer is not to issue an infringement notice for the same offence to the same vehicle.

Police officers who become aware that an infringement notice has been issued by a police officer for a particular parking offence and a similar notice was issued by a local authority parking officer for the same offence, are to furnish a report to a prescribed officer requesting that particular infringement notice be waived (see s. 8.7: 'Waiving and cancellation of infringement notices' of this chapter).

8.13 Evidentiary notes required for offences

Officers issuing infringement notices should make notes in relation to the offence committed:

(i) on the rear of the pink (prosecution) copy of the relevant PT 56: 'Infringement notice'; or

(ii) in the 'Notes and photos' entry screen where a QNotices infringement notice is issued.

The notes should include:

(i) the officer's observations of the offence committed;

(ii) any conversation between the officer and the offender, including a reference to any electronic recording made;

(iii) any defences raised by the offender for committing the offence; and

(iv) any other relevant notations to support the elements of the offence committed.

Many offences under transport Acts require action to establish that the person did not have a reasonable excuse for the commission of the offence. Information should be recorded in the manner advised above in relation to all traffic related offences.

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8.14 Use of QPRIME flag for traffic offenders

Superintendents of traffic and OICs of stations may authorise particulars of offenders wanted for the service of traffic offence related summonses being entered in QPRIME and flagged.

The decision to enter such particulars should be made having regard to the seriousness of the offence, the history of the defendant relating to non-appearance and whether the recording of such information is likely to result in the detection of the alleged offender.

Officers locating offenders wanted for service of traffic offence related summonses and whose particulars have been flagged in QPRIME should ensure that the flag is removed from the system.

8.15 Changes to local official traffic signs

From time to time, local governments change local traffic arrangements, e.g. speed limits are decreased and stop and give way signs are installed. Officers should endeavour to assist in educating motorists for a period of time before commencing enforcement action.

The length of such period should be dependent upon:

(i) the extent and effect of the changes including the prominence of the signs indicating the new requirements;

(ii) the amount of public awareness information provided as to the changes to local traffic arrangements;

(iii) a history of traffic incidents occurring in the locality;

(iv) complaints of traffic related offences being received from members of the public; and

(v) whether there is an imminent threat to the safety of road users, road construction workers or any other person due to complaints or observed instances of persons driving in excess of the speed limit or by the commission of other offences.

OICs of stations or establishments at locations where new traffic signs have been erected should determine the period of time prior to commencing enforcement action and should advise personnel under their control and other personnel

as appropriate. Generally, this time period should not exceed one month from the date of which the specific change to the local traffic signs was made.

OICs should be able to justify their reasons for determining the commencement of enforcement action.

8.16 Bicycle Offence Notices

Officers should use QP 0441: 'Bicycle Offence Notices' (available from Supply Services) for bicycle related offences committed by children between the age of ten to sixteen years to:

(i) increase the road safety awareness of the child; and

(ii) inform the parent/guardian of the offence committed by the child.

Bicycle Offence Notices should be entered on the regional correspondence recording system.

When issuing a QP 0441 officers should advise the children concerned that police will inform their parents or guardians of the circumstances surrounding the issue of the notice.

Issuing officers should:

(i) hand the buff copy of the QP 0441 to the child; and

(ii) submit the white (original) and the pink copy of the QP 0441 to their OIC prior to terminating duty.

OICs should ensure:

(i) details of the QP 0441 are entered on the regional correspondence recording system;

(ii) the regional correspondence recording system is checked to ascertain whether the child has previously been issued a QP 0441; and

(iii) the white and pink copies of the QP 0441 are forwarded to the superintendent of traffic for the division where the offence occurred.

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8.16.1 Issuing of first Bicycle Offence Notice

On the first occasion when a QP 0441: 'Bicycle Offence Notice' is issued to a child, the superintendent of traffic for the division where the offence occurred should:

(i) advise the child's parent/guardian of the child's interception by letter and include the pink copy of the QP 0441; and

(ii) return the white copy of the QP 0441 to the OIC of the issuing station with a copy of the letter for recording purposes.

8.16.2 Issuing of second Bicycle Offence Notice

Where a second QP 0441: 'Bicycle Offence Notice' is issued, the superintendent of traffic for the division in which the offence occurred should:

(i) advise the parent/guardian by letter of the child's second interception and warn that further offences may result in prosecution action being taken. The pink copy of the QP 0441 should be attached to this letter; and

(ii) return the white copy of the QP 0441 should be noted and returned to the OIC of the issuing station with a copy of the letter for recording purposes.

8.16.3 Issuing of third or subsequent Bicycle Offence Notice

When three or more QP 0441: 'Bicycle Offence Notice' are issued to a child, the superintendent of traffic for the division in which the offence occurred should arrange for the officer who issued the most recent notice to prepare a PT 57A: 'Traffic breach report'.

The superintendent of traffic should assess the PT 57A and determine an appropriate course of action bearing in mind the provisions of s. 5.2.2: 'Alternatives for dealing with child offenders' of the OPM.

Upon finalisation of any action emanating from the PT 57A, the superintendent of traffic for the division in which the offence occurred should forward the result with the buff copy of the QP 0441 to the OIC of the issuing station for recording purposes.

8.17 Traffic breach reports

8.17.1 Completion of Traffic Breach Report

A PT 57A: 'Traffic breach report' should only be submitted when:

(i) an officer is unable to commence a prosecution by:

(a) issuing an infringement notice;

(b) issuing a notice to appear, either in person or by mail (see s. 3.5.3: 'Proceedings by way of notice to appear' of the OPM); or

(c) where appropriate, arresting,

a person for an offence against the TO(RUM)A, MAIA and their regulations;

(ii) a prosecution is to be commenced in extenuating circumstances by complaint and summons (see s. 3.5.4: 'Proceeding by way of complaint and summons' of the OPM); or

(iii) when directed by a superintendent of traffic.

Whenever practicable, officers should send tasks within the relevant QPRIME occurrence when seeking a direction from a superintendent of traffic following a traffic crash rather than submitting a PT 57A (see s. 5.7: 'Enforcement action following traffic crashes' of this Manual).

8.17.2 Information to be included on Traffic Breach Report

Officers should ensure that the following information is included in the 'summary of facts' of the PT 57A: 'Traffic Breach Report':

(i) a description of the location of offence;

(ii) a description of the circumstances leading to the interception of the offender;

(iii) the details of any interview with the offender (in the first person);

(iv) any witnesses' versions of the events surrounding and constituting the offence (in the third person);

(v) information sufficient to substantiate the elements of the offence alleged to have been committed; and

(vi) other information relevant to the offence (e.g. weather conditions, day/night time, road conditions, traffic flow).

8.17.3 Forwarding of Traffic Breach Reports by officers

Officers completing a PT 57A: 'Traffic Breach Report' should obtain the traffic history of the alleged offender, attach that history to the PT 57A and submit the documents to their OIC.

8.17.4 Traffic Breach Reports received by officers in charge

OICs of stations and establishments who receive a PT 57A: 'Traffic Breach Report' should ensure that:

(i) the correct offences have been nominated;

(ii) sufficient evidence is provided to substantiate the offences nominated;

(iii) all relevant documentation (e.g. traffic history) is attached to the PT 57A; and

(iv) if the PT 57A is satisfactory, it is distributed in accordance with the instructions printed thereon.

Copies of PT 57A: 'Traffic Breach Reports' which are submitted to a superintendent of traffic for adjudication should have copies of any associated documents (e.g. ten year traffic history) attached.

8.17.5 Adjudication of Traffic Breach Report

Superintendents of traffic receiving PT 57A: 'Traffic Breach Reports' for adjudication should assess each PT 57A to determine whether:

(i) sufficient evidence is contained within the 'summary of facts' of the PT 57A to ensure a prosecution is successful;

(ii) no further action is warranted;

(iii) an infringement notice should be issued; or

(iv) action should be taken by issuing a:

(a) complaint and summons; or

(b) notice to appear.

Superintendents of traffic should not initiate charges under s. 83: 'Careless driving of a motor vehicle' of the TO(RUM)A where the alleged offence is adequately described by a more specific provision of a Transport Act. In such cases action should be taken for the relevant specific offence.

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8.17.6 No further action is warranted

Where there is insufficient evidence to prove an offence or it is not in the public interest to commence a prosecution (see ss. 3.4.2: 'The decision to institute proceedings' and 3.4.3: 'Factors to consider when deciding to prosecute' of the OPM) in relation to the offence, the PT 57A: 'Traffic Breach Report' should be endorsed by the superintendent of traffic and returned to the owning station or establishment.

If the PT 57A relates to a previously issued infringement notice, action should be taken to have the infringement notice waived on the TRAILS at the TRAILS adjudication point in accordance with local procedures.

8.17.7 Issue of infringement notice

QNotices infringement notices are not to be issued for offences disclosed in a PT 57A: 'Traffic Breach Report'.

When a superintendent of traffic considers that the issue of an infringement notice for the offence disclosed in the PT 57A is appropriate, the superintendent of traffic may issue an infringement notice. If the infringement notice is issued for a different offence to that nominated in the PT 57A then the PT 57A should be endorsed with a reference to the offence for which the infringement notice was issued.

A superintendent of traffic should not issue an infringement notice if the PT 57A has been furnished due to the non-payment of an infringement notice which has been previously issued.

The PT 57A should be retained for later use as the court brief, if necessary. Where the penalty associated with the infringement notice is paid, the PT 57A should be endorsed accordingly and forwarded for filing to the OIC of the station/establishment from where the PT 57A originated.

8.17.8 Complaint and summons action

ORDER

Proceedings are only to be commenced by way of complaint and summons, where it is impractical to serve, either personally or by mail, a notice to appear on a defendant.

When a superintendent of traffic considers that action by way of complaint and summons should be taken in relation to the offence disclosed in the PT 57A: 'Traffic Breach Report', the PT 57A should be endorsed accordingly. The PT 57A should be retained for use as the Court Brief.

When the court action is finalised, the superintendent of traffic should endorse the result of court action on the PT 57A.

The superintendent of traffic should forward the PT 57A to the OIC of the originating station or establishment after the expiration of the appeal period of 28 days.

The OIC of the originating station or establishment should forward the PT 57A to the DTMR and, when appropriate, complete the Prosecutions Pending List.

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8.17.9 Issue of Notice to Appear

When a superintendent of traffic considers a prosecution should be commenced by way of notice to appear, the PT 57A: 'Traffic Breach Report' should be returned to the investigating officer to comply with s. 3.5.3: 'Proceedings by way of notice to appear' of the OPM.

8.18 Deleted

8.19 Traffic Infringement Notice Management System

The Traffic Infringement Notice Management System (TINMS) is an electronic audit control of infringement notices and provides an online query access of all PT 56: 'Infringement notice' books held in stock at stations and establishments or on issue to individual officers from any computer terminal.

The data entry of traffic infringement notices on the Transport Registration and Integrated Licensing System (TRAILS) by the DTMR is used to update TINMS. Details of infringement notices issued are imported into TINMS from TRAILS on a daily basis.

The TINMS User Manual (available from within the TINMS system or on the Information management SharePoint page) outlines the:

(i) administrative procedures for the stock control and issuing of PT 56: 'Infringement notice' books through TINMS;

(ii) user roles and specific function access in TINMS;

(iii) Service policies and procedures in relation to the TINMS; and

(iv) process to action TIMNS exception reports.

Members should comply with the instructions, policies and procedures contained in the TINMS User Manual. The Manual can also be accessed by clicking on the "?" icon on the TINMS dashboard.

Members should only be able to perform the functions associated with their user access in the TINMS. The process for changing TINMS user roles is outlined in the TINMS User Manual.

Members should be aware that the TINMS User Manual does not reproduce Service policy on the administration of infringement notices.

The TINMS User Manual does not refer to QNotices infringement notices or Photographic Detection Device Offence infringement notices issued by Speed Camera Operations, RPG.

OICs are to ensure the timely recording of PT 56: 'Infringement notice' books issued to officers in TINMS, in order that ITAS activity logs capture and reflect accurate statistics.

8.20 Transport Registration and Integrated Licensing System (TRAILS)

The establishment of a new police station, where there is a confirmed need for the physical processing of PT 56: 'Infringement notices' requires the creation of a station entity in the Transport Registration and Integrated Licensing System (TRAILS).

On establishment of the new station, the OIC should:

(i) complete form 'Request to Create a TRAILS Police Station Record'; and

(ii) email the form to Access Control Security Section at AccessControlSecuritySection@police.qld.gov.au.

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9. Photographic Detection Devices

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9.1 Introduction

This chapter deals with the requirements for the operation of photographic detection devices used in the Camera Detected Offence Program. The program is a partnership between the Service and the DTMR.

9.2 Photographic detection devices

Photographic detection devices (see s. 113A: '*Photographic detection device* defined' of the TO(RUM)A) are approved as a camera system under Schedule 10: 'Approved photographic detection devices' of the Traffic Regulation.

Photographic detection devices are approved to capture images of the following prescribed offences (see s. 353: 'Prescribed offences for ch 5, pt 7 of the Act' of the TO(RUM—RR)R:

(i) s. 20: 'Obeying the speed limit' of the TO(RUM—RR)R;

(ii) s. 56(1) and (2): 'Stopping on a red light or arrow' of the TO(RUM—RR)R;

(iii) s. 104(1), (2) and (3): 'No trucks signs' of the TO(RUM—RR)R;

(iv) s. 10: 'Vehicles used on roads must be registered except in particular circumstances' of the TO(RUM—VR)R;

(v) s. 211(f): 'Using, or permitting use of, vehicle for which registration certificate, number plate or permit altered etc.' of the TO(RUM—VR)R;

(vi) s. 84A: 'Driving of motor vehicles carrying placard loads in tunnels' of the TO(RUM)A; and

(vii) s. 20(1) and (2): 'Offence of driving uninsured vehicle' of the MAIA.

The Service operates photographic detection devices which are:

(i) mobile at an approved location identified in the Traffic Camera Coding Manual for speed camera system detection; and

(ii) mobile for detecting unregistered and uninsured vehicle offences (see s. 9.5: 'Automatic number plate recognition system' of this chapter).

ORDER

Photographic detection devices are to be operated and tested in accordance with Part 22: 'Camera detected offences' of the Traffic Regulation.

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9.3 Photographic detection device sites

The Traffic Camera Coding Manual is maintained by Speed Camera Operations on behalf of the Commissioner (see s. 4: 'Definitions' of the Traffic Regulation).

Automatic number plate recognition devices (see s. 9.5: 'Automatic number plate recognition system' of this chapter) are not required to operate from a fixed or otherwise approved location and are exempt from this section of the Manual.

ORDER

Photographic detection devices, excluding automatic number plate recognition devices, are only to be operated at an approved location identified in the Traffic Camera Coding Manual.

9.3.1 Mobile speed camera site selection

The members of the Speed Management Advisory Committee (see SMD) are the primary road safety stakeholders.

Primary site nomination

Photographic detection device sites are selected on identified criteria, with crash history being the primary criterion used to identify possible sites.

The site selection process is commenced when the Speed Camera Operations, RPG receives a crash zone map from the DTMR.

Speed Camera Operations will create a Camera Scheduling and Reporting System zone record for each zone map issued by the DTMR.

The site proposal is forwarded to the OIC of the district Highway Patrol responsible for the relevant area for site selection, assessment and recommendation for approval.

Secondary site nomination resulting from public complaints and stakeholder concern

Members advised of possible speeding problems by road safety stakeholders are to refer the matter to the OIC of the relevant district Highway Patrol.

Potential photographic detection device sites brought to the attention of the OIC of the relevant district Highway Patrol by public complaints of allegedly speeding vehicles should be considered in accordance with s. 9.3.2: 'Site selection process' of this chapter.

Validation of all public complaints and the application of site selection criteria will determine whether:

(i) the site will be appropriate for photographic detection device operations;

(ii) whether alternate methods of enforcement should be used; or

(iii) whether the problem requires an engineering solution.

Where road design is believed to contribute to the problem, the DTMR or the relevant local government engineering personnel should be consulted by the OIC of the relevant district Highway Patrol with a view to eliminating the problem through redesign.

Application of the site selection criteria will finally determine the suitability of the proposed site for photographic detection device operations.

9.3.2 Site selection process

The process for assessing, validating and approving proposed photographic detection device sites is to be completed in compliance with the Camera Scheduling and Reporting System User Manual.

9.3.3 Deleted

9.3.4 Modification of descriptors for approved photographic detection device sites

Following the approval and activation of photographic detection device sites, it may be necessary to modify or adjust a site's secondary descriptor or other details on the Camera Scheduling and Reporting System, for the purposes of clarity or for other operational reasons.

Officers who identify a site which requires modification in its description for the operational requirements of a photographic detection device should provide written advice to the OIC of the relevant district Highway Patrol who can commence a work flow on the Camera Scheduling and Reporting System for the appropriate action to be finalised.

9.3.5 Deactivation of photographic detection device sites

Changes may occur at approved photographic detection device sites which may affect the site's suitability for operations (e.g. road works). Unsuitable sites may be deactivated from the Camera Scheduling and Reporting System either permanently or temporarily, depending on the nature of the change at the site.

Officers identifying active photographic detection device sites which may no longer be suitable for operations should advise the OIC of the relevant district Highway Patrol, who is responsible for:

(i) ensuring that the continued suitability of such sites is assessed; and

(ii) notifying Speed Camera Operations, RPG where active sites are no longer suitable for operations.

Site administrators at Speed Camera Operations should deactivate sites in response to written requests from the OIC of the relevant district Highway Patrol for sites to be deactivated for valid reasons.

9.4 Mobile speed camera system operation

This section outlines the policy for the operation of mobile speed camera systems. The operation of automatic number plate recognition systems is covered in s. 9.5.1: 'Use of automatic number plate recognition system' of this chapter.

9.4.1 Officer authorisation to operate a mobile speed camera system

A mobile speed camera system is not to be operated unless the officer operating the device has an operator's code issued by Speed Camera Operations, RPG.

Authorised officers who have successfully completed training in the operation of a mobile speed camera system will be issued with a unique operator's code to access the Camera Scheduling and Reporting System and to operate the camera system.

Mobile speed camera system operator's courses

ORDER

Officers are eligible to attend an operator's course if they have completed all pre-requisites in Ignite for the relevant course.

Speed Camera Operations is responsible for training and authorising instructors in the use of mobile speed camera systems.

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Authorisation, re-authorisation and competency reassessment of mobile speed camera system operators

Mobile speed camera system operators will not be able to generate a schedule in the Camera Scheduling and Reporting System if they have not operated a mobile speed camera system in the preceding 12 months.

Revocation of authorisation to operate mobile speed camera systems

Authorised instructors and operators are to carry out their responsibilities in a professional manner in accordance with Service policy.

If it becomes evident that an officer who is either a mobile speed camera system instructor or an operator should not continue to be authorised, the authorisation held by that officer may be revoked. A revocation notice may be issued by the Chief Superintendent, RPG or the OIC, Speed Camera Operations.

9.4.2 Amount of tolerance allowed in speed detection by photographic detection device

The Commissioner is responsible for determining the amount of tolerance (see SMD) to be allowed in speed detections by photographic detection devices. The amount of tolerance should be uniform throughout the State at any particular time.

9.4.3 Operation of mobile speed camera systems

ORDER

Officers deploying mobile speed camera systems are to ensure the target vehicle is located within the parameters of the site location listed in the Traffic Camera Coding Manual.

The mobile speed camera systems must be tested and operated in accordance with the requirements outlined in s. 210C: 'Operating and testing digital speed camera systems' of the Traffic Regulation, as appropriate for the type of device used.

9.4.4 Management of speed camera systems and vehicles

The OIC, Speed Camera Operations is responsible for the allocation of speed camera systems.

OICs of stations and establishments which use mobile speed camera systems are to ensure any associated vehicles and equipment allocated to their work unit are maintained in a clean and operational condition.

In the case of the loss, damage or defect to a mobile speed camera system, officers are to comply with s. 14.22.4: 'Reporting loss or damage or defect' of the OPM.

Officers are to:

(i) ensure mobile speed camera systems are transported and stored securely when not in use;

(ii) ensure the camera systems are kept in a clean and operational condition; and

(iii) advise Speed Camera Operations of any issues relating to the functioning of the camera system.

ORDER

Other than setting up and dismantling the relevant mobile speed camera systems at the beginning and end of a deployment, no person is to adjust, disconnect, or remove any part of the system without prior approval of Speed Camera Operations.

In the event of physical damage to the portable mobile speed camera system, Speed Camera Operations is to be advised as soon as practicable.

Use of speed camera vehicles

Officers are to:

(i) ensure the vehicle is left secured when it is not in use or is unattended;

(ii) ensure the vehicle and system is kept in a clean and operational condition; and

(iii) advise Speed Camera Operations as soon as practicable of any damage or issues affecting the speed camera system or the vehicle.

OICs of Highway Patrols where a speed camera vehicle is attached are to ensure the vehicle:

(i) is serviced on a monthly basis;

(ii) receives scheduled log book services; and

(ii) is kept in a clean and operational state.

Officers are to be aware that the speed camera vehicle is not an operational police vehicle and as such, the vehicle is not fitted with operational equipment.

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ORDER

Speed camera vehicles are not to be used for policing activities other than speed camera deployments.

Vehicle deployment

The OIC, Speed Camera Operations is responsible for the allocation of speed camera vehicles.

Damage and faults with the speed camera vehicle

Officers are to comply with this section with respect to the speed camera system fitted to the speed camera vehicle.

Where a speed camera vehicle is involved in a traffic crash, the officer operating the vehicle at the time of the incident is to comply with s. 5.13: 'Investigation of traffic crashes involving Service vehicles' of this Manual.

ORDER

In the event of physical damage to the speed camera components, or the vehicle where the damage affects the vehicle's deployment, Speed Camera Operations is to be advised as soon as practicable.

9.4.5 Computerised scheduling of camera operations

ORDER

Officers are to generate a deployment schedule from the Camera Scheduling and Reporting System (CSRS) prior to commencing a mobile speed camera system deployment.

Officers deploying a mobile speed camera system are to obtain from CSRS a selection of approved sites.

Operators may add an approved site to those selected by CSRS to respond to a special event (e.g. shows, rodeos, functions etc.) which may require a mobile speed camera system response.

Inability to generate a schedule

Officers who are unable to generate a deployment schedule for technical reasons (e.g. CSRS being inoperable) may use their discretion and deploy a mobile speed camera system at an active, approved speed camera site.

Officers who are unable to generate or finalise a camera schedule as a result of technical reasons are to note their deployment log as such and advise the on-call officer at the Speed Camera Operations, RPG.

Inability to deploy a mobile speed camera system

Where a mobile speed camera system cannot be deployed (e.g. equipment failure or any other extraordinary reason), the OIC of the station or establishment where the mobile speed camera system is assigned at the relevant time is to ensure that a camera schedule is generated and immediately finalised outlining the reasons why the mobile speed camera system could not be deployed on that day.

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9.4.6 Record of mobile speed camera system operation

Where an officer operates a mobile speed camera system, the officer is to:

(i) complete a 'Speed Camera Record of Operation' form (available from the Camera Scheduling and Reporting System (CSRS)); and

(ii) scan the completed 'Speed Camera Record of Operation' form into the relevant deployment record on the CSRS.

9.4.7 Deleted

9.4.8 Briefs of evidence for photographic detection device offences

In some cases, the camera operator may be required to prepare a witness statement. Where a statement is required, the operator will be contacted by Speed Camera Operations.

9.5 Automatic Number Plate Recognition system

Automatic number plate recognition (ANPR) (see SMD) is a screening tool which compares the number plates of vehicles passing an ANPR device to identify a match between a number plate against a defined hotlist record held on the device. The operator then decides if any action is to be taken such as intercepting the vehicle or making further inquiries.

The Vehicle Identification Platform – Enforcement Response (VIPER) Unit, located within OSC, manages the Service's mobile and static ANPR Program. Access to the ANPR system is at the discretion of the Superintendent, Covert and Specialist Support Group, OSC.

The ANPR system is used for:

(i) road safety functions (see SMD); and

(ii) the investigation of offences and associated policing functions.

Officers using an ANPR system are to conduct an investigation, in accordance with s. 3.4: 'General prosecution policy' of the OPM, prior to commencing enforcement action, irrespective of any potential offence indicated by the system.

Hotlists

Five primary Queensland motor vehicle number plate 'hotlists' are searched by the mobile ANPR device, namely:

(i) stolen motor vehicles;

(ii) unregistered motor vehicles;

(iii) cancelled motor vehicle registrations;

(iv) unlicensed and disqualified drivers, based on DTMR registration records; and

(v) other vehicles of interest including:

(a) vehicles bearing number plates recorded in QPRIME as lost or stolen; or

(b) vehicles flagged within QPRIME or included in a QPRIME BOLO broadcast.

9.5.1 Use of automatic number plate recognition system

The Service's mobile ANPR system requires an individual user login. Officer's access to the ANPR system will depend on their approved role and function. Upon successful completion of role specific ANPR training, officers will be allocated an individual user ID and password, enabling relevant access to the ANPR system. Each authorised ANPR operator is accountable for all ANPR related activities.

Operators are to comply with the relevant policy, procedures and orders relating to interception by motorised offenders (see s. 3.2: 'Static interception' of this Manual and s. 15.4: 'Vehicle interceptions' of the OPM).

Operators are to:

(i) ensure the vehicle is left secured when it is not in use or is unattended;

(ii) ensure the vehicle and system is kept in a clean and operational condition;

(iii) check the currency of the hotlist databases prior to commencing a deployment;

(iv) confirm any hotlist alert through existing procedures (e.g. radio inquiry, driver questioning etc.) before commencing any enforcement action;

(v) when conducting a static deployment and interception site, the operator is to:

(a) select an appropriate site consistent with the provisions of s. 3.2 of this Manual; and

(b) ensure that a clear and uninterrupted view exists between the point where the ANPR system is located and the point where the vehicle is to be intercepted, so that the intercepting officer and the authorised operator can visually monitor the vehicle until the point of interception;

(vi) advise the Superintendent, Covert and Specialist Operations Group (CSOG), OSC as soon as practicable of any damage or issues affecting the ANPR system or the vehicle.

Vehicle deployment

The Superintendent, CSOG, is responsible for:

(i) the equipment installation and technical support of all Service ANPR enabled vehicles; and

(ii) coordinating the deployment of ANPR enabled vehicles.

OICs of districts or commands allocated ANPR enabled vehicles, are responsible for the coordination, management and operation of those vehicles.

Damage and faults with the ANPR system

Other than the mechanism to adjust the screen display unit, no person is to adjust, disconnect, or remove any part of the system without prior approval of the Superintendent, CSOG.

Issues relating to the functioning of the ANPR system should be reported to the equipment vendor's service assistance system. Where the matter requires urgent attention, contact should be made with the VIPER Unit via email.

When an ANPR enabled vehicle is required to undergo maintenance or repairs, the system is to be shut down in the normal manner.

ORDER

In the event of physical damage to the ANPR system, or the vehicle where the damage affects the vehicle's deployment, the Superintendent, CSOG is to be advised as soon as practicable.

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9.5.2 Automatic number plate recognition records

The automatic number plate recognition (ANPR) system (see SMD) database retains a record of all vehicles detected by the system, whether or not a possible offence is identified.

Encrypted ANPR records are uploaded from the vehicle's system to the ANPR database. A record consists of the date, time and GPS coordinates of the detection, a low-resolution colour image of the vehicle and a photograph of the vehicle's number plate.

ORDER

Access to the ANPR database and associated management software is restricted to persons authorised or delegated by the Superintendent, Covert and Specialist Operations Group (CSOG), OSC.

ANPR records are to be used only for law enforcement purposes.

ANPR records bear an unclassified information security classification (see s. 4.4: 'Information security classification system' of the Information Management Manual), however they are considered to be personal information under s. 12: 'Meaning of *personal information*' of the *Information Privacy Act* (see s. 5.9: 'Queensland Privacy Principles' of the MSM).

The Superintendent, CSOG, OSC is to periodically review its standing orders regarding physical and electronic security of the file server and records, including the conducting of security audits.

Records retention

ANPR records can be:

(i) deleted once the record is no longer required, as determined by the Superintendent, CSOG, OSC; or

(ii) retained within a QPRIME occurrence at the request of a member of the Service (see subsection 'Requests for records' of this section).

ANPR records are to be maintained in accordance with the Queensland Whole of Government Information Standards 31: 'Retention and Disposal of Public Records' and 40: 'Recordkeeping'.

Requests for records

ANPR records may be produced as secondary evidence in court or to assist in the investigation of criminal offences.

ORDER

ANPR records required for production in court, or used in the investigation of criminal offences are to be imported into the relevant QPRIME occurrence and retained in accordance with the QPS Records Retention and Disposal Schedule (see s. 5.5: Records retention and disposal' of the MSM).

A member requesting an ANPR record is to complete a QP 0910: 'Request to search ANPR database' and submit it to an officer of the rank of sergeant or above for authorisation.

The authorising officer is to determine if the request relates to a law enforcement purpose. If the request is authorised, the authorised QP 0910 is to be forwarded to an officer authorised to interrogate the ANPR database.

After reviewing the request, the authorised officer will provide details of the record to the requesting officer. All requests for records, access to the ANPR database and related activity are captured for auditing purposes.

On receipt of the relevant records, the investigating officer is to check the record for the clarity of the image and that the record supports the commission of an offence. All record/s should be retained within the relevant QPRIME occurrence.

Statistics

Any official request for ANPR statistics is to be directed through the Superintendent, CSOG, OSC.

9.5.3 Automatic number plate recognition system training

The Automatic Number Plate Recognition (ANPR) Unit, Road Policing Group is responsible for developing the training materials and courses in the operation of the ANPR system.

The following types of training courses are conducted by the Service in relation to the operation of the ANPR system:

(i) authorised instructor course;

(ii) authorised operator course; and

(iii) authorised intelligence officer course.

The Superintendent, RPG will arrange for the delivery of courses to qualify officers in the use of the system.

Records of authorised ANPR instructors and operators in each region/command are to be maintained within the Ignite learning and performance management system by the training provider in accordance with the Education and Training Command Information Management Policy.

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Officers identified as failing to access or operate the ANPR system in accordance with this policy may have their authorisation withdrawn.

9.6 Complaints regarding offences recorded by photographic detection devices

9.6.1 Complaints regarding infringement notices for photographic detected offences

Complaints regarding offences identified by automatic number plate recognition system devices

Members who receive complaints regarding the issue of infringement notices for offences identified by an automatic number plate recognition system (see SMD) should manage the offence in accordance with s. 8.10: 'Complaints concerning the issue of infringement notices' of this Manual.

Complaints regarding offences identified by other photographic detection devices

Members who receive complaints relating to the issue of infringement notices for photographic detected offences should:

(i) forward the complaint to Speed Camera Operations, RPG; and

(ii) send a letter to the alleged offender advising that their complaint has been forwarded to Speed Camera Operations, RPG.

9.6.2 Request to view photographic detected device image

Where an alleged offender requests to view a photographic image captured by a photographic detection device, members are to direct the person to contact the Queensland Revenue Office (QRO) by email at QROFinesRequest@treasury.qld.gov.au, or by telephone on 1300 360 610.

9.6.3 Deleted

9.6.4 Service requests for photographic detection device image

A member of the Service who requires information relating to a photographic detection device offence (e.g. a stolen car detected exceeding the speed limit) should download and complete a QP 1053: 'Request for Information from Camera Detected Infringement Notices' and email QROFinesRequest@treasury.qld.gov.au. Further information can be obtained by emailing Speed Camera Operations.

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10.1 Introduction

This chapter operationalises the *Transport and Other Legislation (Managing E-Mobility Use and Protecting Our Communities) Amendment Act* by setting out the policies, procedures and guidance for officers.

The Act strengthens the regulation of eMobility devices, including electrically power-assisted cycles (EPACs), personal mobility devices (PMDs) and prohibited bikes, in response to increasing safety concerns associated with their use in shared public spaces. It establishes enforceable requirements for device standards, lawful use and rider responsibilities to improve community safety and protect shared spaces.

This chapter supports the practical application of that legislative framework by guiding officers in the exercise of enforcement powers, including in relation to non-compliant devices, unlawful rider behaviour, hooning-related conduct, issuing infringement notices to 16 and 17 year olds, interactions with children, and the seizure of prohibited bikes.

This chapter has been developed in accordance with the *Human Rights Act*. Any limitations on human rights are considered necessary, proportionate and justified to support lawful, safe and effective operational outcomes.

Further information and resources are available on the eMobility SharePoint page.

10.2 Definitions

Definitions

For the purposes of this chapter:

Bicycle

as defined under Schedule 4 of the TO(RUM)A including tricycle.

Converted Bicycle Electric/Engine

means a bicycle frame that has been retrofitted with an electric motor or combustion engine. These are considered prohibited bikes and motorbikes.

Electrically Power Assisted Cycle (EPAC)

as defined in Schedule 4 of the TO(RUM)A, standard, compliance labelling.

eMobility device

means a vehicle with an electric motor, typically designed for single riders, often unregistered, and includes devices like e-scooters, e-skateboards, and electrically power-assisted cycles (EPACs), both legal and illegal variants.

Moped

means a motorbike that complies with Schedule 9: 'Dictionary' of the TO(RUM)DL Reg.

Motorbike

as defined in Schedule 4 of the TO(RUM)A and includes a prohibited bike (provided the 3-wheeled variants ridden in the same way as a 2-wheeled motor vehicle.

Non-compliant electrically power-assisted cycle

means a vehicle that resembles an electrically power-assisted cycle, but does not meet all elements of the definition of electrically power-assisted cycle under s. 6 of the TO(RUM)A.

Non-compliant personal mobility device

means a vehicle that resembles a personal mobility device but does not meet all elements of the definition of personal mobility device under s. 6 of the TO(RUM)A.

Personal Mobility Device (PMD)

means Schedule 4 of the TO(RUM)A and s. 15A of the TO(RUM)(RR) Regulation (the Queensland Road Rules—QRR).

(Note Share eMobility Provider PMDs have an exemption regarding dimensions).

Prohibited bike

means Part 2, s. 6 of the TO(RUM)A includes:

(i) non-compliant EPAC;

(ii) non-compliant PMD;

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(iii) converted bicycle; a bicycle or tricycle which has been modified with an electric motor or combustion engine and is not a compliant EPAC; and

(iv) unregistered motorbike (combustion or electric motor).

Road, road related area, public place defined below:

(i) road as defined in Schedule 4 of the TO(RUM)A;

(ii) road related area as defined in s. 13 of the QRR;

(iii) public place as defined in Schedule 4 of the TO(RUM)A;

(iv) shared path as defined in s. 242(2) of the QRR;

(v) path as defined in s. 239A(2) of the QRR;

(vi) bicycle path as defined in s. 239(4) of the QRR;

(vii) footpath as defined in Schedule 4 of the TO(RUM)A; and

(viii) separated footpath as defined in s. 239(4) of the QRR.

Shared eMobility provider

as defined in s. 48AA of the TO(RUM)A.

Vehicle

as defined in Schedule 4 of the TO(RUM)A includes any type of transport that moves on wheels and a hovercraft but does not include a train or tram.

For this chapter this, includes PMD, EPAC, bicycle, non-compliant EPAC, non-compliant EPAC, prohibited bike, motorbike, motor vehicle.

10.3 Interception of eMobility devices

Where lawful, officers are entitled to intercept vehicles in all instances either via mobile or static methods. The following legislated provisions lawfully allow officers to intercept vehicles, including:

(i) s. 15.4: 'Vehicle Interceptions of the OPM;

(ii) Chapter 3: 'Interception by Police' of this Manual;

(iii) s. 60: 'Stopping vehicles for prescribed purposes' of the PPRA; and

(iv) s. 52: 'Prevention of offences—general' of the PPRA.

Static interception sites

Officers should ensure that all interceptions conducted under this policy are consistent with the risk assessment considerations outlined in s. 15.4 of the OPM and Chapter 3 of this Manual. Specifically, officers should:

(i) record static interception sites on a Site Safety Plan (QP 0537) when the site is part of a pre-planned activity, ensuring all risks are assessed and control measures are implemented and documented. Officers may consider supplementing this Site Safety Plan with photos or BWC footage of the site prior to enforcement;

(ii) select interception sites that provide sufficient visibility, allow for the safe movement of vehicles, and minimise disruption to traffic flow;

(iii) be mindful of the interception location, noting that intercepting vehicles on footpaths—where pedestrians are present and high-speed differentials are high—may create dangerous situations;

(iv) consider the braking capability on eMobility devices and riders may attempt to evade interception by turning around or taking evasive action;

(v) ensure their own actions do not create unnecessary hazards or compromise the safety of any person;

(vi) wear Service-issued reflectorised safety vests and position themselves in a manner that ensures their personal safety and the safety of others;

(vii) provide clear and unambiguous signals, directions, or orders to riders to avoid creating dangerous situations for the officer, the rider, or other road users; and

(viii) assess the circumstances where a rider fails to comply with a direction to stop and determine whether further action, including pursuit, is appropriate, having regard to:

(a) the safety of all persons involved;

(b) s. 3.2 'Static Interception' of this Manual; and

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(c) ss. 15.4 and 15.5 'Pursuits' of the OPM.

Mobile interceptions

Intercepting eMobility devices presents unique challenges due to their high manoeuvrability, operation on footpaths or road-related areas, and the frequent absence of safety equipment such as helmets or lights, increasing the risk to riders, officers and members of the community. Accordingly, officers must prioritise the safety of all persons involved, including the rider, other road users and the broader community, ensuring safety remains the primary consideration at all times.

ORDER

Officers are to ensure compliance with Chapter 15: 'Driving of Service Vehicles' of the OPM with specific reference to:

(i) s. 15.4 of the OPM; and

(ii) s. 15.5: 'Pursuits' of the OPM.

10.4 Lawful use of PMDs and EPACs

The lawful use of EPACs and PMDs is regulated to ensure the safety of riders, pedestrians, and other road users.

10.4.1 Subject to road rules (including helmets)

Riders of PMDs and EPACs must comply with all relevant road rules, including:

(i) giving way to pedestrians, obeying traffic signals, and using appropriate paths or roadways;

(ii) wearing an approved helmet at all times (either an approved bicycle helmet or an approved motorbike helmet);

(iii) where riders of PMDs are subject to restrictions on where they can ride, specifically as it relates to roads; and

(iv) specific speed limits when riding on footpaths and shared paths.

Contravention of the TO(RUM)A or the QRR are subject to specific offences for PMDs and EPACs. No penalty for EPACs or PMDs contain demerit points or suspension of a driver's licence.

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10.5 Licensing requirements

10.5.1 Minimum requirements for compliant PMD and EPAC (not prohibited bikes)

A person must not ride a personal mobility device (PMD) or electronically power-assisted cycle (EPAC) on a road, road-related area or in a public place unless they are at least 16 years of age and hold a valid Queensland driver licence or valid non-Queensland driver licence, unless an exemption applies.

For the purpose of s. 78B: 'Riding electrically power-assisted cycle or personal mobility device without valid licence prohibited' of the TO(RUM)A, a driver licence is valid if:

(i) the licence has not expired;

(ii) the licence has not been cancelled or suspended; and

(iii) the person is not disqualified from holding or obtaining a driver licence in Queensland or another jurisdiction.

A Queensland, interstate or foreign driver licence may be a valid licence if it is recognised under Queensland law and is not expired, cancelled, suspended or affected by a disqualification. Licence conditions, including court ordered licence conditions, do not apply to the riding of a PMD or EPAC.

A person who does not hold a valid driver licence may be exempt from the licence requirement only if an exemption applies (see ss. 129A: 'Exemption for child riding while under adult supervision—Act, s 78B', 129B: 'Exemption for person with medical condition or physical or mental incapacity' and 129C: 'Exemption for person riding at particular places' of the Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation (TO(RUM—AOP)R) and the person complies with the requirements, including any conditions, prescribed for the exemption. If the person does not comply with a requirement or condition of the exemption, the exemption does not apply.

Exemption for child riding under adult supervision

A child who is at least 12 years of age may ride a PMD or EPAC without holding a valid driver licence if the child is under adult supervision and the requirements of the exemption are met (see s. 78B of the TO(RUM)A and s. 129A of the TO(RUM—AOP)R)).

For the exemption to apply, the supervising adult must be within sufficient physical proximity to the child to:

(i) easily observe and communicate with the child; and

(ii) provide immediate instruction to the child.

An example provided under s. 129A(1) for defining 'sufficient physical proximity to the child' has been described as, the adult is walking or riding beside or directly behind the child who is riding the EPAC or PMD.

An adult supervising a child may include:

(i) the child's parent;

(ii) the child's grandparent;

(iii) the child's legal guardian;

(iv) the child's approved carer/person responsible for the child under the Child Protection Act.

Where a child under 16 years is riding an EPAC or PMD without supervision, or exemption, officers should also consider parental responsibility offences outlined in s. 10.12 of this chapter.

Exemption for medical condition or disability exemption

A person is exempt from holding a valid driver licence (see s. 78B of the TO(RUM)A and s. 129B of the TO(RUM—AOP)R) if the person:

(i) is at least 16 years;

(ii) is unable to hold or obtain a driver licence only because of a medical condition or physical or mental incapacity;

(iii) has a current medical exemption certificate (on approved DTMR form);

(iv) carries the medical exemption certificate while riding; and

(v) complies with any conditions stated in the medical exemption certificate.

A medical exemption does not apply merely because a person does not hold a valid driver licence. The exemption is limited to circumstances where the person is unable to hold or obtain a driver licence only because of a medical condition or physical or mental incapacity. A person whose driver licence is currently suspended or cancelled, or who is disqualified from holding or obtaining a driver licence, is not eligible to rely on the medical exemption.

A medical exemption certificate in the approved form must be carried and presented upon requirement. If a person is required by an officer to produce the certificate and is unable to do so immediately, the person may produce the certificate to an authorised person or at a place nominated by the officer within 48 hours. The certificate must have been issued before the person was intercepted.

Officers may issue an infringement notice for an offence under s. 78B of the TO(RUM)A including:

(i) fail to comply with medical exemption conditions (EPAC and PMD); and

(ii) fail to produce medical exemption within 48 hours (EPAC and PMD).

Officers should note that it is an offence to provide a false and misleading document to an authorised officer under s. 53: 'False or misleading documents, generally' of the TO(RUM)A.

Exemption for riding at particular places

A person is exempt from the licence requirement while riding a PMD or EPAC at any of the following places (see s. 78B of the TO(RUM)A and s. 129C of the TO(RUM-AOP)R)):

(i) a mountain bike trail;

(ii) a private recreational cycling facility; or

(iii) a rail trail.

Mountain bike trails and rail trails must be identifiable by signage. DTMR may publish a list or map of relevant places to assist riders and officers. However, a place does not need to be published by DTMR for the exemption to apply if the place otherwise meets the requirements of the exemption.

Transitional arrangement for 'reasonable excuse'

A reasonable excuse provision applies from 31 August 2026 to 29 November 2026. During this period, a person does not contravene s. 78B(1)(b) of the TO(RUM)A if the person has a reasonable excuse see s. 247: 'Requirement to hold valid licence under s 78B' of the TO(RUM)A.

A reasonable excuse should be considered in regards to the sufficiency of evidence and public interest test (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of the OPM). The provision is intended to apply where the person intends to comply with the licence or exemption requirements but has not yet had a reasonable opportunity to obtain a driver licence or medical exemption.

A reasonable excuse may include circumstances where the person:

(i) is completing, or intends to complete PrepL or a written road rules test to obtain a learner licence;

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(ii) is not currently suspended or cancelled, or who is disqualified from holding or obtaining a driver licence intends to obtain a medical exemption but has not yet been able to secure an appointment with a health practitioner;

(iii) requires an interpreter or assistance to understand or complete the medical exemption process; or

(iv) has experienced serious illness, hospitalisation or other unforeseen circumstances preventing compliance in the short term.

A reasonable excuse is unlikely to apply where the person:

(i) does not intend to obtain a driver licence or medical exemption;

(ii) relies only on the existence of the transition period without any intention to comply;

(iii) is not subject to an 8-hour prohibition from riding a bicycle, EPAC or PMD;

(iv) holds a suspended or cancelled driver licence; or

(v) is disqualified from holding or obtaining a driver licence.

Where a person does not hold a valid driver licence, is not covered by an exemption, has not complied with the requirements or conditions of an exemption, and does not have a reasonable excuse during the transitional period, enforcement action may be taken under s. 78B of the TO(RUM)A.

10.5.2 Licence requirements for prohibited bike (not PMD or EPAC)

Where non-compliant personal mobility device (PMD), non-compliant electronically power-assisted cycle (EPAC) or converted bicycle or unregistered motorbike is determined to be a prohibited bike, it is classified as a motor vehicle for the purposes of the TO(RUM)A. A prohibited bike will typically be further classified as a motorbike or a moped due to having 2 or 3 wheels.

While it is rare, prohibited bikes with 3 wheels may be classified as a car (see Schedule 4: 'Dictionary' of the TO(RUM)A), where the vehicle is not operated in the manner of a motorbike, i.e. such as being controlled by a steering wheel rather than handlebars. Also in rare cases, prohibited bikes with 4 wheels may be classified as a car only in circumstances where the prohibited bike is assessed as a non-compliant PMD s. 6(4) of the TO(RUM)A.

Where a vehicle is determined to be a prohibited bike, the rider of the prohibited bike must comply with all applicable driver licensing requirements for motor vehicles under the TO(RUM)DL and TO(RUM)A.

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10.6 Breath and saliva (Relevant Drug) testing

10.6.1 Breath testing of riders on EPAC, PMD or bicycles

A PMD or bicycle (including EPAC) rider 16 years or older is subject to breath testing and relevant BrAC and BAC limits, see s. 80(22AA): 'Request for specimen of breath in relation to circumstances involving bicycles or personal mobility devices' of the TO(RUM)A, see also Chapter 7: 'Drink and Drug driving' of this Manual.

Riders are not subject to saliva (drug) testing, but if the officer suspects the rider is under the influence of alcohol or drugs the rider may be arrested for UIL/UID, refer to Chapter 7 of this Manual.

A drink riding flowchart is available on the eMobility SharePoint page.

10.6.2 Eight hour prohibition from riding

A person aged 16 years or over who is charged with a relevant drink riding offence, or with failing to provide a specimen, is prohibited from riding a bicycle (including an EPAC) or PMD for 8 hours after being charged, s. 80(22AD): 'Prohibition from riding bicycle or personal mobility device' of the TO(RUM)A. Riding within that period constitutes a further offence. For further information refer to Chapter 7 of this Manual.

The 8 hour prohibition is a temporary prohibition on riding a bicycle, EPAC and PMD, and does not suspend or disqualify the person's drivers licence. Officers should also advise the person of the following when serving the Form 4394: 'Notice of Suspension, Disqualification or Prohibition':

You are advised that, because you have been charged with [drink riding/failing to provide a specimen], you are prohibited from riding a bicycle or personal mobility device for 8 hours from now, that is, until [insert time]. Riding within that 8 hour period may constitute a further offence. This prohibition concerns riding only and does not itself suspend or disqualify your driver's licence.

As you have just been detected drink riding. You should carefully consider whether you are fit to drive a motor vehicle during this 8 hour riding prohibition. If you drive while affected by alcohol or drugs, you may commit separate offences.

10.6.3 Breath testing and drug testing of riders of prohibited bikes

As prohibited bikes are a form of motor vehicle, officers are authorised to conduct breath and drug testing on all riders of prohibited bikes under s. 80(2) of the TO(RUM)A. Refer also to Chapter 7 of this Manual.

10.7 EPAC compliance standards

From 1 March 2027 all EPACs will need to be EN15194 compliant and labelled or have been assessed through a DTMR pathway and have obtained a special purpose permit or Legacy EPAC compliance label.

10.7.1 EN15194 technical standard

The current EN15194 Technical Standard is, 'EN15194:2017+A1 Cycles—Electrically power assisted cycles—EPAC Bicycles', published by the European Committee for Standardization. A copy of the standard is available on the eMobility SharePoint page.

A compliant EPAC must comply with the prescribed technical standard EN15194 that applied at the time of manufacture, see s. 353B: 'Prescribed Standard Definition EPAC standard' of the TO(RUM)RR. This standard defines the design and operational limits required for a device to be treated as a bicycle.

A summary of the core compliance characteristics include:

(i) pedal-assist operation: motor assistance is provided only while the rider is pedalling, ensuring the device remains primarily human powered;

(ii) start-assist (walk-assist) allowance: the EPAC is only capable of being propelled solely by the motor (without pedalling) up to 6 km/h, and must not enable sustained propulsion beyond this speed without pedalling;

(iii) maximum motor output: continuous rated motor power must not exceed 250 watts;

(iv) speed limitation: motor assistance must progressively reduce and cut off when speeds of 25 km/h have been reached; and

(v) system integrity: the EPAC must meet whole-of-vehicle requirements for electrical safety, mechanical performance, and anti-tampering controls. Any ability for the EPAC to have its power or speed modified renders it non-compliant with the EN15194 standard.

EPACs must display clear compliance labelling, demonstrating conformity with EN15194 and the definition of an EPAC, see Schedule 4: 'Dictionary' of the TO(RUM)A. Specific offences apply to false or misleading compliance markings or labels, see also s. 84C: 'False or misleading labelling related to electrically power-assisted cycles' of the TO(RUM)A.

Failure to meet any of these criteria means the vehicle does not comply with EN15194 Compliance Standard, and therefore the definition of an EPAC. This information will assist an officer obtaining a reasonable suspicion that the vehicle is a prohibited bike (see s. 10.8: 'Speed related offences' of this chapter).

Converted Bicycles—Electric

EN15194 is a whole of bike standard. In addition to the electrical components, the standard includes requirements for the bike itself (brakes, frame, fork, wheels, etc). Therefore, an individual component can never be assessed and certified as EN15194 compliant. It would also be impractical to assess and certify an individual bike as EN15195 compliant after a DIY conversion. The standard of testing required for determining the converted bicycles compliance standards could not be undertaken by an individual.

10.7.2 Transitional arrangements

The verification pathway for legacy electrically power-assisted cycle's (EPACs) and special purpose EPACs is provided under Part 7B: 'Legacy EPAC and special purpose EPAC verification' of the TO(RUM)A. The pathway applies to certain EPACs that do not comply with the EN15194 standard but may be verified as a legacy EPAC or special purpose EPAC. Verification includes assessment or testing of the vehicle to determine whether it is, or may be verified as, a legacy EPAC or special purpose EPAC (ss. 122Q to 122U of the TO(RUM)A).

A **legacy EPAC** is a vehicle manufactured before 1 July 2026 that has 2 or more wheels, is built to be propelled by human power, has one or more auxiliary electric motors and complies with the prescribed characteristics or limitations (see s. 122Q: 'Definitions for part' of the TO(RUM)A).

For a legacy EPAC to meet the prescribed characteristics and limitations, it must:

(i) have pedals;

(ii) have total maximum continuous rated power of all auxiliary electric motors of not more than 250 watts;

(iii) not be capable of exceeding 6 km/h when propelled only by auxiliary electric motor;

(iv) have propulsion assistance that cuts off once the EPAC reaches 25 km/h; and

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(v) not have a feature that allows a power or speed limitation to be bypassed, disengaged or overridden, unless the feature is for setting a lower power or speed limitation.

See also s. 129D: 'Prescribed characteristics and limitations for legacy EPACs' of the TO(RUM—AOP)R.

A **special purpose EPAC** is a vehicle that has 2 or more wheels, is built to be propelled by human power, has one or more auxiliary electric motors, is designed or modified to enable a person with a disability or medical condition to ride the vehicle and complies with the prescribed characteristics or limitations (see s. 122Q: 'Definitions for part' of the TO(RUM)A).

For a special purpose EPAC to meet the prescribed characteristics and limitations, it must:

(i) have pedals;

(ii) not be capable of exceeding 12 km/h when propelled only by auxiliary electric motor;

(iii) have propulsion assistance that cuts off once the EPAC reaches 25 km/h; and

(iv) not have a feature that allows a speed limitation to be bypassed, disengaged or overridden, unless the feature is for setting a lower speed limitation.

See s. 129E: 'Prescribed characteristics and limitations for special purpose EPACs' of the TO(RUM—AOP)R.

The Chief Executive (DTMR) may make EPAC verification rules about verifying that a vehicle is a legacy EPAC or special purpose EPAC. The EPAC verification rules may include the method or standard of testing, presumptions that may be relied on, modifications that may be ignored or accommodated, who may verify a vehicle, compliance labelling, records to be made or kept and when verification ends (see s. 122S: 'EPAC verification rules' of the TO(RUM)A).

A person verifying that a vehicle is a legacy EPAC or special purpose EPAC must comply with the EPAC verification rules. A person must not purport to verify that a vehicle is a legacy EPAC or special purpose EPAC unless the person is permitted to do so under the EPAC verification rules (see s. 122T: 'Failure to comply with EPAC verification rules' of the TO(RUM)A).

A person must not ride a legacy EPAC or special purpose EPAC on a road, road-related area or in a public place if:

(i) the EPAC does not display a compliance label attached to the EPAC in accordance with the EPAC verification rules; or

(ii) the EPAC has been modified or tampered with after verification in a way that bypasses, disengages or overrides the power or speed limitations. See s. 129G: 'Limitations and conditions applying to use of legacy EPACs or special purpose EPACs' of the TO(RUM—AOP)R.

Officers should be aware that a compliance label indicates the vehicle has been verified as a legacy EPAC or special purpose EPAC under the EPAC verification rules. The display of a compliance label does not prevent further inquiry where there is evidence the vehicle has been modified or tampered with after verification or is being used in a way that is inconsistent with the limitations and conditions applying to a legacy EPAC or special purpose EPAC.

Officers may issue an infringement notice for offences under s. 129G: 'Limitations and conditions applying to use of legacy EPACs or special purpose EPACs' of the TO(RUM—AOP)R including:

(i) s. 129G(1)(a) riding legacy EPAC without compliance label;

(ii) s. 129G(1)(a) riding special purpose EPAC without compliance label;

(iii) s. 129G(1)(b) legacy EPAC modified or tampered with after verification; and

(iv) s. 129G(1)(b) special purpose EPAC modified or tampered with after verification.

Officers should also be aware that s. 84C: 'False or misleading labelling related to electrically power-assisted cycles' of the TO(RUM)A applies to false or misleading compliance labelling. A compliance label should not be relied on in isolation if there is evidence the label is false or misleading, has been improperly attached, or the vehicle is not an electrically power-assisted cycle.

10.8 Speed related offences

10.8.1 Speed limits on paths

Speed limits for PMDs and EPACs are prescribed in the TO(RUM)RR Regulation.

Riders of PMDs and EPACs must not exceed 12 km/h when travelling on:

(i) footpaths (see s. 10.2 of this chapter);

(ii) shared paths (see s. 10.2 of this chapter); and

(iii) other path-based environments where pedestrians are present, unless otherwise signed, see s. 24B: 'Speed limit for personal mobility devices' of the TO(RUM)RR Regulation.

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Other relevant speed limits (e.g. shared zones) also apply where the speed limit is less than 25km/h.

10.8.2 Speed detection and enforcement

Prior to undertaking enforcement regarding EPACs and PMDs, officers:

(i) must utilise an approved speed detection device or method**,** see s. 6.2: 'Speed detection and methods' of this Manual;

(ii) should consider the amount of tolerance for speed detection methods outlined in s. 6.8: 'Amount of tolerance allowed in speed detection' of this Manual;

(iii) should know the limitations, tolerances and accuracy of speed detection devices when applied to low-speed detections, see s. 6.9: 'Testing and accuracy calibration' of this Manual; and

(iv) should undertake static enforcement consistent with s. 10.3: 'Interception of eMobility devices' of this chapter.

10.8.3 Speed as an indicator of non-compliance

Speed detection, using approved speed detection devices, may also assist officers in forming a reasonable suspicion as to whether a device is a prohibited bike.

Where a device is detected travelling at speeds exceeding the defined limits for EPACs, this may indicate the vehicle is non-compliant and may meet the definition of a prohibited bike.

In such circumstances, officers should consider further investigation and enforcement action in accordance with this chapter.

ORDER

Before commencing the seizure of a prohibited bike, solely on the grounds of measured speed, officers are to ensure:

(i) an approved speed detection device or method was used;

(ii) the speed measured and rider's behaviour, was observed for at least a distance of 100 metres and was travelling on flat ground or uphill with no noticeable reduction in speed;

(iii) the speed detected, exceeds the defined maximum speed limit by a reasonable, defensible proportionate margin, and satisfies the public interest test (see s. 3.4.3 of the OPM);

(iv) no human power (e.g. operation of pedal) was observed through the 100 metres and the measured speed was maintained or increased; and

(v) BWC or dash cam footage is available to verify this observation.

In circumstances where all these conditions cannot be met, officers may still stop the rider and conduct further investigations to form a reasonable suspicion the device is a prohibited bike, see s. 10.8 of this chapter.

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10.9 Parking of PMDs and EPACs

Unreasonable obstruction of footpaths and shared paths by eMobility devices is regulated under s. 253A: 'Unreasonably obstructing bicycle paths, footpaths etc.' of the TO(RUM)RR Regulation. A person must not park a PMD, EPAC, or bicycle in a way that unreasonably obstructs the path of other road users.

These provisions support safe and equitable access to public spaces, including for pedestrians with disability, mobility aids, prams, and other vulnerable users. Officers should consider the extent to which a device impedes passage, particularly in constrained or high use pedestrian environments.

The primary enforcement responsibility for investigation of this offence is with local government. Where relevant, officers should take into account local government controls and coordinate enforcement activity as required.

For shared eMobility devices, authorised officers may obtain identifying information from providers under s. 48AA: 'Power to require information from shared e-mobility providers' of the TO(RUM)A to support compliance and enforcement action.

10.10 Shared eMobility provider obligations

From 1 March 2027 shared e-mobility providers will be subject to obligations under the TO(RUM)A to ensure lawful operation of PMDs and EPACs and to support enforcement activity.

Under s. 78C: 'Requirement for e-mobility providers to ensure user is 16 or over and holds valid licence' of the TO(RUM)A, providers must take all reasonable steps to ensure that persons accessing shared PMDs meet prescribed age, and where applicable the licensing requirements. Officers are to recognise that compliance requires the provider

to implement effective verification measures, such as identity checks, licence validation systems, or other access controls.

Under s. 48AA: 'Power to require information from shared e-mobility providers' of the TO(RUM)A, an authorised officer who locates a shared eMobility device reasonably suspected of being unlawfully parked may require the shared eMobility provider to give prescribed information relating to the device and its last known rider. Officers are to recognise the power to require information from shared eMobility providers enables access to identifying particulars, location and usage data (includes rider details, ride times, parking location, photographs and metadata) to support investigation and enforcement. See s. 10.9: 'Parking of PMDs and EPACs' of this chapter.

10.11 Dealing with children (person under the age of 18 years)

This section addresses the additional responsibilities of officers who are dealing with children (person under the age of 18 years) who are riding eMobility vehicles.

For policy on requiring a breath test from eMobility riders, refer to s. 10.6: 'Breath and saliva (Relevant Drug) testing' of this Manual.

Children aged 16 and 17 may be breath tested on compliant eMobility vehicles and bicycles, any prohibited bikes are to be treated the same as motor vehicles (see Chapter 7 of this Manual).

Children aged 12 to 17 are able to ride compliant eMobility devices under adult supervision. For definition of 'adult supervision' refer to s. 78B(2) of the TO(RUM)A.

Officers dealing with a child, are to consider the welfare and safety of the child when investigating offences in relation to riding eMobility devices.

10.11.1 Child riding compliant or non-compliant eMobility vehicle

If a child, of any age, is located riding an eMobility vehicle without parental supervision, officers are to conduct an assessment to determine if the child would be at risk of harm if they were left at the interception location. Some considerations, not limited to, are:

(i) time of day/night;

(ii) location;

(iii) if other means of transport are available (i.e. public transport);

(iv) age;

(v) cognitive capacity;

(vi) mental wellbeing; and

(vii) who the child is in company with.

If officers determine that leaving the child at the point of interception, the child would be at risk of harm, officers are to:

(i) contact a parent, family member, or guardian for the child; or

(ii) make arrangements to have the child transported to a place of safety.

For any child, officers are to consider a child harm report in accordance with s. 7.3: 'Investigating child harm' of the OPM.

Officers are to investigate any offences committed by the child with compliance to Chapter 5: 'Children' of the OPM and s. 11: 'Police officer to consider alternatives to proceeding against child' of the YJA, including a child aged 12 to 17 years who is riding without adult supervision or any child under 12 riding any eMobility vehicle.

Officers are to consider suitability of an appropriate support person during questioning, as a parent may be suspected of having committed an offence under parental responsibilities stated in s. 78D: 'Liability of parent—offence committed by child against parent liability provision' of the TO(RUM)A (see s. 10.12 of this chapter).

Children aged 16 and 17 years

Children aged 16 and 17 are able to ride compliant eMobility vehicles without a licence when under adult supervision.

Children aged 16 and 17 are able to be breath tested on eMobility vehicles regardless of whether they have a licence or riding under adult supervision.

10.11.2 Child riding prohibited bike

This section is to address the additional responsibilities of officers who are dealing with child offenders intercepted riding prohibited bikes.

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Where action is taken to seize the prohibited bike, and the child is not in the presence of a parent or appropriate guardian, officers are to contact a parent, family member or guardian for the child to:

(i) inform them of the whereabouts of the child; and

(ii) reason for the interception.

This contact should be recorded on BWC and noted in the occurrence.

Officers are to consider the welfare of the child pursuant to s. 10.11.1 of this chapter.

Officers are to investigate any offences committed by the child complying with Chapter 5: 'Children' of the OPM and s. 11: 'Police officer to consider alternatives to proceeding against child' of the YJA. Officers are to investigate the additional offence under s. 78D of the TO(RUM)A (see s. 10.12 of this chapter).

See s. 10.16 of this chapter regarding additional responsibilities for issuing seizure documents on children.

10.12 Parental responsibility for persons under 16 years

Section 78D: 'Liability of parent—offence committed by child against parent liability provision' of the TO(RUM)A provides ability to hold parents responsible for particular offences when a child under 16 years of age is located riding a compliant eMobility vehicle without adult supervision or is located riding a prohibited bike.

For the purpose of this section:

Parent

means:

(i) an adult who is the child's mother, father or someone else, other than the Chief executive (child safety), having or exercising parental responsibility for the child; but

(ii) does not include:

(a) a person temporarily standing in place of a parent; or

(b) an approved or provisionally approved carer of the child under the *Child Protection Act*, Schedule 3 (including foster or kinship carers).

Parental liability for particular offences is located under:

(i) s. 78B: 'Riding electrically power-assisted cycle or personal mobility device without valid licence prohibited'; and

(ii) s. 84B: 'Riding prohibited bikes in public',

of the TO(RUM)A.

Under s. 78D(2) of the TO(RUM)A it is a defence for a parent of the child to prove, either:

(i) the parent did not know, and could not reasonably have been expected to know, of the child's conduct constituting the offence against ss. 78B or 84B; or

(ii) the parent took all reasonable steps to ensure the child did not engage in the conduct constituting the offence against ss. 78B or 84B.

In relation to proof of whether a person is the parent of the child, a reasonable belief by the officer that a person is the parent of the child is, unless the contrary is proved, sufficient evidence of the fact that the person is the child's parent. The belief may be formed by the officer after reasonable enquiries are made of the child and parent, when the officer has found the child riding an EPAC, PMD or prohibited bike on a road, on a road-related area or in a public place or soon after that time.

Where a child under the age of 16 years is suspected of committing an eMobility offence, and the officer has conducted investigations to form a reasonable belief that the person is a parent of a child, and the officer has negated defences under s. 78D(2) of the TO(RUM)A, officers should:

(i) commence proceedings for the relevant particular offence against the parent;

(ii) create a relevant occurrence, being either:

(a) if new offence—create multiclass occurrence for 'Ride Prohibited Bike'/'Driving whilst unlicenced' and 'eMobility Parental Responsibility'; or

(b) if 'Ride Prohibited Bike'/'Driving whilst unlicenced' occurrence already exists—add PIR2 for additional 'eMobility Parental Responsibility' offence.

Officers may issue an infringement notice for the particular offences under s. 78D of the TO(RUM)A, the infringement notice must be issued by handwritten notice.

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10.13 Prohibited bikes enforcement

Introduction

This section outlines the requirements for officers conducting duties that require the seizure of prohibited bikes. This includes enforcement activities in varied operational environments. Any variation from policy requirements may be authorised by district officers to address district specific issues, and nothing in this chapter prevents the implementation of district instructions (e.g. enforcement in and around schools and education facilities). Any variation from policy within district instructions is to be clearly articulated, with the rationale for the deviation outlined.

Officers are authorised under Chapter 4A of the PPRA to seize prohibited bikes and take enforcement action to prioritise community safety and deter their use, particularly where these vehicles present a significant risk to the community, including children.

The inclusion of instructions for attended and unattended seizures allows for these seizure powers to be used to greater affect to remove them from roads, road related areas or public areas.

Further information, regarding the seizure of prohibited bikes can be located on the eMobility SharePoint page.

10.13.1 Identification of prohibited bike and reasonable suspicion

The correct identification of a prohibited bike is essential in determining the appropriate enforcement action. Officers are to assess each vehicle against the prescribed definitions and compliance standards to establish whether they have a reasonable suspicion (see SMD) that it is a prohibited bike under s. 6 of the TO(RUM)A, see also s. 10.7 of this chapter.

10.13.2 Testing of particular vehicles

To assist officers, s. 34A: 'Power to require testing of particular vehicles' of the TO(RUM)A provides an ability for officers to require the testing of particular vehicle to confirm or substantiate a reasonable suspicion that the vehicle is a prohibited bike.

A requirement should be considered where preliminary observations, admissions, modifications or performance suggest a vehicle may not comply with the legislative requirements for an EPAC or PMD, but further evidence is required to establish a reasonable suspicion the vehicle is a prohibited bike.

Failure to comply with a requirement made under s. 34A, without reasonable excuse, is an offence. Officers should consider any non-compliance as part of the totality of circumstances when assessing appropriate enforcement and investigative options.

The TO(RUM)A also includes ss. 123KA: 'Certificate is evidence of another matter—approved testing device' and 123R: 'Challenges to devices' which establish a testing and evidentiary framework supporting the use of approved testing devices for eMobility enforcement and identification. Together, these provisions ensure that results from approved testing devices are admissible in legal proceedings and provide statutory recognition of the accuracy and operation of the approved testing equipment where appropriate certification has been issued.

ORDER

Where a prohibited bike is seized in attended circumstances, police are to seize any key, fob or other activation device required to operate the vehicle. This will ensure the vehicle can be effectively tested under s. 34A and support evidentiary requirements relating to any future testing on an approved testing device.

Requesting a vehicle test—DTMR

A vehicle does not need to have been seized as a prohibited bike (see Chapter 4A: 'Seizure and destruction powers for prohibited bikes' of the PPRA) for relevant testing to be undertaken. Where a vehicle is lawfully in police possession, officers may request testing using an approved testing device.

For example, a vehicle may come into police possession as part of another investigation, such as a dangerous operation of a motor vehicle investigation, traffic crash investigation etc. If circumstances indicate the vehicle may be an electrically power-assisted cycle (EPAC), personal mobility device (PMD) or a prohibited bike, officers may request testing to assist in determining the vehicle's classification and compliance with relevant legislative requirements.

Approved testing devices are provided for under s. 121A: 'Approved testing devices for particular vehicles' of the TO(RUM)A and may be used to assess whether a vehicle is an EPAC, PMD or prohibited bike, or whether it complies with the EPAC standard. Testing conducted using an approved testing device may result in an evidentiary certificate under s. 123KA: 'Certificate is evidence of another matter—approved testing device' of the TO(RUM)A.

Testing may not be conclusive and may not replicate the vehicle's observed characteristics at the time of interception, crash, seizure or other relevant incident. Officers should consider the testing result with all other evidence, including observations, admissions, BWC footage, photographs, speed evidence and any supporting material.

Officers requesting testing are to submit a QP 1509: 'Request to Test Seized Vehicle' or current approved testing request form to DTMR by email to: pmdseizuredata@tmr.qld.gov.au using the appropriate subject line:

(i) **"Testing Notice—Barcode#"** for vehicles seized as prohibited bikes under Ch 4A of the PPRA; or

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(ii) **"Testing Notice—QP######"** for vehicles submitted for testing as part of another investigation or lawful police purpose.

This ensures testing requests can be appropriately identified, managed and linked to the relevant seizure or investigation.

10.13.3 Reasonable suspicion of being ridden in public

Where a device is determined to be a prohibited bike, officers must have formed a reasonable suspicion under s. 123C: 'Seizure of prohibited bike on road, on road-related area or in public place' of the TO(RUM)A that it has been ridden on a road, road related area or a public place without a lawful excuse as per s. 84B(2) of the TO(RUM)A. In circumstances where a rider is identified an infringement notice may be issued pursuant to s. 84B of the TO(RUM)A.

10.13.4 Seizure of prohibited bikes

Prohibited bikes present a significantly elevated risk to the safety of riders, pedestrians and other road users, as they frequently exceed prescribed speed and power limits, lack required safety features and are often modified to increase performance beyond lawful standards. These factors, together with rider behaviour that is generally higher-risk and less compliant with road rules, contribute to behaviours such as excessive speed, evasive riding and disregard for traffic controls, substantially increasing the likelihood of serious injury or fatal outcomes, particularly in shared environments such as footpaths and public spaces.

Officers should act to intervene and seize the prohibited bike(s) being used in public places, with consideration to:

(i) all available enforcement options;

(ii) compliance with s. 10.15 of this chapter;

(iii) taking alternative action, e.g. immobilisation, in accordance with s. 10.13.7 of this chapter; and

(iv) the availability of DTMR or authorised 3rd party contractor to transport the seized prohibited bike.

ORDER

Where officers elect to not seize the prohibited bike, they are to record their considerations and decisions in their notebook or in QPRIME within the associated occurrence or street check.

10.13.5 Attended seizure versus unattended seizure

Officers have the power to seize prohibited bikes reasonably suspected of being used in a public place including when unattended by a rider or owner, see s. 123EA: 'Particular powers and steps for dealing with personal property—unattended seizure' of the PPRA. The ability to undertake unattended seizures is a key strategy to removing prohibited bikes from use in public places and avoiding potentially dangerous situations, reducing the risk to officers, members of the community, and riders.

Officers should prioritise suspected prohibited bikes whilst unattended or, if attended, whilst not being actively ridden. At all times, officers must ensure their actions minimise risk to themselves, members of the community and riders, and are aligned with s. 10.3 of this chapter. Mobile interception and subsequent attended seizures remains appropriate where immediate action is required to stop offending in accordance with s. 15.4: 'Vehicle Interceptions' of the OPM.

See s. 10.14.1 of this chapter for seizure powers and s. 10.15 of this chapter for seizure procedures and damage to property.

Unattended eMobility devices reasonably suspected to involve a child

Officers are to make reasonable enquiries to identify and locate the rider or owner of an unattended eMobility device where circumstances indicate the device may have been left by a child. Consideration is to be given to the possibility that a child may be left without transport and seizing the device may subsequently pose a risk to the safety of the child. If the child is located or identified, officers must comply with the provisions of s. 10.11.2 of this chapter.

10.13.6 Ride prohibited bike versus unregistered motor vehicle

As defined in s. 10.2: 'Definitions' of this chapter, a prohibited bike may include a motorbike that is incapable of being registered, as well as certain unregistered motorbikes or motorbikes that were previously registered. Section 84B of the TO(RUM)A acknowledges that it is possible for prohibited bikes to commit other offences which may be preferred in the circumstances. However, s. 84B(3) of the TO(RUM)A states that a person must not be charged with or given an infringement notice for a related offence (such as unregistered, uninsured and defective vehicle) and s. 84B(1): 'Ride Prohibited bike' of the TO(RUM)A.

To seize a prohibited bike officers do not need to commence proceedings before seizing a prohibited bike, see Chapter 4A, Part 2: 'Seizing prohibited bikes' of the PPRA. This power occurs independently of the offences an officer prefers.

Officers should consider commencing proceedings for related offence provisions (unregistered, uninsured and defective vehicle offence) in the following circumstance:

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(i) the prohibited bike is capable of being registered (for example has a VIN) or has previously been registered; and

(ii) was ridden on a road; and

(iii) the prohibited bike was ridden by an adult.

Officers should consider commencing proceedings as a prohibited bike where it is being ridden:

(i) on footpaths, shared paths or public spaces not intended for motor vehicles;

(ii) by a person who has never held a driver licence or is a child; or

(iii) in company of other prohibited bikes.

Regardless of the decision officers are to ensure their decisions comply with s. 3.4.3 'Sufficiency of Evidence' of the OPM.

10.13.7 Prohibited bike seizure versus immobilising/impounding motor vehicles

Officers are to comply with the Transport Operations (Road Use Management—Vehicle Registration) Regulation and subsequent Type 2 vehicle related offences when investigating and enforcing unregistered motorbikes (see Chapter 16: 'Immobilising and impounding motor vehicles' of this Manual). However, given the wide definition of a prohibited bike and the ability to seize, without commencing proceedings, there may be circumstances where it is more appropriate to treat the device as a prohibited bike and apply seizure powers. Further, officers can issue an infringement notice, or commence proceedings, for related offence provisions (unregistered, uninsured and defective vehicle offence) and still seize the prohibited bike under Chapter 4A: 'Removal and destruction powers for prohibited bikes on roads or in public places' of the PPRA.

A seizure of a prohibited bike should be preferred to immobilisation/impounding where the:

(i) offending occurred in company with other prohibited bikes, including hooning behaviour, which are also subject to a prohibited bike seizure;

(ii) prohibited bike was ridden by a child, and not subject to immobilisation/impoundment due to youth justice principles;

(iii) vehicle is a non-compliant PMD, non-compliant EPACs or a converted bicycle;

(iv) vehicle does not meet mandatory vehicle standards (e.g. a VIN) or relevant compliance labelling;

(v) offending behaviour occurred on a road related area or public place where certain TO(RUM)A offences will not apply (e.g. drive unlicenced);

(vi) rider does not hold an appropriate licence for the prohibited bike; or

(vii) availability of DTMR or authorised 3rd party contractor to transport the seized prohibited bike exists.

Immobilisation/impounding under Chapter 16 of this Manual for the use of a prohibited bike should be preferred when the:

(i) offending occurred on a road;

(ii) motorbike was previously registered or the registration recently expired, and the bike is easily capable of being re-registered;

(iii) observed manner of riding was otherwise compliant with road rules; and

(iv) immobilisation of the motorbike is the more efficient method considering location and time constraints.

Officers are to comply with any district instructions regarding the seizure of prohibited bikes. Where necessary, officers are to seek approval from a supervisor (including a DDO) for any variation from this policy or applicable district instructions.

10.14 Particular powers for seizing prohibited bike

This section outlines the requirements for officers conducting duties that may require the enforcement and seizure of prohibited bikes. Any variation from policy requirements may be authorised by district officers where necessary, to address district specific issues and nothing in this chapter prevents individual district instructions being enacted. Any deviation from this policy within district instructions is to be clearly articulated, with the rationale for changes outlined.

Chapter 4A: 'Removal and destruction powers for prohibited bikes on roads or in public places' of the PPRA provides officers with the power to seize prohibited bikes focussing efforts on deterring use of prohibited eMobility vehicles that increase the significant risk of harm to members of the public, particularly children. Historically, significant risk of harm incidents with prohibited bikes have resulted in serious injuries and fatalities. The inclusion of attended and unattended

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seizure powers allow for these powers to be used to greater affect in removing prohibited bikes from roads, road-related areas or public areas.

Further information, including regarding the seizure of prohibited bikes can be located on the eMobility SharePoint Page.

10.14.1 Powers to seize prohibited bikes

Chapter 4A, Part 2: 'Seizing prohibited bikes' of the PPRA provides officers with powers to seize prohibited bikes that are on roads, road-related areas and in public places.

In accordance with s. 10.13.4: 'Seizure of prohibited bike' of this chapter an officer should seize a vehicle if the officer reasonably suspects that it is a prohibited bike.

To allow for the safe and effective seizure of a prohibited bike, s. 123D: 'Particular powers for seizing prohibited bike—attended seizure' of the PPRA provides the power to:

(i) stop the vehicle if moving, whether or not the vehicle is on a road;

(ii) where the vehicle is stationary, require the person to remain at the place for time reasonably necessary;

(iii) direct the person to give officers any key or code needed to move the vehicle;

(iv) remove any chain or lock securing the vehicle in place;

(v) require the person to state their name and address and the name and address of the vehicle owner; or

(vi) do anything else reasonably necessary for seizing the vehicle.

Section 123E: 'Particular powers for seizing prohibited bike—unattended seizure' of the PPRA provides the power to:

(i) seize a vehicle under this part if the vehicle is unattended, providing the officer with powers to:

(a) remove any chain or lock securing the vehicle in place; or

(b) do anything else reasonably necessary for seizing the vehicle;

(ii) after seizing a vehicle, an officer may move the vehicle or arrange for the vehicle to be moved by a government agency or authorised third party, to a:

(a) holding yard; or

(b) storage facility,

in the way the officer considers appropriate.

ORDER

To ensure the effective seizure of the prohibited bike, seizing officers are to:

(i) require the name and address of the owner;

(ii) direct the person to give officers any key, code or fob needed to activate the prohibited device; and

(iii) if present, direct the rider/person in possession to unlock or remove any chain or locking device.

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Prohibited bike that is also evidence in criminal or coronial matter

Where officers form a reasonable suspicion that an eMobility device is a prohibited bike and is simultaneously involved in a criminal investigation, traffic crash or coronial matter the prohibited device should be seized and examined in accordance with Chapter 2: 'Investigative Process' of the OPM.

Officers are to also serve a seizure notice in accordance with s. 10.15.1 of this chapter. For the procedure for release of the prohibited bike refer to s. 10.17: 'Application for Release of vehicle' of this chapter.

Management of seized prohibited bikes

Devices seized under Chapter 4A, Part 2: 'Seizing prohibited bikes' of the PPRA are not 'relevant things' under Chapter 21, Part 3 of the PPRA and are not managed under this Chapter and Part. The management of seized devices is regulated by Chapter 4A.

10.14.2 Seizure of controlled vehicle sold to a child under 16

An officer may seize a controlled vehicle if the officer reasonably suspects it has been sold to a person under 16 years of age and the vehicle is believed to be evidence of an offence under s. 43AA: 'Unlawful sale of controlled vehicle to child under 16' of the PPRA. Seizure may occur where the person refuses or is unable to provide acceptable evidence of age, or where the evidence produced shows the person is under 16.

Controlled vehicles seized under s. 43AA: 'Unlawful sale of controlled vehicle to child under 16' of the PPRA are to be managed pursuant to Chapter 4: 'Property' of the OPM.

10.15 Steps after seizing prohibited bike

10.15.1 Seizure Notices

Section 123F: 'Steps after seizing prohibited bike' of the PPRA outlines the requirements for issuing seizure notices when an officer has seized a prohibited bike. If an officer seizes a vehicle under Chapter 4A, Part 2: 'Seizing prohibited bikes' of the PPRA, where a person was riding or in possession of the vehicle, the officer must ensure the person is given a Form 1500: 'Seizure Notice (Prohibited Bike Related Offence)'.

If the officer seizes a vehicle that was unattended, the officer must publish a seizure notice on the QPS website within 7 days. Officers can find this form on the QPS website, under the page QPS Public Notifications System.

An officer who seizes a vehicle and reasonably suspects it belongs to a shared eMobility provider must also give a seizure notice to the provider, regardless of whether the vehicle is attended or unattended.

The giving or publication of a seizure notice must be done as soon as practicable and within 7 days after the day the vehicle was seized.

ORDER

Officers who seize a prohibited bike must:

(i) ensure the seizure notice is given to the rider or person in possession of the vehicle;

(ii) if unattended, publish the seizure notice on the QPS website before the end of their shift using QPS Public Notifications System; or

(iii) in cases where an officer reasonably suspects the vehicle belongs to a shared eMobility provider, the officer must give a seizure notice on the shared mobility provider, regardless of the bike being attended or unattended at the time of seizure.

Seizure notices may be served electronically via QLiTE or by hardcopy Form 1500: 'Seizure Notice (Prohibited Bike Related Offence)'.

10.15.2 Safety assessment of seized prohibited bike

Officers who seize, recover or otherwise deal with a prohibited bike are to, where safe and practicable, conduct a visual safety assessment of the prohibited bike as soon as practicable. Officers are to inspect the device for apparent damage and photograph its overall condition, including any damage, leaks, battery area, fuel system and identifying features. Any identified safety concern, that requires photographs to be taken and documented officers' actions undertaken to neutralize the safety concern are to be recorded in the relevant QPRIME occurrence (general or supplementary report) as soon as practicable.

In assessing the hazard presented by the prohibited bike, officers should consider:

(i) the likelihood of the hazard or risk occurring;

(ii) the degree of harm that might result;

(iii) what is known, or ought reasonably to be known, about the hazard or risk;

(iv) the availability and suitability of ways to eliminate or minimise the risk; and

(v) whether the cost of a control measure is grossly disproportionate to the risk.

Hazards and risks associated with Lithium-Ion Battery

Officers are to exercise caution when dealing with damaged lithium-ion batteries (LiBs) or situations involving flammable liquid leaks, as these pose significant safety risks, including fire, explosion and toxic exposure.

Key hazards include:

(i) damaged lithium-ion batteries:

(a) damaged or defective LiBs may ignite, explode, or release toxic and flammable vapours;

(b) even after an initial fire is extinguished, LiBs may re-ignite due to residual chemical reactions;

(c) indicators of battery damage or failure include:

- overheating;
- swelling;
- smoke or flame;
- unusual odours or noises; or
- discolouration, blistering or leaking fluid.

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(ii) thermal runaway escalation:

(a) damaged LiBs can enter an uncontrollable exothermic chemical reaction, resulting in:

- intense flames and rapid venting of gases; and
- explosive energy release, with cells potentially becoming projectiles within seconds;

(b) officers must remain vigilant for signs of damage, including swelling, odours, discolouration, blistering, leaks, noises, overheating, and smoke;

(iii) carcinogenic and toxic fumes:

(a) burning LiBs release hazardous substances, including hydrogen fluoride (HF), carbon monoxide, phosphorous, and other carcinogenic particulates that are known to cause severe inhalation injuries;

(b) even brief exposure to these fumes can damage skin, lungs, eyes and airways;

(c) officers must not attempt to extinguish LiB fires and are to avoid inhaling fumes, instead, they are to:

- isolate the area;
- evacuate the area; and
- call 000/QFD;

(iv) re-ignition risk:

(a) even after being cooled;

(b) damaged LiB cells can re-ignite (exothermic chemical reaction) hours later;

(v) contaminated PPE:

(a) smoke, vapour particulates and HF residues from LiBs can adhere to clothing, gloves and PPE;

(b) posing a risk of secondary exposure.

Contaminated PPE is to be safely disposed of after use.

ORDER

Officers are not to handle, transport or store a prohibited bike where it displays signs consistent with lithium-ion battery failure, or where petrol or another flammable liquid leak creates a fire or explosion risk, unless it is necessary and possible to remove an immediate danger and it is safe to do so. Where there is active heating, smoke, flame, venting, a significant leak, or uncertainty as to the hazard presented, officers are to withdraw to a place of safety and immediately advise the nearest PCC and request appropriate assistance (QFD) and other support units if available.

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10.15.3 Seizure procedure

When seizing a prohibited bike, the officer is to:

(i) obtain any key, fob, access code or password required to operate the prohibited bike, see s. 10.13.2: 'Testing of particular vehicles' of this chapter;

(ii) prior to moving the prohibited bike, officers are to:

(a) inspect the prohibited bike for any pre-existing damage, see s. 10.15.2: 'Safety assessment of seized prohibited bike' of this chapter;

(b) photograph all pre-existing damage and upload to the QPRIME occurrence or Evidence.com;

(c) where the rider or person in possession is present, point out any identified pre-existing damage to them and record this in the QPRIME occurrence;

(d) where damage was caused as a result of exercising the power to seize (e.g. chain or lock cut), record the details of that damage separately from any pre-existing damage, on the Form 1500: 'Seizure Notice (Prohibited Bike Related Offence)';

(e) where the rider or person in possession of the prohibited bike is present, offer them the opportunity to remove any items of personal property that are not a component or mechanism of the prohibited bike (see s. 10.15.5: 'Personal property with prohibited bikes' of this chapter).

Items that must not be removed include any component or mechanism of the prohibited bike including but not limited to:

- the battery, key or fob required to operate the prohibited bike, wheels, display screen, seat and any other component integral to the operation or identification of the prohibited bike;

(f) any items removed by the rider or person in possession are to be noted in the relevant QPRIME occurrence;

(iii) create the prohibited bike in QLiTE by:

(a) taking photographs of the vehicle; and

(b) recording the make, model, colour, serial/VIN and any other identifying particulars of the prohibited bike;

(iv) affix the 2 larger Prohibited Bike Barcodes, included in the Form 1500: Seizure Notice (Prohibited Bike Related Offence), to 2 different locations on the prohibited bike;

(v) use the smaller barcodes to label:

(a) duplicate forms;

(b) personal property that is now insecure or loose and subsequently in police possession, see s. 10.15.5 of this chapter;

(c) tow receipts; and

(d) the investigating officers official police notebook (if applicable).

(vi) complete the Form 1500 and give the Rider/Person in Possession a copy. Electronic Service of this document is also available through QLiTE:

(a) record the unique barcode using QLiTE. This barcode is essential to recording the vehicle and allowing it to be tracked and identified for disposal purposes;

(b) confirm the details of Rider/Person in Possession, if present. Where the Rider/Person in Possession is a minor, confirm the parent/guardian details, see s. 10.16: Service of seizure notices—additional responsibilities' of this chapter;

(c) where damage was caused as a result of exercising the power to seize, record the details of the damage; e.g. bike chain and lock cut to seize the prohibited bike;

(vii) create a QPRIME occurrence for 'Ride Prohibited Bike'. This can be completed roadside via QLiTE (see MCC User Guide and QPRIME User Guide). Each occurrence must include:

(a) all details of the prohibited bike;

(b) the rider's name, address and contact details (if known);

(c) the location from which the prohibited bike was seized (this location should be an intersection, mid-block, place of interest or address);

(d) the initial address the prohibited bike was taken to as a related address;

(e) the owner's name, address and contact details (if known); and

(f) sufficient photos of the prohibited bike, its surroundings, associated property, and any damage to the prohibited bike or accessories;

(viii) prior to termination of shift:

(a) ensure the QPRIME occurrence has been created;

(b) ensure the General Report contains all relevant details as to the officer's reasonable suspicion as to why the device is a prohibited bike;

(c) upload to QPRIME occurrence or Evidence.com, any photos taken of the prohibited bike, its identifying particulars, damaged property and any relevant forms or documents; and

(d) if an unattended seizure, publish the seizure notice by uploading it to the QPS website using QPS Public Notifications System (see also s. 10.15.4: 'Transport and storage' of this chapter);

(ix) contact the local PCC to arrange transport of the prohibited bike. Where a DTMR transport provider is not available, existing QPS towing providers may be used:

(a) if hardcopy Form 1500 is used, ensure the DTMR copy is given to the person collecting the prohibited bike on behalf of DTMR; and

(b) a barcode label is to be added to the original receipt for the tow truck driver's records (see s. 10.15.4 of this chapter);

(x) where 'police aware' stickers are used in an unattended seizure, officers are to affix the sticker/s to a location in close proximity to where the prohibited bike was left by the rider. Officers must ensure:

(a) stickers are placed in a manner that does not cause damage to public infrastructure, council or private property; and

(b) placement is considered and reasonable, having regard to the potential for community concern regarding the location in which the stickers have been left by police;

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(xi) where personal property is found with the prohibited bike and is not being seized, officers are to:

(a) label each item of property with a smaller barcode from the Form 1500 pack to ensure clear identification;

(b) take possession of and secure the property; property must not be transported with the prohibited bike to DTMR;

(c) record all property in the QPRIME occurrence;

(d) arrange return of secured property to the lawful owner;

(e) only loose items that are not physically attached to the prohibited bike are to be taken into police possession. Any item physically attached to the prohibited bike at the time of seizure, including but not limited to phone holders, water bottles and accessories affixed to the bike, are to remain with the prohibited bike and stored at the DTMR storage facility, see ss. 10.15.4 and 10.15.5 of this chapter;

(f) officers must not remove or detach any item that is physically attached to the prohibited bike for the purpose of taking it into police possession.

10.15.4 Transport and storage

Department of Transport and Main Roads (DTMR) arrangement

This is the preferred arrangement for transport and storage of seized prohibited bikes. Officers should contact their local PCC to make arrangements for a prohibited bike tow.

DTMR have accepted the responsibility of collecting, transporting, storing and destroying prohibited bikes, which have been seized by the Service. Upon seizing the prohibited bike officers are to follow published instructions contained on the eMobility SharePoint page.

If collected by a DTMR arranged tow truck, officers may sign for the tow on behalf of DTMR and take a copy of the tow receipt, if requested to do so by the tow truck operator. The copy of the tow receipt is to be uploaded to QPRIME (through photographing or scanning the receipt) before the end of shift.

Queensland Police Service arrangement

This arrangement is limited to locations where a DTMR transport and storage arrangement has not yet been established for the transportation and storage of seized prohibited bikes.

Where DTMR transport and storage arrangements have not yet been established, officers should contact their local PCC, DDO or shift supervisors to make arrangements for the collection of a seized device.

Alternate transport and storage options may be considered through development of a district instruction that address local and district specific issues. The district instruction should outline the deviation from any DTMR supported transport or storage solution with the rationale for changes outlined.

ORDER

Unless authorised by an approved district instruction, officers are not to:

(i) transport a prohibited bike seized under Chapter 4A: 'Seizure and destruction powers for prohibited bikes' of the PPRA in a police vehicle; and

(ii) lodge a prohibited bike at a police facility.

Where a prohibited bike is also evidence in an investigation, officers should:

(i) at the scene, complete the necessary prohibited bike seizure notice and field property receipt for the seizure of evidence;

(ii) where the vehicle is being seized as evidence, not attach the Prohibited Bike Barcodes at that stage;

(iii) treat the prohibited bike as a motorbike for transport, storage and evidential handling purposes;

(iv) arrange transport by an appropriate method, such as a tow truck organised under local procedures;

(v) ensure the prohibited bike is taken to a suitable evidential property point or other approved location;

(vi) ensure appropriate assessment, photography, examination or forensic processes are completed; and

(vii) once evidential requirements have been completed, ensure the Prohibited Bike Barcodes have been attached and arrange for the prohibited bike to be collected and managed under the DTMR transport and storage arrangement, unless an approved district instruction or other authorised arrangement applies.

10.15.5 Personal property with prohibited bikes

When completing a seizure of a prohibited bike, officers should conduct a thorough search of the bike to identify and secure:

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(i) items of high value (e.g. jewellery, electronic equipment); and

(ii) property which is dangerous (e.g. lighters, chemicals); or

(iii) property items which constitute an offence (e.g. weapons, dangerous drugs).

Any property that constitutes an offence is to be seized, appropriately recorded, and an investigation commenced in accordance with relevant procedures and legislative requirements.

Property attached to the prohibited bike

Any item or property physically secured to the prohibited bike, is considered part of the prohibited bike. If the seizure is a result of an attended seizure, the rider or person in possession of the prohibited bike should be offered the opportunity to remove items of value which are not components or mechanisms of the bike. For example, a rider may remove a mobile phone holder, bag or accessory. A rider must not remove any item required for its operation, including a key or fob, battery, wheel, seat or other integral component.

Unattended seizure

For unattended seizures officers may come into possession of personal property, such as helmets. Section 123EA: 'Particular powers and steps for dealing with personal property—unattended seizure' of the PPRA provides officers the power to remove these items and take possession.

Items which transfer to the officer's possession are to be recorded on the Form 1500. The property is to be lodged against the relevant 'Ride Prohibited Bike' occurrence relating to the seized prohibited bike prior to the termination of the officer's shift.

Property is to be managed in accordance with Chapter 4: 'Property' of the OPM.

Attended seizure

For an attended seizure, if the prohibited bike contains any personal property, the property is to be removed from the vehicle by the rider/person in possession of the prohibited bike.

Damaged property

If any items are damaged during the exercise of police powers to seize a prohibited bike, officers are to:

(i) complete the Notice of Damage section on Form 1500; and

(ii) document the damage by taking photographs and uploading them into the relevant QPRIME occurrence.

If an item is rendered inoperable or destroyed as a result of damage sustained during the seizure process, officers may proceed with its disposal. The item must be recorded in QPRIME as destroyed and disposed of, ensuring all relevant details are accurately documented.

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10.16 Service of seizure notice—additional responsibilities

Where a child is to be given a Form 1500: 'Seizure Notice (Prohibited Bike Related Offence)', the seizing officer is to,

(i) give the seizure notice to the child; and

(ii) give a copy of the notice to the child's parent or guardian.

The copy of the seizure notice can be given to the parent or guardian by personal or by postal service, see s. 39: 'Service of documents' of the *Acts Interpretation Act*.

If a child's parent or guardian has been contacted via telephone as part of s. 10.11: 'Dealing with children (persons under the age of 18 years)' of this Manual, officers should use opportunity to explain the seizure notice to the child while the parent or guardian is on the phone. Officers should obtain a confirmed postal or 'unique electronic address' of the parent or guardian in order to give a copy of the seizure notice. The unique electronic address should be personal and not a shared or business account.

10.17 Application for release of vehicle

Chapter 4A, Part 3: 'Application for release of vehicle' of the PPRA provides for the release of a seized vehicle under the chapter, after the owner has made an application in the approved form to the Commissioner and supported with enough information to enable the Commissioner to decide the application. The Commissioner has delegated the authority to release (see Delegation D 24.77).

To assist delegates to consider an application for release or an internal review, the 'Managing applications for Release, Internal Review and Forfeiture of Seized Prohibited Bikes' guide has been developed and is available under the 'Enforcement resources' tab on the eMobility SharePoint page.

10.17.1 Valuation of the prohibited bike

The delegation for reviewing the 'Application to Release' is dependent on the bike's assessed value. Chapter 4: 'Property' of the OPM requires officers to manage and dispose of property lawfully, make appropriate inquiries, and document decisions, but does not prescribe a specific method for determining this value.

In the absence of a prescribed method, valuation decisions must align with the PPRA, the *Financial Accountability Act*, the Financial and Performance Management Standard and the *Public Sector Act*. These frameworks require decisions are sensible, proportionate and justifiable without mandating technical valuations.

A market-based approach is recommended:

(i) review approximately 3 comparable listings from platforms such as Bikesales, Gumtree or Facebook Marketplace;

(ii) select listings similar in make, model and age of the seized bike;

(iii) assess the bike's actual condition, including mechanical state, cosmetic condition, completeness and any known defects; or

(iv) determine a reasonable value range and adopt a conservative estimate.

The expectation is not precision, but a fair and realistic assessment based on observable market information. This aligns with Whole-of-Government 'value for money' principles, which rely on informed judgement rather than formal valuation processes.

Officers should record a brief summary of the valuation process in QPRIME, including:

(i) platforms reviewed;

(ii) comparability of listings; and

(iii) how the condition of the bike influenced the final valuation.

ORDER

The initial delegate reviewing the 'Application for Release' is to conduct a valuation and record the outcome in QPRIME on the relevant occurrence with a supplementary report titled, 'Prohibited Bike Valuation'. This valuation is then to be added to the value field of the prohibited bike.

Where the valuation exceeds the initial delegates threshold, the subsequent delegate is to review the valuation and acknowledge the valuation or modify the valuation. This is to be recorded in QPRIME with the necessary justification.

10.17.2 Application for release

The application by the person claiming ownership of the seized vehicle must be made within the standard release application period, 30 days after the day of seizure.

The Commissioner's delegate may, before the end of the standard release application period, extend the period for making an application by a further period of up to 30 days, if satisfied the extension is reasonable in the interests of justice.

A request for an extension of time to make an application for release should be made on form QP 1508: 'Application for Extension—Release Application and Internal Review'. If the request is not already attached to the relevant QPRIME occurrence, the Commissioner's delegate is to ensure it is uploaded.

The Commissioner's delegate is to consider the request and decide whether to approve or refuse the extension within 5 business days of its receipt. The decision, including the reasons for approving or refusing the extension, is to be recorded in a supplementary report in the original QPRIME occurrence titled: 'Extension of Time Decision—Release Application'.

The applicant is to be advised of the outcome by email or text message, where practicable, to create a written record of the advice. The advice provided to the applicant is to be recorded in the relevant occurrence enquiry log.

The release application must:

(i) be in the approved Form 1501: 'Application for Release of Seized Vehicle'; and

(ii) be made within the standard release application period; and

(iii) contain evidence to establish:

(a) the person is an owner of the vehicle; and

(b) at least 1 ground for release is articulated.

The owner can submit the application:

(i) online via the QPS internet; or

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(ii) provide a printed form and submit it to a police station; or

(iii) post to Policelink.

Policelink will receive all online applications and task all applications to the appropriate organisational unit for action.

Where a member at a station or establishment receives a completed Form 1501, they are to ensure the application and any supporting documents are scanned into the relevant occurrence and a task sent to the OIC of the officer who seized the prohibited bike.

Evaluating the application for release—statutory grounds for release

Grounds for release of seized vehicle is stated in s. 123FA of the PPRA, these grounds are:

(i) the vehicle is registered and may lawfully be used in a public place;

(ii) the vehicle is otherwise not a prohibited bike;

(iii) the applicant was not responsible for, and did not authorise, the suspected riding of the vehicle on a road, on a road-related area or in a public place; or

(iv) the vehicle was not ridden on a road, on a road-related area or in a public place.

These grounds set out the legislative requirements to refuse or release a vehicle that has been seized as a prohibited bike.

Officers are to note that a statement or statutory declaration by the applicant about a particular matter is not of itself sufficient evidence to establish the matter (see s. 123G(5): 'Release application' of the PPRA).

Further guidance for evaluating grounds for release can be located in the 'Managing applications for Release, Internal Review of Seized Prohibited Bikes' guide , available on the eMobility SharePoint page.

Additional considerations in favour of releasing the vehicle

In addition to the 4 statutory grounds for release, Form 1501 permits applications to identify an 'other' basis for release. The delegate must take a reasonable and measured approach, considering the intent of the legislation and the strength of the evidence provided when considering any additional basis raised by the applicant. Any additional basis raised by the applicant or any of the additional considerations listed below can only support a decision to release, not a decision to refuse. An application for release should be decided on the legislative grounds for release, with the additional considerations being taken into account if they support a decision to release.

Where none of the 4 mandatory legislative grounds are established, and the additional basis raised by the application (if any) does not support a decision to release, delegates may still consider whether circumstances exist which justify release. These additional considerations can only be used as a basis to release a prohibited bike, not a basis to refuse the application. Delegates must limit their grounds of refusal to the 4 grounds for release within s. 123FA of the PPRA. Consideration of irrelevant material or grounds in arriving at a decision to a refuse to release the vehicle, may be grounds for a successful review or QCAT application.

Central to these additional considerations is a review of the seizing officer's initial assessment under s. 10.13.7 'Prohibited bike seizure versus immobilising/impounding motor vehicles' of this chapter.

Other considerations may include:

(i) extraordinary emergency;

(ii) not in the public interest;

(iii) financial hardship; or

(iv) procedural error.

ORDER

An officer exercising their delegation under Delegation D 24.77 is to consider the Application for Release must limit their grounds for refusal to the 4 grounds of release specified within s. 123FA of the PPRA.

The delegate should also consider s. 10.13.7 'Prohibited bike seizure versus immobilising/impounding motor vehicles' of this chapter specifically whether:

(i) the offending occurred on a road;

(ii) the motorbike was previously registered, or the registration had only recently expired, and the bike was readily capable of being re-registered;

(iii) the manner of riding was otherwise compliant with road rules;

(iv) immobilisation/impoundment was the more efficient enforcement option, having regard to location, time constraints and the availability of transport for seizure;

(v) the prohibited bike was not ridden in company with other prohibited bikes involved in hooning or related offending that would support coordinated seizure action;

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(vi) the rider was not a child whose circumstances would preclude immobilisation/impoundment under youth justice principles; and

(vii) the vehicle was not a non-compliant PMD, non-compliant electronically power-assisted cycle (EPAC), converted bicycle, or otherwise lacking mandatory vehicle standards or compliance labelling.

Where the delegate considers the more appropriate action was to immobilise/impound, they should release the vehicle and consider commencing action under Chapter 16: 'Immobilising and impounding motor vehicles' of this Manual.

Testing of prohibited bikes

The seizure of prohibited bike scheme creates a powerful reverse onus and court certificate system for the defendant to prove the device is a compliant prohibited bike (see s. 10.20 of this chapter). Applications for review should proceed based on the evidence held by officers measured against the evidence submitted by the applicant.

Deciding the Application for Release

The Commissioner's delegate must, within 28 days after receiving the application decide to;

(i) grant the application and release the vehicle; or

(ii) grant the application and retain the vehicle until the delegate is satisfied it is no longer required for investigate or evidentiary purposes; or

(iii) refuse the application.

Where the Commissioner's delegate receives a completed application for the release of the seized vehicle, the officer is to, within 5 business days:

(i) consider the application and supporting documentation and make any necessary inquiries to reach a decision;

(ii) be satisfied the applicant is the owner of the vehicle; and

(iii) decide to grant the application, if satisfied that the applicant is the owner and at least one ground for release is made out.

If the Commissioner's delegate decides to grant the application, the delegate must give the applicant written notice of the decision on QP 1504A: 'Release Notice—Seized Vehicle (Prohibited Bike)' stating the release application is granted and either:

(i) the vehicle will be released when the Commissioner's delegate is satisfied it is no longer required for investigative or evidentiary purposes; or

(ii) the applicant may collect the vehicle from a stated place during stated hours and, if the applicant does not collect the vehicle within 30 days after the date of the release notice, the vehicle may be forfeited to the State and may be disposed of.

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If the Commissioner's delegate gives a release notice under the above section (i), the delegate must, when satisfied the vehicle is no longer required for investigative or evidentiary purposes, give the applicant a further release notice stating the matters mentioned in the above section (ii).

The Commissioner's delegate or their representative is responsible for any advice to DTMR, including if the seized vehicle may be released, and the completion of all QPRIME steps applicable to the existing prohibited bike (refer to the QPRIME User Guide). To advise DTMR, forward the completed QP 1504A: 'Release Notice—Seized Vehicle (Prohibited Bike)' to DTMR by emailing: pmdseizuredata@tmr.qld.gov.au, with the subject line: "Release Notice—Barcode#".

If the Commissioner's delegate refuses the application, the Commissioner's delegate must give the applicant written notice of the decision QP 1505A: 'Information Notice—Refusal to Release Vehicle (Prohibited Bike)', stating:

(i) the release application is refused;

(ii) the reasons for the decision, including whether the refusal is because of failure to satisfy the Commissioner's delegate of the applicant's claim to ownership of the vehicle or failure to establish a ground for release of the vehicle;

Note see also s. 27B: 'Content of statement of reasons for decision' of the *Acts Interpretation Act* for matters that must be included with the reasons;

(iii) the applicant may apply for internal review of the decision within the review period;

(iv) the requirements for making an application for internal review; and

(v) notice that where no application for internal review is made within the review period, the vehicle will be forfeited to the State and may be destroyed or otherwise disposed of.

10.17.3 Internal review

When a Commissioner's delegate decides against the release of a seized vehicle, an affected person (person whose release application is refused) may apply to the Commissioner for a review of that decision.

If the affected person has not been given an information notice for the original decision, the affected person may ask the Commissioner for an information notice for the decision. A failure to give the affected person an information notice for the original decision does not limit or otherwise affect the person's right to apply for an internal review of the decision.

The Commissioner has delegated this authority to Inspectors (see Delegation D 24.77).

The application for an internal review of an original decision, must:

(i) be in the approved Form 1502: 'Application for Internal Review of Decision of Release Application (Seized Vehicle PPRA 123G)'; and

(ii) for a person who has been given an information notice for the decision, include enough information to enable the reviewer to decide the application; and

(iii) be made to the Commissioner within:

(a) for a person who has been given an information notice for the decision, 28 days after the day the person is given the notice; or

(b) for a person who has not been given an information notice for the decision, 28 days after the day the person becomes aware of the decision.

A request for an extension of time to make an application for release should be made on form QP 1508: 'Application for Extension—Release Application and Internal Review'. If the request is not already attached to the relevant QPRIME occurrence, the Commissioner's delegate is to ensure it is uploaded.

The Commissioner's delegate is to consider the request and decide whether to approve or refuse the extension within 5 business days of its receipt. The decision, including the reasons for approving or refusing the extension, is to be recorded in a supplementary report in the original QPRIME occurrence titled: "Extension of Time Decision—Internal Review". The Commissioner's delegate may extend the period within which the application for internal review may be made by a further period of no more than 28 days.

The applicant is to be advised of the outcome by email or text message, where practicable, to create a written record of the advice. The advice provided to the applicant is to be recorded in the relevant occurrence enquiry log.

The Commissioner's delegate should decide an internal review application within 5 business days of receipt. The delegate must decide the application within 20 days after receiving it, unless a longer period has been agreed. The delegate may:

(i) review the original decision and either:

(a) confirm the original decision; or

(b) substitute another decision for the original decision; and

(ii) give the affected person for the original decision a Queensland Civil and Administrative Tribunal (QCAT) information notice for the Commissioner's decision under (a). The QCAT information notice means a notice that complies with s. 157(2): 'Information notice to be given' of the *Queensland Civil and Administrative Tribunal Act*.

The Commissioner's delegate and the affected person may, before the period ends, agree to a longer period for the Commissioner/delegated officer to comply with the internal review process.

The application may be dealt with only by a person who did not make the original decision and who holds the delegation under Delegation D 24.77. Under the current delegation, this is an Inspector.

The above does not apply to an original decision made by the Commissioner personally.

If the Commissioner's delegate does not give the affected person a form QP 1505B: 'Information Notice—Refusal to Release Vehicle (Internal Review)' within the period required or a longer period agreed on, the Commissioner/delegated officer is taken to confirm the original decision.

If the Commissioner's delegate decides to substitute the original decision, a decision to release the vehicle, the Commissioner's delegate must give the affected person for the original decision a release notice. DTMR must be notified of the decision to release the vehicle.

Testing of prohibited bikes—internal review

Where the applicant has sought an internal review on the grounds the vehicle is otherwise not a prohibited bike, a request should be sent to DTMR to have the vehicle tested. This testing may take up to 21 days in rural and remote locations and an extension to consider the application for internal review may need to be considered.

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Testing of vehicles by DTMR may not be conclusive or replicate the observed characteristics from the time of interception. The delegate will need to consider this evidence against the other evidence already gathered and any supporting material supplied by the applicant.

Requesting a test at this stage is also important to ensure that officers have considered all available evidence and information should the applicant apply to QCAT for a further appeal.

To seek a test of a seized prohibited bike submit a QP 1509: 'Request to Test Seized Vehicle' to DTMR by sending to: pmdseizuredata@tmr.qld.gov.au, with the subject: "Testing Notice—Barcode#".

ORDER

Where testing of a prohibited bike is required, the delegate should contact the applicant in writing and request agreement to extend the decision period until the testing results are available, see s. 123M(2): 'Internal review' of the PPRA. The applicant must be made aware that if they do not agree to the extension and the Service does not give the affected person a QCAT information notice within 20 days (or a longer period agreed under subsection (2)), the Commissioner is taken to confirm the original decision (see s. 123M(5) of the PPRA). If an extension is requested, the applicant's disagreement or agreement to the extension must be documented as part of the assessment.

Multiple applications for internal review

A person whose release application has been refused is an 'affected person' (see s. 123I: 'Definitions for part' of the PPRA) and may apply for internal review of that original decision. The right to seek an internal review is not dependent on whether the person was given an information notice.

Where a person has made multiple release applications, the delegate should take care to identify which original decision is sought to be reviewed. This may include considering any information notice attached to the internal review application, together with the content of the application itself.

If the applicant appears to seek review of more than one refused release application, the delegate should ensure each original decision sought to be reviewed is clearly identified.

10.17.4 QCAT review

This applies to a person who must be given a Queensland Civil and Administrative Tribunal (QCAT) Information Notice—Refusal to Release Vehicle (Internal Review), (QP 1505B) for an internal review decision.

A person who applies to QCAT for a review decision must, within 7 days after filing the application in the QCAT registry, give the Commissioner notice of the application in the approved form.

Where a member at a station or establishment receives an application for QCAT Review, they are to ensure the application and any supporting documents are scanned into the relevant occurrence and referred to Specialist Programs, RPG by emailing: emobility@police.qld.gov.au. Specialist Programs will review and forward the material to Legal Services via: StrategyandPerformanceOGC@police.qld.gov.au.

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10.18 Forfeiture and disposal of prohibited bikes

This section applies if an officer has seized a vehicle under s. 123C: 'Seizure of prohibited bike on road, on road-related area or in public place' of the PPRA and one of the following (each a **forfeiture event**) applies:

(i) the release application period ends, and no release application has been made for the vehicle within the period;

(ii) each release application for the vehicle has been refused and no application for internal review has been made within the review period;

(iii) each internal review decision has confirmed each original decision and no application for external review has been made under the QCAT Act within the period provided under that Act;

(iv) each application to QCAT for external review of an internal review decision has resulted in a decision to confirm the internal review decision, or has been withdrawn or struck out; or

(v) a person issued with a release notice fails to collect the vehicle the subject of the release notice within 30 days after the date of the notice.

The vehicle is forfeited to the State on the forfeiture event.

The Commissioner's delegate must issue a form QP 1506: 'Forfeiture Notice of Seized Vehicle (Prohibited Bike)' within 5 business days of the forfeiture event for a vehicle forfeited under this section, stating:

(i) the name and address of the owner of the vehicle (if known); and

(ii) any available identifying particulars of the vehicle; and

(iii) the day, time and location the vehicle was seized; and

(iv) that the release application period and review period are complete; and

(v) that the vehicle is forfeited to the State; and

(vi) that the Commissioner is empowered to destroy or otherwise dispose of the vehicle.

If the forfeited vehicle was in possession of a person at the time of being seized as mentioned under s. 123F(1): 'Steps after seizing vehicle' of the PPRA:

(i) if a release application was made, the Commissioner must ensure the forfeiture notice is given to the person who made the release application; or

(ii) if a release application was not made or a release application was made but the Commissioner is not satisfied the applicant is an owner of the vehicle, the Commissioner must ensure the forfeiture notice is given to the person who was riding or in possession of the vehicle. Where the rider was a child, a copy should also be given to a parent/guardian.

If the forfeited vehicle was **unattended** at the time of being seized as mentioned under s. 123F(2) of the PPRA:

(i) if a release application was made, the Commissioner must ensure the forfeiture notice is given to the person who made the release application; or

(ii) if a release application was not made or a release application was made but the commissioner is not satisfied the applicant is an owner of the vehicle, the Commissioner must publish the forfeiture notice on the QPS website.

The power to issue and give a forfeiture notice has been delegated to a Sergeant OIC and above (see Delegation D 24.77).

The Commissioner's delegate or their representative is responsible for any advice to DTMR advising them of the forfeiture and method of disposal, and the completion of all QPRIME steps applicable to the existing prohibited bike (refer QPRIME User Guide). To advise DTMR forward the completed form QP 1506: 'Forfeiture Notice of Seized Vehicle (Prohibited Bike)' to DTMR by emailing: pmdseizuredata@tmr.qld.gov.au, with the subject line: "Forfeiture Notice—Barcode#".

If the forfeited vehicle is owned by a shared e-mobility provider as mentioned in s. 123F(3) of the PPRA, the Commissioner must ensure the forfeiture notice is given to the shared e-mobility provider.

For further information on forfeiture and disposal refer to the 'Managing Applications for Release, Internal Reviews of Seized Prohibited Bikes and Forfeiture of Seized Prohibited Bikes' guide which been developed and is available on the eMobility SharePoint page.

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10.19 Disposal of forfeited vehicles

The Commissioner may dispose of a vehicle forfeited to the State under s. 123Q: 'Disposal of forfeited vehicles' of the PPRA, in the way the Commissioner considers appropriate, including by:

(i) destroying the vehicle; or

(ii) if satisfied the vehicle is not a prohibited bike or is eligible to be registered (selling the vehicle); or

(iii) the Commissioner may arrange for the disposal of a vehicle to be carried out by a government agency or third party.

If the Commissioner decides to sell a vehicle under s. 123R: 'Application of proceeds of sale' of the PPRA. The proceeds of the sale are to be applied in the following order:

(i) in payment of the expenses of the sale;

(ii) in payment of other reasonable costs incurred by the State in dealing with the vehicle, after it is no longer required for investigative or evidentiary purposes, including, for example, the costs of storing the vehicle and giving the seizure notice and forfeiture notice;

(iii) if there is an amount owing to a person under a security interest registered for the vehicle under the *Personal Property Securities Act* (Cwlth), in payment of the amount owing to the holder of the security interest; or

(iv) in payment of any balance to the consolidated fund.

The power to dispose or arrange for the disposal has been delegated to a Sergeant OIC and above (see Delegation D 24.77), depending on the value of the vehicle.

Department of Transport and Main Roads—disposal

The Department of Transport and Main Roads (DTMR) have accepted responsibility for disposing of prohibited bikes on behalf of the Commissioner, as the government agency.

ORDER

The Commissioner's delegate authorising the forfeiture and disposal of a prohibited bike should, subject to any district instruction, dispose of the prohibited bike by "disposal of a vehicle to be carried out by a government agency or third party" on a QP 1506: 'Forfeiture Notice of Seized Vehicle (Prohibited Bike)'.

To finalise the forfeiture of the prohibited bike the following steps must be taken:

(i) the delegate should ensure a copy of the Forfeiture Notice is uploaded into QPRIME;

(ii) the delegate must update QPRIME with vehicle stores management as per the QPRIME User Guide; and

(iii) the forfeiture notice is also a notice to DTMR that the vehicle can be disposed. The delegate is to forward a copy of the notice to DTMR by emailing: pmdseizuredata@tmr.qld.gov.au, with the subject line: "Forfeiture Notice—Barcode#".

10.19.1 Liability for costs

This section applies if a vehicle has been disposed of under s. 123Q: 'Disposal of forfeited vehicles' of the PPRA and the costs mentioned in s. 123R(2)(a) and (b): 'Application of proceeds of sale' of the PPRA have not been met by the proceeds of the sale of the vehicle or otherwise by an entity other than the State and the identity of the person who was, at the time the vehicle was seized, an owner or rider of the vehicle is known to the Commissioner's delegate.

The Commissioner's delegate may give the person a costs notice (Form 1503: 'Notice of Costs for Disposal of Seized Vehicle') in the approved form stating:

(i) the reasonable costs incurred by the State in dealing with the vehicle after it was no longer required for investigative or evidentiary purposes and in disposing of the vehicle;

(ii) any portion of those costs that has already been recovered by the State and the costs outstanding;

(iii) that the person is liable to pay the outstanding costs to the State, and the ways the person can pay; and

(iv) that if the person does not pay the outstanding costs within 30 days after the date of the notice, the costs may be recovered as a debt due to the State.

A person who receives a costs notice under s. 123S: 'Liability for costs' of the PPRA is liable to pay the costs stated in the notice. The costs stated in a costs notice are payable to, and recoverable as a debt by, the State.

As DTMR have accepted responsibility for transport, storage, testing and disposal the Service has no costs to recover.

10.20 Evidentiary provision

Evidentiary certificates assist in proving particular matters in proceedings without calling additional evidence.

For eMobility enforcement, officers should distinguish between certificates relating to seizure and disposal steps, certificates relating to approved testing devices, and certificates relating to proof that a vehicle was a prohibited bike.

10.20.1 Relevant certificate provisions

The PPRA and the TO(RUM)A make provision for 4 specific evidentiary certificates for eMobility. These are:

(i) PPRA s. 123U: evidentiary certificates for administrative matters relating to seizure, seizure notices, release applications, internal review applications, forfeiture and disposal of prohibited bike;

(ii) TO(RUM)A s. 123KA: evidentiary certificates relating to approved testing devices, test results and EPAC standard non-compliance;

(iii) TO(RUM)A s. 124(1)(b): facilitation of proof that person was unlicenced; and

(iv) TO(RUM)A s. 124(3) to (5): facilitation of proof for a vehicle being a prohibited bike at the relevant time, after disposal under the PPRA process.

Also note that s. 124(i) provides that an averment in a complaint that a person was unlicenced or of or under a stated age, and an averment that a place was a public place / road / road-related area, shall be evidence of those matters, subject to evidence in rebuttal.

10.20.2 Evidentiary certificates for seizure, information notice, review, forfeiture and disposal

A certificate signed by the Commissioner's delegate under s. 123U: 'Evidentiary provision' of the PPRA constitutes evidence of the matters stated in the certificate, but only to the extent those matters are prescribed under s. 123U(1) of the PPRA. A certificate may address one or more of the matters listed in s. 123U(1) and is not required to address all matters set out in that provision.

The power to sign an evidentiary certificate pursuant to s. 123U of the PPRA has been delegated to a Sergeant OIC and above (see Delegation D 24.77).

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A PPRA s. 123U certificate may state that:

(i) stated steps were taken during the seizure of a vehicle under s. 123C: 'Seizure of prohibited bike on road, on road-related area or in public place' of the PPRA;

(ii) a seizure notice was given or published under s. 123F: 'Steps after seizing prohibited bike' of the PPRA in a stated way on a stated day;

(iii) a release application made under s. 123G: 'Release application' of the PPRA was considered in a stated way and notice of the decision was given in a stated way on a stated day;

(iv) an application for internal review made under s. 123K: 'Who may apply for internal review' of the PPRA was considered in a stated way and notice of the decision was given in a stated way on a stated day;

(v) a vehicle was forfeited to the State under s. 123P: 'Forfeiture of prohibited bikes' of the PPRA at the time of a stated forfeiture event; or

(vi) a vehicle forfeited to the State was disposed of under s. 123Q: 'Disposal of forfeited vehicles' of the PPRA in a stated way on a stated day.

A certificate stating that a vehicle was disposed of under s. 123Q of the PPRA should only be issued after the vehicle has in fact been disposed of. The certificate should identify the way the vehicle was disposed of, for example, destruction, sale, or by disposal carried out by a government agency or third party.

If the prosecution intends to rely on a PPRA s. 123U certificate in a criminal proceeding, a copy of the certificate must be given to the defendant or the defendant's lawyer at least 20 business days before the hearing day. If the defendant intends to challenge a matter stated in the certificate, the defendant must give notice of the matter to be challenged at least 15 business days before the hearing day. If a matter is challenged in accordance with s. 123U, the certificate stops being evidence of that matter.

The release of a vehicle under s. 123H of the PPRA is not evidence that the vehicle was, or was not, a prohibited bike at the time of the alleged offence.

10.20.3 Approved testing device certificates

A certificate relating to an approved testing device may be signed by the Chief Executive (DTMR) or the Commissioner. The certificate may be used under s. 123KA of the TO(RUM)A in proceedings for an offence against a Transport Act to prove:

(i) a stated device or system is an approved testing device;

(ii) the results of a stated test carried out using an approved testing device on a stated device or vehicle at a stated time and place;

(iii) a stated vehicle does not comply with the EPAC standard, for stated reasons;

(iv) a stated approved testing device was tested or calibrated in accordance with an approved standard or procedure; or

(v) a stated approved testing device was operated in accordance with the manufacturer's instructions or an approved procedure.

This certificate will be issued by DTMR at the conclusion of any testing requested in ss. 10.17.3 and 10.13.2 of this chapter.

A defendant who intends to challenge the results of an approved testing device, or the time at which or way in which the device was used, must comply with s. 123R: 'Challenges to devices' of the TO(RUM)A. The written notice of challenge must be in the approved form, signed by the defendant, and given at least 14 days before the day fixed for the hearing.

10.20.4 Prohibited bike certificate

A certificate issued under s. 123U: 'Evidentiary provision' of the PPRA stating a vehicle has been disposed of, may be used to prove that the vehicle was a prohibited bike at the relevant time, pursuant to s. 124(3): 'Facilitation of proof' of the TO(RUM)A. This certificate is separate from approved testing device certificates under s. 123KA: 'Certificate is evidence of another matter—approved testing device' of the TO(RUM)A.

The certificate may be used in a proceeding under, or for the purpose of, the TO(RUM)A where it purports to be signed by the Commissioner, or Commissioner's delegate, and states that the vehicle has been disposed of under the PPRA prohibited bike disposal process. Subject to s. 124(4) of the TO(RUM)A the certificate is conclusive evidence that the vehicle was a prohibited bike at the relevant time.

For this provision relevant time means the time at or during which the vehicle is suspected of having been unlawfully ridden on a road, road-related area or public place.

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Prohibited bike status and motorbike classification

A certificate proving that a vehicle was a prohibited bike does not automatically prove that the vehicle was a motorbike. Officers must consider the definitions in the TO(RUM)A if a proceeding requires proof that the vehicle was also a motorbike.

A motorbike is a two-wheeled motor vehicle, whether a sidecar is attached, and a three-wheeled motor vehicle that is ridden in the same way as a two-wheeled motor vehicle. Most two-wheeled prohibited bikes will also be motorbikes if they meet the definition of motor vehicle. A three-wheeled prohibited bike will only be a motorbike if it is ridden in the same way as a two-wheeled motor vehicle.

Where motorbike classification is relevant, officers should ensure the brief of evidence contains evidence of the vehicle's number of wheels, propulsion, design, manner of riding, registration status and any other relevant exclusions.

10.21 Protection from liability

Under s. 123V: 'Protection from liability' of the PPRA, an officer acting in good faith and without negligence is protected from liability for any damage, loss or depreciation to a vehicle that occurs during its seizure, removal or storage.

This protection also extends to officers of government agencies who act in good faith and without negligence during the removal or storage of a vehicle.

To avoid any ambiguity, the provision explicitly states that this protection applies regardless of whether the officer personally conducted the removal or storage of the vehicle or arranged for another officer or a third party to perform these actions.

In such cases, liability does not attach to the individual officer or government agency officer but instead attaches to the State.

Section 123W: 'Protection for persons exercising power under chapter' provides additional protection for individuals exercising powers under Chapter 4A of the PPRA in relation to the seizure, removal, or storage of a vehicle, where:

> (i) this section applies to proceedings in relation to liability for breach of duty arising out of damage to a vehicle when a person exercises power, or assists another person exercising power, under this chapter in relation to the seizure, removal or storage of a vehicle; and
>
> (ii) the person, or a person assisting the person, is not civilly liable:
>
> > (a) because of the paramount or high degree of importance the person gave to moving the vehicle off the road, road-related area or public place quickly; or
> >
> > (b) to the extent there was an increased likelihood that a vehicle would be damaged in the exercise of power mentioned in subsection (1), because of the nature of the power.

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11.1 Introduction

This chapter provides policies and procedures for officers dealing with transport related legislation and provides guidelines for officers detecting offences in core areas of concern to police.

11.2 Fatigue management

The National Heavy Vehicle Regulator (NHVR) is the administrative body for heavy vehicles under the *Heavy Vehicle National Law* (Qld) (HVNL(Q)).

The HVNL(Q) imposes duties on drivers and particular persons who influence the conduct of drivers, in relation to fatigue-regulated heavy vehicles.

Work and rest arrangements

Drivers of fatigue-regulated heavy vehicles have strict maximum work times and minimum rest time requirements and drive under one of the following work and rest hours options:

(i) Advanced Fatigue Management (AFM) hours;

(ii) Basic Fatigue Management (BFM) hours;

(iii) Standard hours; or

(iv) Exemption hours.

Drivers may operate under one work and rest hours option only. However, drivers may change between such options providing they are compliant with the work and rest hour option they are changing to or/and have a reset rest break. A reset or rest break is a period of 48 hours (see s. 263: 'Operating under new work and rest hours option after change' of the HVNL(Q). Heavy vehicle drivers under the National Heavy Vehicle Work and Rest Hours Exemption (Personal Use—Standard Hours) Notice 2024 (No. 1) (available on the National Heavy Vehicle Regulator website) are exempt for one hour of permitted personal activity in accordance with the conditions of this notice. The permitted personal activity should not be undertaken while the heavy vehicle in question is either carrying a load or towing a vehicle (see s. 12: 'Conditions—Limits on application of Permitted Personal Activity' of the National Heavy Vehicle Work and Rest Hours Exemption (Personal Use—Standard Hours) Notice 2024 (No. 1)). An offence occurs where the driver works over the maximum work time or rests for less than the minimum rest time stated in the accreditation. Officers should be mindful of the defence provisions that apply under Chapter 6: 'Vehicle operations—driver fatigue' of the HVNL(Q) for offences relating to non-compliance with work and rest hours as they apply under the work and rest hours options.

Drivers of fatigue-regulated heavy vehicles working under a BFM or AFM accreditation must keep in the driver's possession:

(i) a copy of the accreditation certificate for the accreditation; and

(ii) a document, signed by the operator of the vehicle who holds the accreditation, stating that the driver:

(a) is operating under the operator's heavy vehicle accreditation;

(b) has been inducted into the operator's relevant management system;

(c) meets the requirements relating to drivers under the operator's heavy vehicle accreditation (if any); and

(d) for a driver operating under AFM accreditation, a document stating the AFM hours applying under the accreditation.

Officers intercepting fatigue regulated heavy vehicles being driven by drivers working under a BFM or AFM accreditation should conduct inquiries to ensure the driver has in their possession the required documents in accordance with s. 468: 'Driver operating under BFM accreditation or AFM accreditation must carry accreditation details' of the HVNL(Q). Where the driver does not have the required documentation officers should consider taking action for the offence.

Diary requirements

Section 291: 'Application of Sdiv 1' of the HVNL(Q) states drivers of fatigue-regulated heavy vehicles are required to possess a work diary if the driver:

(i) is engaged in 100+km work under standard hours;

(ii) was engaged in 100+km work under standard hours in the last 28 days;

(iii) is working under BFM hours, AFM hours or exemption hours; or

(iv) was working under BFM hours, AFM hours or exemption hours in the last 28 days.

See also s. 292: 'Meaning of *work diary* for Sdiv 1' of the HVNL(Q).

Drivers must record information in the diary immediately after starting work and immediately before finishing work on each day the driver:

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(i) engages in 100+km work; or

(ii) works under BFM hours, AFM hours or exemption hours.

See also s. 300: 'Purpose of Sdiv 3' of the HVNL(Q) as to how information must be recorded in a work diary.

Police officer requirements

A person must not drive a fatigue-regulated heavy vehicle on a road while impaired by fatigue. Additionally, a party in the chain of responsibility (see s. 5: 'Definitions' of the HVNL(Q)) must take all reasonable steps to ensure a person does not drive a fatigue-regulated vehicle while impaired by fatigue. See also ss. 223: 'What is *fatigue*' and 225: 'What is *impaired by fatigue*' of the HVNL(Q).

Where an officer reasonably believes a person in control of a fatigue-regulated heavy vehicle to be impaired by fatigue, or their work diary cannot be produced or relied upon, the officer should require the person to stop work and not work again for a stated period in accordance with ss. 538: 'Requiring driver to rest for contravention of maximum work requirement', 539: 'Requiring driver to rest for contravention of minimum rest requirement', 540: 'Requiring driver to stop working if impaired by fatigue' and 541: 'Requiring driver to stop working if work diary not produced or unreliable' of the HVNL(Q).

Officers who intercept drivers of fatigue-regulated heavy vehicles are to require work diaries for inspection where such drivers are required to carry such work diaries (see s. 568: 'Power to require production of document etc. required to be in driver's possession' of HVNL(Q)).

Where an inspection of a work diary reveals that the provisions of the HVNL(Q) including any Heavy Vehicle Work and Rest Hours Exemption Notice or Permit, not been complied with, officers should consider taking action for the relevant offence.

Officers who detect an offence as a result of inspecting an authorised work diary, other than an electronic work diary, should:

(i) endorse the relevant page with:

(a) time, date and place at which the offence was detected;

(b) sufficient notations to show that an offence was committed with respect to the information shown, or not shown, on the page; and

(c) their signature, name, rank, number and station;

(ii) make notes in their official police notebook of:

(a) the particulars of the offender;

(b) the number of the offender's work diary;

(c) the number of the page of the offender's work diary which contains the information to substantiate the offence;

(d) any conversation with the offender; and

(e) any other particulars necessary;

(iii) return the work diary to the offender.

Officers who inspect work diaries, other than electronic work diaries, that are correctly completed should endorse the last original page in use with their signature, name, rank, number and station together with the time, date and place at which the work diary was inspected.

The classification of breaches for fatigue management requirements is located in s. 222: 'Categories of breaches' of the HVNL(Q) and are determined by the degree of time by which a driver of a fatigue-regulated heavy vehicle has exceeded their maximum work requirement or is deficient in their minimum rest requirement. See also the Heavy Vehicle (Fatigue Management) National Regulation. The risk categories are:

(i) minor risk breach;

(ii) substantial risk breach;

(iii) severe risk breach; and

(iv) critical risk breach.

Exemptions

A person who is acting for an emergency service and who has time-critical duties on the way to, or during, an emergency is exempted from the restrictions placed on the maximum work time and minimum rest time requirements providing the non-compliance does not present an unreasonable danger to other road users.

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The National Heavy Vehicle Regulator can also exempt a class of driver or fatigue-regulated heavy vehicle from particular maximum work requirements and minimum rest requirements, by Commonwealth Gazette notice or exemption permit.

Chain of responsibility

Section 5: 'Definitions' of the HVNL(Q) identifies each of the parties in the chain of responsibility for a heavy vehicle. A party in the chain of responsibility must take all reasonable steps to ensure the driver does not drive the vehicle on a road while the driver is impaired by fatigue.

Officers commencing a proceeding for an offence against ss. 26E: 'Prohibited requests and contracts' or 228: 'Duty of driver to avoid driving while fatigued' of the HVNL(Q) are to do so by way of notice to appear or where justified, arrest.

Defences

A person has the right of a defence in accordance with Part 10.4, Division 3: 'Defences' and Division 4: 'Other provisions about liability' of the HVNL(Q) if the person charged can prove:

(i) the person did not know, and could not reasonably be expected to have known, of the contravention concerned; and

(ii) either:

(a) the person took all reasonable steps to prevent the contravention; or

(b) there were no steps the person could reasonably be expected to have taken to prevent the contravention.

See also ss. 632: 'Deciding whether person ought reasonably to have known something' and 632A: 'Using code of practice in a proceeding' of the HVNL(Q).

11.2.1 Deleted

11.2.2 Deleted

11.2.3 Issuing work diaries

A number of stations, particularly in rural and remote areas are permitted to issue work diaries.

Prior to issuing work diaries, officers should ensure that applicants:

(i) have the correct fee in their possession; and

(ii) produce a current driver licence with the appropriate heavy vehicle class.

When issuing new work diaries, officers should:

(i) obtain the previous work diary from the applicant prior to issuing a new work diary;

(ii) cancel all remaining unused pages in the previous work diary by using a 'cancelled' stamp or printing the word 'cancelled' on each unused page;

(iii) return the cancelled work diary to the applicant;

(iv) if not working online with Transport Integrated Customer Access (TICA), contact the National Heavy Vehicle Regulator to record the relevant work diary details on behalf of the officer (see SMCD);

(v) complete the application form page of the work diary;

(vi) ensure that the applicant reads, or if unable to read has it read to them, the information and the declaration on the application form page prior to signing it; and

(vii) remove the original of the application form page prior to issuing the work diary and forward this original to the National Heavy Vehicle Regulator.

Officers should issue new work diaries to applicants who are unable to produce their previous work diary or, where applicable, log book because it has been:

(i) lost;

(ii) stolen; or

(iii) destroyed.

In such cases officers should ensure that the applicant signs the appropriate declaration on the application form page.

Officers who are advised by applicants for new work diaries that their previous work diary has been seized by an authorised officer should request that the applicant produce the seizure receipt which was issued when the previous work diary or log book was seized.

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Where applicants are unable to produce a seizure receipt officers should seek verification of the seizure by:

(i) requesting the applicant to provide details of the seizure (where seized, time and date seized, whether seized by police or DTMR); and

(ii) providing such details to the National Heavy Vehicle Regulator.

Officers should not issue work diaries outside of office hours except under exceptional circumstances and are not, in any case, to issue work diaries between the hours of 0200 and 0400.

OICs of stations should ensure that fees collected for work diaries are managed through the TICA payment hub.

11.3 Registration offences

11.3.1 Seizing and disposing cancelled number plates

Where:

(i) a vehicle number plate is recorded as:

(a) cancelled;

(b) lost;

(c) stolen;

(d) destroyed; or

(e) damaged; or

(ii) it has been three months since the registration expired and a number plate has not been removed from the vehicle,

an officer can ask the person in charge of the vehicle to remove the number plate and deliver the plate to the officer. If the person in charge of the vehicle fails to comply with the request and the officer has warned the person that if they do not comply with the request, that the officer may remove the plate; the officer may remove the plate (see s. 212: 'Requirement to remove unlawful registration item' of the TO(RUM—VR)R).

Seizing number plates from unattended vehicles

Officers are not to remove number plates from any unattended vehicle under provisions of the TO(RUM—VR)R.

Surrender of number plates

Where a member of the public surrenders number plates at a station or establishment, the receiving officer should conduct a QPRIME check to identify if the number plates have been reported as lost or stolen.

If the number plates are reported as lost or stolen, they are to be dealt with as located property and lodged as an exhibit within the existing QPRIME occurrence (see Chapter 4: 'Property' of the OPM).

Ownership of number plates

A number plate remains the property of the State (see s. 128: 'Who owns number plates' of the TO(RUM—VR)R). In the case of personalised number plates, whilst a person may purchase the rights to a certain letter/number combination (see s. 132: 'Applying for personalised number plates' of the TO(RUM—VR)R), the physical number plate remains the property of the State.

Disposal of number plates

Officers should return seized number plates to DTMR once the plates are no longer required.

Seized number plates should not be held for longer than one month prior to disposal. An indemnity receipt should be prepared and a signature obtained from the DTMR employee receiving the number plates. Completed indemnity receipts should be filed at the station/establishment disposing the seized number plates.

11.3.2 Compulsory third-party offences

Officers investigating registration offences may also detect offences against the MAIA, in particular the use of a motor vehicle for which the compulsory third party insurance policy is not current. Officers may issue infringement notices for breaches of the MAIA relating to a lapsed compulsory third party insurance policy. See Infringement Notice Codes page on the Service Intranet for infringement details.

11.3.3 Permit to use intercepted unregistered vehicle on road

Where an officer intercepts an unregistered vehicle and takes enforcement action for use of the unregistered vehicle they may issue an F 3612: 'Permit to move an unregistered vehicle' (included in the PT 56: 'Infringement Notice' book)

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authorising the use of the vehicle on roads to move it to a stated place (see s. 17: 'Permit to use intercepted unregistered vehicle on road' of the TO(RUM—VR)R).

Prior to issuing an F 3612, the officer should ascertain from the owner or driver of the vehicle:

(i) whether it is necessary to move the vehicle;

(ii) the nearest safe place to which the vehicle can be driven; and

(iii) the length of time required to drive the vehicle to that place.

The travel time should be estimated on the basis of taking the shortest practicable route and is not to exceed twenty-four hours.

Following the issue of an F 3612, the officer is to explain to the person to whom the permit is issued:

(i) the terms, conditions and expiry date and time of the F 3612;

(ii) to retain the F 3612 in the vehicle and produce it if required;

(iii) that in the event of the vehicle being involved in a traffic crash, it is the vehicle driver's responsibility to keep the F 3612 in a safe place as proof that the vehicle was authorised to be used on a road; and

(iv) that the F 3612 does not exempt the driver or vehicle from any of the provisions of the TO(RUM)A, TO(RUM—RR)R or TO(RUM—VSS)R.

The prosecution copy of the F 3612 is to be attached to the green copy of the infringement notice and forwarded to the Department of Transport and Main Roads.

Officers may issue an F 3612 for vehicles which are defective, but only when a self-clearance or minor defect is identified (see s. 8.9.4: 'Completing the Defect Notice and Defective Vehicle Label' of this Manual).

Failure to comply with conditions of permit to move an unregistered vehicle

Officers are not to issue a further F 3612 to a vehicle which when intercepted was already travelling under the authority of an F 3612.

Where a vehicle has been intercepted and the owner or driver is not moving the vehicle in accordance with the F 3612, the F 3612 becomes void and action should be taken against the owner or driver by:

(i) infringement notice; or

(ii) Notice to Appear,

for using an unregistered vehicle on a road.

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11.3.4 Registration number plate offences

Positioning of number plates

The positioning, visibility and legibility of each number plate issued for a vehicle is outlined in s. 118: 'Position, visibility and legibility of number plate' of the TO(RUM—VR)R, which provides:

(i) how and where the number plate is to be positioned;

(ii) that the characters on the number plate are to be visible from 20 metres away;

(iii) specific requirements in relation to any cover on the number plate; and

(iv) that the number plate is to be in a clearly legible condition.

Officers who detect an offence under s. 118 of the TO(RUM—VR)R, may:

(i) caution the owner or registered operator (see SMD);

(ii) issue an F 4890: 'Defect notice' (available from Supply Services) as a minor defect, requiring either the owner or registered operator of the vehicle to have the vehicle inspected at a stated reasonable time and place (see s. 8.9.4: 'Completing the Defect Notice and Defective Vehicle Label' of this Manual);

(iii) issue an infringement notice to the owner or registered operator of the vehicle; or

(iv) issue an infringement notice to the owner or registered operator of the vehicle and issue an F 4890, requiring the owner or registered operator of the vehicle to have the vehicle inspected at a stated reasonable time and place.

Officers are to note that for the purposes of this section, the use of the F 4890 is not a notice of a defect offence but notice in the approved form to have the vehicle inspected at a stated reasonable time and place.

See s. 8.9.8: 'Processing and finalising defect notices' of this Manual for requirements for processing and finalising defect notices.

Legibility of number plates

Section 211(d): 'Using, or permitting use of, vehicle for which registration certificate, number plate or permit altered etc.' of the TO(RUM—VR)R creates an offence for a person, without reasonable excuse, to use or permit to be used, on a road, a vehicle if any writing, mark or colour on a number plate for the vehicle is not clearly legible.

In accordance with s. 123: 'Damaged, destroyed, lost or stolen number plates' of the TO(RUM—VR)R, where a vehicle's number plate is damaged or dirty and not legible, an officer may, in relation to a:

(i) damaged number plate, issue an F 3404: 'Notice to replace damaged number plates' (available from the Department of Transport and Main Roads (DTMR)) to the registered operator or a person in charge of the vehicle; or

(ii) dirty number plate, issue an F 4890 as a minor defect to the registered operator or a person in charge of the vehicle, requiring the registered operator to clean the number plate and bring the vehicle to a DTMR Customer Service Centre (DTMR-CSC) to be inspected within the time stated in the notice.

When an F 3404 is issued, the registered operator of the vehicle is required to apply at a DTMR-CSC within 14 days for a replacement set of number plates. In areas where a DTMR-CSC does not operate, the registered operator should be directed to attend a QGAP Office or police station which performs business on behalf of the DTMR.

Section 123 of the TO(RUM—VR)R creates offences for the:

(i) person to whom the notice is given, who is not the registered operator of the vehicle, who, without reasonable excuse, does not immediately give the notice to the registered operator of the vehicle; and

(ii) registered operator who, without reasonable excuse, contravenes a requirement given in the written notice.

Officers who detect an offence under s. 211(d) of the TO(RUM—VR)R may:

(i) caution the offender;

(ii) issue an F 3404 to the registered operator; or

(iii) issue an infringement notice to the offender; or

(iv) issue an infringement notice to the offender and, in the case of damaged number plates, issue an F 3404 to the registered operator.

Follow up action by DTMR

When an F 3404 is given, s. 123 of the TO(RUM—VR)R creates offences for the:

(i) registered operator of a vehicle who, without reasonable excuse contravenes a requirement contained in the notice; or

(ii) person in charge of a vehicle, where the notice is given to that person, who is not the registered operator of the vehicle, and who, without reasonable excuse, does not immediately give the notice to the registered operator of the vehicle.

DTMR has undertaken to follow up on any suspected offences committed once an F 3404 is given.

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11.4 Loading offences

Persons in control of vehicles are required to ensure that any load on the vehicle complies with the relevant loading requirement contained within the *Heavy Vehicle National Law Act* and the Heavy Vehicle (Mass, Dimension and Loading) National Regulation.

Generally a load will comply with the relevant loading requirement if:

(i) the load is not placed in such a way as to make the vehicle unstable or unsafe;

(ii) the load is secured so that it is unlikely to fall or be dislodged from the vehicle; and

(iii) an appropriate method is used to restrain the load.

When investigating possible loading offences, officers may exercise all of the powers available to them for investigating other offences against a transport Act (see s. 1.3: 'Police powers for traffic enforcement' of this Manual).

Officers who intercept vehicles which they reasonably believe to be unsafe because of the way in which the vehicles are loaded, in accordance with s. 66: 'Power to prohibit use of vehicles' of the PPRA, should require the owner of the particular vehicle not to use or permit the vehicle to be used on a road until the load is properly secured by issuing an F 3162: 'Vehicle Movement Prohibition Notice' (available from the DTMR and on QPS Forms Select).

Officers may issue a notice to appear, commence a proceeding by way of complaint and summons or, where justified, arrest an owner of a vehicle who fails to comply with a requirement not to use or permit the use of a vehicle.

ORDER

Officers who require the owner of a vehicle not to use, or permit the use of, a vehicle until the load is properly secured are to issue and serve an F 3162: 'Vehicle Movement Prohibition Notice'.

The original F 3162: 'Vehicle Movement Prohibition Notice' is to be retained by the officer who makes the requirement. The duplicate notice is to be served on the owner or person in control of the vehicle.

11.5 Vehicle registration procedures

At police stations which conduct business on behalf of the DTMR, officers should only conduct vehicle registration business or pre-registration inspections during office hours.

These functions are secondary to the role of officers and should not be performed at the expense of other police duties.

Members who are required to process vehicle registration applications on behalf of the DTMR or to inspect vehicles prior to registration should follow the instructions contained in the 'TMR Documentation' portal on the Service Intranet or on the relevant DTMR form as the case may be.

Members who are unsure of what action to take in a vehicle registration matter should contact the nearest DTMR Customer Service Centre for advice.

Members who receive requests from members of the public for information on vehicle registration matters should:

(i) if attached to a station which conducts registration business, refer to the 'TMR Documentation' portal on the Service Intranet to obtain the required information; or

(ii) in other cases, refer the inquirer to the nearest DTMR Customer Service Centre.

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12.1 Introduction

This chapter outlines information relating to permits issued under the:

(i) TO(RUM)A;

(ii) Heavy Vehicle (Mass, Dimension and Loading) National Regulation; and

(iii) Traffic Regulation.

In accordance with Schedule 4: 'Dictionary' of the TO(RUM)A, the term 'licence' means a licence, permit or certificate under a transport Act and includes:

(i) a renewal of the licence, permit or certificate; and

(ii) an endorsement on the licence, permit or certificate.

12.2 Deleted

12.3 Local government authorities may issue permits

Section 66: 'Local laws etc.' of the TO(RUM)A provides that a local government may make local laws about some matters which are also dealt with in Chapter 5: 'Road use' of the TO(RUM)A. For example, a local government, under s. 66 of the TO(RUM)A, may make local laws for the regulation of roadside vending. Where local laws have been made, the provisions of the TO(RUM)A cease to apply.

Members who issue permits should acquaint themselves with the provisions of any local laws which may impinge upon the issue of permits.

12.4 Permits under the Traffic Regulation

A small number of sections in the Traffic Regulation allow the Commissioner to issue permits to allow a person to act contrary to specified provisions of the Traffic Regulation. In the case of s. 126B: 'Carrying signs on roads', the Commissioner has delegated those powers in accordance with Delegation D 25.29 (available on the Service Intranet).

Permits under the Traffic Regulation should be issued on a PT 32: 'General Permit'.

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12.5 Special event permits and special circumstances permits

An authorising officer may issue a permit to allow:

(i) for a special event permit, a person conducting or taking part in a special event; or

(ii) for a special circumstances permit, the permittee,

an exemption from stated provisions of the TO(RUM—AOP)R and the TO(RUM—RR)R (see Part 5: 'Special event permits and special circumstances permits' of the TO(RUM—AOP)R).

Officers authorised to issue special event and special circumstances permits are described within Delegation No. D 25.23.

A special event for which a permit may be issued is defined in s. 124: 'Definitions for pt 5' of the TO(RUM—AOP)R.

Examples of special circumstances which may warrant the issuing of a special circumstances permit are shown in Part 5, Division 3 'Special circumstances permits' of the TO(RUM—AOP)R.

ORDER

Officers authorised to issue special event permits or special circumstances permits are to comply with ss. 125: 'Issuing special event permit' and 128: 'Application for, and issue of, permit' of the TO(RUM—AOP)R as appropriate.

Applications for a:

(i) 'Special event permit' should be submitted on a QP 0889: 'Application for a special event permit'; or

(ii) 'Special circumstances permit' should be submitted on a PT 31: 'Application for permit (generally)'.

Officers authorised to issue special event permits or special circumstances permits should:

(i) use a:

(a) QP 0890: 'Special Event Permit' for a special event; or

(b) PT 32: 'General Permit' for a special circumstances permit unless the permit relates to the use of an excess dimension vehicle (see s. 12.14: 'Excess Dimension Vehicle Permits' of this chapter); and

(ii) include such conditions in the permit as are necessary to minimise danger to all road users and to manage the impact of the permittee or persons taking part in a special event on other road users.

12.6 Applications for road closure permits

A road closure permit may be issued by the Commissioner or the chief executive, under s. 96: 'Diversion of traffic' of the TO(RUM)A.

The Commissioner has delegated the authority to receive an application and issue a permit to close a road temporarily to members identified in Delegation D 25.27.

The authority to receive applications to close a road for a private commercial purpose or other prescribed purpose pursuant to s. 96(2) of the TO(RUM)A has been delegated to an assistant commissioner and any commissioned officer (see Delegation D 25.7).

Members receiving an application for a road closure should obtain sufficient additional information from the applicant to allow a determination to be made.

Members receiving the application should furnish a report containing such information as is necessary to allow a determination on whether to order the road closure, and:

(i) in the case of a temporary road closure, forward the report to a member authorised to issue such permits; or

(ii) in the case of a road closure for a private commercial purpose, forward the report to a commissioned officer.

The minimum information required to make a determination on whether to authorise a road closure includes details of:

(i) the duration and periods during which the road is to be closed;

(ii) the location of the road to be closed;

(iii) the traffic density usually expected on the road at the relevant time;

(iv) availability of alternative routes;

(v) what arrangements will be made for emergency vehicles to gain access to the area within the closed road;

(vi) what arrangements have been made for access to the road for residents and business operators;

(vii) what arrangements are proposed with respect to traffic control and signage for the closed road; and

(viii) the purpose of the proposed road closure.

The considerations outlined in the subsection titled 'Determination to issue a permit' of s. 12.7: 'Road closures for special events' of this chapter should also be addressed, to the extent that they apply to the circumstances surrounding the application for a road closure.

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12.7 Road closures for special events

Special events which may require that a road be closed include special celebrations, such as an Anzac Day march, street party or soapbox/billy cart derby (see also s. 12.6: 'Applications for road closure permits' of this chapter).

For the authority to issue a permit under s. 85(2): 'Racing and speed trials on roads' see s. 12.9: 'Applications for permits to conduct races or speed trials on a road' of this chapter).

Determination to issue a permit

Permits for road closures for special events should not be issued, unless the person making the application can demonstrate that exceptional circumstances exist or that a permit was previously issued for that special event as an annual or similar repeated event.

Members authorised to issue such permits who receive an application for a permit to allow a special event on a road should consider whether exceptional circumstances exist and whether the person making the application has sufficiently detailed the circumstances.

Where exceptional circumstances exist, the information is to be considered in conjunction with the overall safety of persons and the protection of property in the particular area.

Each application should be considered on its own merits.

Relevant considerations include whether:

(i) the issue of a permit for a special event involving road closure may set a precedent for like activities on a wider scale;

(ii) the closing of vehicle access to residential premises for this purpose meets with the approval of only some of the residents within the particular area or the wider community;

(iii) restricted access to residential premises would cause a risk to residents in relation to health, safety and convenience. Barricades and traffic congestion present difficulties for emergency service personnel or others who may be required in a life threatening incident or an incident involving damage to property, e.g. fires;

(iv) the consumption of alcohol may or is likely to occur. The resultant effects may develop into disturbances between residents and other persons, or may potentially cause damage to public facilities. Such circumstances may also include the issue of participant or pedestrian safety concerning the movement of persons onto those roads near the site which are used by vehicular traffic;

(v) the identity of the person or organisation to be held accountable for the maintenance of health controls within the confines of the locality of the special event is clear;

(vi) approval of the local government authority for the road closure has been obtained; and

(vii) all alternative sites such as parks, community halls, private yards, school premises, etc., have been considered.

The authorised member should not issue a permit when any of the following circumstances are believed to exist:

(i) the event is not of such an exceptional nature that the issue of a permit would set a precedent for similar activities on a wider scale;

(ii) the local government authority has indicated that it does not approve of the permit being issued;

(iii) the closure of vehicle access to residential premises for this purpose will not meet the approval of the wider community or some of the residents or business operators within the particular street for a variety of reasons of a community or personal nature which may relate to safety, inconvenience by restricted access and implications regarding the health and safety of persons;

(iv) the barricades and congestion in the closed area will present a difficulty for entry of emergency services vehicles or other specialists who may be required in a life threatening incident or an incident involving damage to property;

(v) the consumption of alcohol with resultant effects may develop into a controversial issue among the community;

(vi) the pedestrian movement to and from the site and at the site may create a danger;

(vii) the vehicular movement to and from the site and the parking of vehicles around or at the site may create a danger;

(viii) the correlation between the anticipated number of persons attending at the site and the area of the site may create overcrowding;

(ix) where the applicant or the organisation cannot be identified as the person or body to be held accountable for the maintenance of health controls;

(x) where both barricades and signage cannot be provided to contain the site; or

(xi) an actual or foreseeable risk to the safety or damage to the property of any person in the particular area may be created.

An authorised member who refuses to issue such a permit should document the reasons for the decision. Where appropriate, the authorised member should advise the applicant to seek other sites such as parks, community halls, private yards or school premises.

A permit allowing a road closure for a special event, issued by an authorised member, should include any special conditions which are relevant and appropriate on such permit.

12.8 Issuing of road closure permits

ORDER

Upon determination of an application in accordance with s. 12.7: 'Road closures for special events' of this chapter or if the event is an annual or similar repeated event, an authorised member is to either grant or refuse to grant the permit.

Authorised members who issue a road closure permit:

(i) subject to the condition that an advertisement is placed, at the permit holder's expense, in a local newspaper notifying the road closure are not to require payment of the prescribed fee under s. 96(3) of the TO(RUM)A; or

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(ii) which does not require a permit holder to place an advertisement in a newspaper notifying the road closure are to:

(a) ensure the prescribed fee under s. 96(3) of the TO(RUM)A is collected; and

(b) place an advertisement similar to that outlined below in a local newspaper.

The permit when issued should be subject to such conditions as the authorised member issuing such permit believes are reasonably necessary to ensure the safety of persons and property. Without limiting the range of conditions which may be imposed, the following conditions should generally be included, with any modification or specification that may be required, to any permit authorising a road closure:

(i) the road closure is to be advertised, at the expense of the permit holder, in a local newspaper in terms of the following example:

Queensland Police Service

Notice is hereby given that the under mentioned road will be closed to all [vehicular and/or pedestrian] traffic from [times and dates between which the road will be closed]—(particulars of name and location of road to be closed) during the holding of [name of special event]. Alternative routes are [insert name of roads];

(ii) barricades and road closure signs to be erected (if considered necessary particularise the streets requiring the barricades and signs);

(iii) safety barriers are to be erected to prevent vehicles from coming into contact with spectators;

(iv) persons are to be present to assist in crowd and traffic control and to supervise compliance with the conditions of this permit;

(v) where appropriate, a marshalling area is to be maintained in an off road location; and

(vi) upon cessation, all litter to be removed from the site and the barricades and signs to be dismantled and removed.

With regard to soapbox/billy cart derbies the following additional conditions should be imposed:

(i) spectators are to be contained behind barriers on footpaths or other suitable areas and not on the road;

(ii) soap box vehicles/billy carts are not to be driven on roads other than the road(s) specified herein and then only during the duration of the event or events;

(iii) marshals are to be present to assist in crowd control and supervise compliance with the conditions of this permit;

(iv) entrants who have consumed alcohol are not to participate in the event(s);

(v) participants are to wear safety helmets which have been approved by the Australian Standards Association; and

(vi) participants are to wear some form of protective clothing to prevent injury as much as possible to themselves.

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12.9 Applications for permits to conduct races or speed trials on a road

Section 85(2): 'Racing and speed trials on roads' of the TO(RUM)A allows the Commissioner to issue a permit to authorise the holding of a race or speed trail on a road (an event).

Members receiving a written application for a permit to conduct an event on a road should furnish a report, including all relevant information (see 'Information to be considered in permit determination' of this section) to determine whether a permit should be issued. The report is to be forwarded through the chain of command to the appropriate delegated officer in the district where the proposed event is to commence.

In accordance with Delegation D 25.5, a permit may be issued by:

(i) a commissioned officer for a non-motorised event within a single division or adjoining divisions where there is a low risk of serious injuries occurring, e.g. a local cycling event; and

(ii) a district officer or assistant commissioner for a non-motorised event over multiple divisions or where there is a moderate risk of serious injuries occurring e.g. a downhill street luge or similar type of event, motorised events and all other events not approved at a lower level.

Where a proposed event will travel into another region or district, the delegated officer should consult with and obtain the approval of the delegated officer of each relevant region or district the event traverses.

Where an event crosses regional boundaries, the assistant commissioner receiving the application, should consult with the Chief Superintendent, RPG. The Chief Superintendent, RPG may provide advice or assistance on matters to be considered in processing or determining the application and on matters of road safety.

The delegated officer in the area where the event commences is responsible for issuing a permit for the event, if supported.

A delegated officer should only issue a permit to allow a race, attempt or trial on a road if satisfied that:

(i) sufficient inquiries have been made to determine the suitability of the proposed route; and

(ii) suitable arrangements have been made to ensure public safety and convenience.

Information to be considered in permit determination

The following information should be considered by the planning officer/s and delegated officer when considering a permit for a race or speed trial on a roadway:

(i) Event Overview, including:

(a) the organiser or organising body of the event;

(b) the purpose of the event;

(c) the timing and duration of the event;

(d) the number of competitors and types of vehicles to be used in the event;

(e) how will competitors be identified;

(f) will support vehicles be travelling with the competitors;

(g) what is the chain of command for the organisers of the event and their senior officials;

(h) role and number of course controllers, including:

- briefing;
- duties;
- powers; and
- transportation;

(i) briefing/debriefing dates, times, locations for event organisers, officials and competitors;

(j) traffic control, access, safety and comfort (e.g. toilets etc.) of the competitors and spectators;

(k) event and public liability insurance policies; and

(l) permits required and obtained;

(ii) Medical Plan, including the response to:

(a) minor injuries;

(b) major injuries;

(c) serious incidents; and

(d) competitor welfare during event;

(iii) Breakdown Plan for competitors, including attending to minor and major repairs

(iv) Competitors, including:

(a) cut-off time to complete the course;

(b) competitors unable to finish the event;

(c) accounting for competitors; and

(d) complying with rules of the event;

(v) Traffic Management, including:

(a) roads to be closed as part of the event;

(b) the traffic density usually expected on the road(s) at the relevant time;

(c) what arrangements have been proposed for the management of other traffic using the road(s) during the event;

(d) map of the course including signage, aid stations, spectator areas, parking etc.;

(e) Police required for the event, including number and whether as rostered or special services; and

(f) traffic controller and marshal briefing;

(vi) Communication Plan, including:

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(a) contact list for organisers, officials etc.;

(b) radio channels;

(c) community consultation, including letter box drops of the local area etc.;

(vii) Media Plan; and

(viii) Risk Management Plan.

Depending on the size of the event and risk to competitors, the points and depth of information required may be scaled up or down.

12.10 Notification of relevant authorities and services

Members issuing permits should notify, or make arrangements for the notification of, any other authority or service that may be affected by road closure, special event, or other permit where appropriate.

Relevant authorities and services include:

(i) Queensland Ambulance Service;

(ii) Queensland Fire Department;

(iii) local government authority; and

(iv) local public transport providers including buses.

12.11 Application for conditional registration permits

Section 21: 'Deciding registration application' of the TO(RUM—VR)R makes provision for conditional registration to be granted to an otherwise unregistered vehicle in certain circumstances. This section applies to vehicles complying with the Safe Movement Guideline: Conditionally registering a vehicle in Queensland (the Guideline) issued by the DTMR in accordance with Part 5: 'Safe movement approvals for light vehicles' of the TO(RUM—VSS)R.

The Guideline provides that certain classes of vehicles require a police permit prior to obtaining conditional registration from the DTMR. These include vehicles intended for use off road such as a tractor, golf buggy or quad bike.

Officers should note that vehicles which include conditional registration code LO6(A) are only to travel on a 'designated route' contained in a current route specific approval, issued by the authority responsible for the management of the road (e.g. DTMR, relevant local government authority or the Department of the Environment, Tourism, Science and Innovation). It is the responsibility of the vehicle owner to obtain the route specific approval.

Members receiving an application for a permit to drive a conditionally registered vehicle on a road are to:

(i) check the listed registration condition codes in Part 3: 'Conditions for Use Codes' of the Guideline;

(ii) ensure the applicant has all documentation in compliance with the application and Guideline;

(iii) the application is made on a PT 31: 'Application for Permit (generally)', in accordance with s. 9: 'Authorisation/Permits' of the Guideline; and

(iv) ensure the application contains sufficient information from which to make a decision including the roads and route on which the vehicle will travel, plus the days, times and frequency of travel.

In considering such applications members are to have regard to all relevant circumstances particularly those impacting on road safety and traffic flow for all road users. Each application is to be assessed on a case by case basis.

Where the application is supported the issuing member should complete a PT 30B: 'Period permit for conditionally registered vehicles' and is to contain all conditions deemed necessary such as, road(s) that may be used, and permissible times and dates of travel.

OICs of stations are not to issue conditional registration permits unless satisfied that the vehicle can travel safely and without undue interruption to all road users.

12.12 Road closures and road use restrictions

During times of severe weather or major incidents, it may be necessary to close or restrict access to parts of the road network for the protection of the motoring public or to protect the road infrastructure from damage.

Restricted road use notice (sign)—State-controlled road closures

Section 46: 'Temporary restrictions on use of State-controlled roads' of the *Transport Infrastructure Act* provides that where the Chief Executive, DTMR considers it necessary to prevent road damage to road transport infrastructure or to

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ensure the safety of road users and other persons, the chief executive may erect or display a restricted road use notice declaring a state-controlled road is:

(i) temporarily closed to all traffic or traffic of a particular class; or

(ii) only to be used:

(a) at specific times;

(b) by particular classes of vehicles; or

(c) in accordance with conditions (including restrictions on weight of loads of vehicles) fixed by the chief executive.

A member seeking to confirm a road is a state-controlled road can do so by viewing the DTMR web site.

If a person disobeys a restricted road use sign, they commit an offence (see s. 12.12.3: 'Offences' of this chapter).

12.12.1 Application to drive past a restricted road use notice

Persons seeking to obtain a written approval to drive past a restricted road use notice in accordance with s. 46(4)(b): 'Temporary restrictions on use of State-controlled roads' of the *Transport Infrastructure Act* may apply to either the Service or the DTMR. Generally, non-emergent applications for approvals should, in the first instance, be referred to the DTMR office in the region where the applicant resides or where the restricted road use notice is erected or displayed. In such cases, members of the public should be advised to telephone 13 19 40 in order to progress their application.

The Commissioner has delegated the power to issue written approvals under s. 46(4)(b) of the *Transport Infrastructure Act* to assistant commissioners, commissioned officers, OICs of stations or establishments, and police officers who as part of their duties or office, are directly involved in the enforcement of s. 46 of the *Transport Infrastructure Act* (see Delegation D 129.1).

Where practicable, delegated officers issuing a written approval under s. 46(4)(b) of the *Transport Infrastructure Act* should use form F4979: 'Drive past restricted road use notice application'.

Where it is not practicable to issue a written approval in person to the applicant, officers may process the application and issue a written approval by other means, for example by text message, email or facsimile.

Prior to a delegated officer issuing a written approval to a person allowing them to drive past a restricted road use notice in accordance with s. 46(4)(b) of the *Transport Infrastructure Act*, the officer is to ensure:

(i) the applicant has completed the application section of the form F4979: 'Drive past restricted road use notice application';

(ii) where it is not practicable for the application to be made on a F4979 or where the form is not available, the following details are obtained:

(a) personal particulars of the applicant including driver licence number;

(b) vehicle details including vehicle class or type, and registration number; and

(c) travel particulars including starting address and destination, and times of intended travel.

(iii) exceptional circumstances exist for the approval to be granted;

(iv) the safety of the driver and occupants of the vehicle will not be unjustifiably compromised;

(v) the safety of the general public will not be unjustifiably compromised;

(vi) any risk of damage to the road infrastructure can be justified;

(vii) contact is made with the respective regional DTMR office confirming they do not have any issues or concerns with police granting the approval (see SMCD); and

(viii) where DTMR have an issue or concern with granting an approval to drive past a restricted road use notice, the delegated officer should note such issue or concern on the form F4979: 'Drive past restricted road use notice application' or in their official police notebook. Although the issue or concern of DTMR should be taken into account, this does not prevent the delegated officer from exercising his or her discretion in granting the approval given their knowledge of the local area and road conditions.

Where a delegated officer can justify issuing a written approval to a person requesting to drive past a restricted road use notice, the officer should:

(i) complete the approval section of the form F4979: 'Drive past restricted road use notice application' and issue it to the person subject to conditions the delegated officer deems necessary, advising the person to keep the form with them when driving in accordance with the approval;

(ii) where it is not practicable to issue a F4979 in person or where a F4979 is not available, provide written approval by alternative means i.e. text message, email, facsimile or official Queensland Police Service letterhead.

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Verbal approval may be given in emergent circumstances. The details of any approval given by text message, or verbally, are to be recorded in the officer's official police notebook or diary, or relevant station log; and

(iii) file a copy of the completed F4979 at the issuing officer's station or establishment.

12.12.2 Application for local access past a restricted road use notice

Access to a state controlled road may be restricted in accordance with s. 46: 'Temporary restrictions on use of State-controlled roads' of the *Transport Infrastructure Act* for 'local access' during an extended period (for example the North Queensland monsoon period). Residents and community members who need to access the State controlled restricted roads may apply for a 'Drive past a restricted road use notice approval for local access'. Approval may be granted by the DTMR or to a delegated police officer (see Delegation D 129.1).

Whenever practicable, residents and community members should make application for the 'Drive past a restricted road use notice approval for local access' approval prior to the commencement of the wet season.

Whilst a delegated officer may issue a 'Drive past a restricted road use notice approval for local access' approval, where the applicant is able to attend or contact a DTMR regional office (see SMCD), the person should be referred to that location.

Where the applicant cannot attend or contact a DTMR regional office or authorisation is sought urgently, the delegated officer should receive and process the application.

Where it is not practicable to issue a written approval in person to the applicant, officers may process the application and issue a written approval by other means, for example by text message, email or facsimile.

Prior to a delegated officer issuing a written approval to a person allowing them to drive past a restricted road use notice for local access in accordance with s. 46(4)(b) of the *Transport Infrastructure Act*, the officer is to ensure:

(i) the applicant has completed the application section of the form F5003: 'Drive past a restricted road use notice application for local access (during wet weather and flooding)';

(ii) where it is not practicable for the application to be made on a form F5003 or where the form is not available, the following details are obtained:

(a) personal particulars of the applicant including driver licence number;

(b) vehicle details including vehicle class or type, and registration number; and

(c) travel particulars including starting address and destination, and times of intended travel.

(iii) it is necessary for the person to have access to a property or business by the restricted road (i.e. access cannot be delayed or it is not reasonably practicable to use another route);

(iv) the safety of the driver and occupants of the vehicle will not be unjustifiably compromised;

(v) the safety of the general public will not be unjustifiably compromised;

(vi) any risk of damage to the road infrastructure can be justified;

(vii) contact is made with the respective regional DTMR office confirming they do not have any issues or concerns with police granting the approval (see SMCD); and

(viii) where DTMR have an issue or concern with granting an approval to drive past a restricted road use notice, the delegated officer should note such issue or concern on the F5003: 'Drive past a restricted road use notice application for local access (during wet weather and flooding)' or in their official police notebook. Although the issue or concern of DTMR should be taken into account, this does not prevent the delegated officer from exercising his or her discretion in granting the approval given their knowledge of the local area and road conditions.

Where a delegated officer can justify issuing a written approval to a person requesting to drive past a restricted road use notice, the officer should:

(i) complete the approval section of the F5003: 'Drive past a restricted road use notice application for local access (during wet weather and flooding)' and issue it to the person subject to conditions the delegated officer deems necessary, advising the person to keep the form with them when driving in accordance with the approval;

(ii) where it is not practicable to issue a form F5003 in person or where the form is not available, provide written approval by alternative means i.e. text message, email, facsimile or official Queensland Police Service letterhead. Verbal approval may be given in emergent circumstances. The details of any approval given by text message, or verbally, are to be recorded in the officer's official police notebook or diary, or relevant station log;

(iii) notify the DTMR and the relevant local government authority of the granting of the approval; and

(iv) file a copy of the completed form F5003 at the issuing officer's station or establishment.

ORDER

Written approval cannot be granted for access past a 'No entry' sign on a restricted road use road.

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Application for a wet season permit on the Peninsula Development Road

A separate 'Application for a wet season road permit—PDR' under s. 46: 'Temporary restrictions on use of State-controlled roads' of the *Transport Infrastructure Act* has been introduced for residents and community members who required access the Peninsula Development Road during the wet season. Applications may only be issued by:

(i) the DTMR Far North Region Office, Cairns (see SMCD);

(ii) police stations with access to the Peninsula Development Road.

Prior to a written 'Wet Season Permit—Peninsula Development Road' being issued by the delegated officer, the applicant is required to sign an indemnity disclaimer in relation to the permit.

Whenever practicable, residents and community members should make application for the 'Wet Season permit—Peninsula Development Road' approval prior to the commencement of the wet season.

Whilst a delegated officer may issue a 'Wet Season Permit—Peninsula Development Road' approval, where the applicant is able to attend or contact the DTMR Far North Region Office, the person should be referred to that location.

Where the applicant cannot attend or contact the DTMR Far North Region Office, or authorisation is sought urgently, the delegated officer should receive and process the application.

Where it is not practicable to issue a written approval in person to the applicant, officers may process the application and issue a written approval by other means, for example by text message, email or facsimile.

Application for a 'Wet Season Permit—Peninsula Development Road' should be completed on the relevant application 'Application for a wet season road permit—PDR' (available from the DTMR Far North Region Office and on QPS Forms Select) and considered by the delegated officer in line with points (iv) to (viii) of this section in respect of approvals to drive past a restricted road use notice.

The applicant is to sign the indemnity disclaimer prior to a 'Wet Season Permit—Peninsula Development Road' being issued.

ORDER

Written approval cannot be granted for access past a 'No entry' sign on the Peninsula Development Road.

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12.12.3 Offences

Disobeying a road closed sign

Where a danger, hindrance, obstruction to traffic or other emergency exists or is likely to exist, a person identified in s. 71: 'Installation of official traffic signs in case of danger' of the TO(RUM)A may install an official traffic sign, which may be necessary to regulate, guide or warn traffic. Officers appointed as a superintendent of traffic (see Delegation D 25.2) are authorised to direct the installation of official traffic signs under this section.

Where a road has flooded and an official traffic sign has been installed in accordance with s. 71 of the TO(RUM)A, and a driver has contravened the sign, investigating officers should consider:

(i) issuing an infringement notice for an appropriate infringement notice offence (see s. 74: 'Contravention of official traffic sign an offence' of the TO(RUM)A and s. 100: 'No entry signs' of the TO(RUM—RR)R); or

(ii) in appropriate circumstances where sufficient evidence exists, officers may consider commencing a proceeding for an offence against ss. 74 or 83: 'Careless driving of a motor vehicle' of the TO(RUM)A or s. 328A: 'Dangerous operation of a vehicle' of the CC (see s. 8.19.1: 'Completion of Traffic Breach Report' of this Manual and s. 3.5.3: 'Proceedings by way of notice to appear' of the OPM).

Disobeying a restricted road use notice

Section 46(4): 'Temporary restrictions on use of State-controlled roads' of the *Transport Infrastructure Act* creates an offence for a person to drive past a restricted road use notice, unless the person:

(i) has a reasonable excuse;

(ii) is acting in accordance with a written approval given by the chief executive or Commissioner; or

(iii) is carrying out road works or inspecting a road for the chief executive, and the contravention is necessary for the person to carry out the road works or inspect the road.

Section 46(5) of the *Transport Infrastructure Act* creates an offence where a person unlawfully tampers with a restricted road use notice.

In appropriate circumstances, where sufficient evidence exists in relation to an offence against ss. 46(4) or 46(5) of the *Transport Infrastructure Act*, officers should consider:

(i) issuing an infringement notice for the offence; or

(ii) where justified, commencing a proceeding for the offence (see s. 3.4.2: 'The decision to institute proceedings' of the OPM).

12.13 Deleted

12.14 Excess dimension vehicle escorts

Permits for the moving of excess dimensional loads requiring escorts

All permits for the movement of excess dimensional loads requiring escorts are issued by the National Heavy Vehicle Regulator (NHVR) in accordance with the *Heavy Vehicle National Law Act* and the Heavy Vehicle (Mass, Dimension and Loading) National Regulation. The guidelines contained in Queensland Access Conditions Guide—Route and operational access conditions and Safe Movement Guideline—Pilot and Escort Operations in Queensland should be complied with.

The minimum number of police, pilot or escort vehicles required for an excess dimension/mass vehicle escort is determined by officers attached to the Heavy Vehicle Road Operations Program Office (HVROPO) under Delegation D 25.26. To assist officers performing vehicle escorts see:

(i) the escort matrix contained in 10.2: 'Daytime travel general requirements' of the Department of Transport and Main Roads (DTMR) Queensland access conditions guide—Route and operational access conditions; and

(ii) the Safe movement guideline—Pilot and escort operations in Queensland.

The minimum number of police, pilot and escort vehicles may be increased from those contained within this guide as directed by the OIC, HVROPO. This assessment is provided to the NHVR for inclusion within the issued NHVR Permit.

The Superintendent, RPG is responsible for all amendments to the 'Dimensions matrix for determining police escort loads'.

Conduct of excess dimension vehicle escorts

Only officers who have successfully undertaken Service-approved training are to conduct escorts of excess dimension vehicles (see s. 12.14.4: 'Mandatory training for excess dimension/mass vehicle escorts' of this chapter).

When two or more officers are required to conduct an excess dimension vehicle escort, the authorised police escort supervisor nominated by the HVROPO will be the supervisor in control of the escort. If no officer is nominated by the HVROPO, the senior authorised police escort supervisor, will be the supervisor in control of the escort (see s. 2.3AA: 'Responsibility for command' of the PSAA).

Should an incident occur during the wide load escort where a policing response is required, the senior officer is responsible for the policing response until command is transferred to officers assigned by the relevant policing area to resolve the incident. In the case of traffic crashes, officers are to comply with point (xvii) and (xviii) in s. 12.14.2: 'Responsibilities for officers during escort' of this chapter.

Police motorcycles may be used as a secondary support vehicle in excess dimension vehicle escorts.

ORDER

Police motorcycles are not to be used as a lead escort vehicle in excess dimension vehicle escorts.

12.14.1 Responsibilities of officers prior to commencing escort

Prior to commencing the escort of an excess dimension vehicle or indivisible load the police escort supervisor 'in control' of the escort should ensure:

(i) the minimum number of police, pilot or escort vehicles stated in the National Heavy Vehicle Regulator (NHVR) permit are complied with;

(ii) the driver/operator/owner has a current NHVR permit and 'TMR Condition Report' authorising the movement of the excess dimension or specially constructed vehicle including a building.

A photocopy or electronic copy of the documentation will be accepted as a true copy;

(iii) relevant conditions are specified within the permit;

(iv) a safety briefing is conducted with all persons involved (police, pilots, escorts, driver etc.) to discuss:

(a) the risk management processes for safe movement of the load;

(b) the route to be taken by the load and to ensure all persons involved are aware of the route;

(c) any special requirements or conditions involved (e.g. use of incorrect side of the road, travel down centre of roadway and bridges, diagonally through intersections) in the movement of the load; and

(d) information on crossing railway lines or passing underneath electrical lines;

(v) a PT 73: 'Wide Load Escort Checklist' is completed;

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(vi) a measuring tape, height stick and alcolmeter are available for use;

(vii) the measurements of the load are checked and comply with the dimensional measurements stipulated on the NHVR permit;

(viii) all vehicles are in good condition and roadworthy, are currently registered, the required signs are fitted to the vehicles and all lights are in working order;

(ix) the driver of the pilot/escort vehicle and the excess dimensional vehicle are appropriately licensed and the vehicle's equipment is adequate and suitable;

(x) if the dimensions are such that the services of organisations such as Queensland Rail, electricity authorities etc., are required, that movement of the load does not commence prior to the arrival of the representatives of the relevant organisations or authorities;

(xi) s. 10.3: 'Provision of special services' of the MSM is to be complied with by all escorting police officers to ensure officer and public safety is maintained;

(xii) where the driver of the escorted vehicle is required to maintain a work diary, the work diary is correctly completed and the driver is complying with driving hours restrictions;

(xiii) if the Service vehicle has a UHF radio fitted, ensure it is set to UHF Channel 40. Where no UHF radio available, change the Service vehicle radio over to UHF channel 40 to allow for communication with the escort team;

(xiv) Officers are to book on and book off for duty via their local Police Communication Centre. For wide loads travelling over many Service districts, it is the officer's responsibility to download a current list of Police Communication radio channels for the geographic areas being travelled;

(xv) where an excess dimensional escort is handed over to other officers en route to the destination, the officers commencing escort duty from the handover location are to ensure all aspects of the PT 73, including remeasuring the load, are completed prior to recommencing the escort;

(xvi) where practicable, drivers of all vehicles are breath tested (i.e. prime movers, pilots, escorts) in accordance with the provisions of the TO(RUM)A;

(xvii) damage incurred to any property as a result of the escort is reported by the driver of the pilot/escort vehicle to an escorting police officer for notation on the PT 73; and

(xviii) any condition as directed by the Superintendent, RPG is followed.

ORDER

If a police escort supervisor, whilst performing the checking procedures referred to in this section identifies an exception, the escort supervisor is to ensure:

(i) the excess dimension vehicle does not commence its journey; and

(ii) advice is to be provided to the:

(a) driver of the excess dimension vehicle; and

(b) regional duty officer or on-call commissioned officer responsible for the region where the escort is located; and

(iii) the PT 73 is completed and submitted to the Heavy Vehicle Road Operations Program Office, RPG, noting the permit conditions which have not been met or the reason for not allowing the excess dimension vehicle to proceed.

If the exception is of a minor nature such as a:

(i) slight route amendment, which do not include movement over any infrastructure such as bridges, overpasses, major highways or railway crossings;

(ii) minor dimensional change (load must remain within relevant Queensland Access Conditions Guide—Route and operational access conditions dimensional parameter);

(iii) typographical error; or

(iv) date and time error,

the police escort supervisor may amend the NHVR permit.

12.14.2 Responsibilities of officers during escort

Officers are to ensure the safe movement of the excess dimension vehicle on the road network taking due consideration of the safety of members of the public and property, and to minimise the risk to the safety of officers and other persons involved with the excess dimension vehicle.

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ORDER

Officers are not to provide police radio equipment to private companies whilst engaged in wide load escorts.

During the escort for the excess dimension vehicle, the police escort supervisor should ensure:

(i) all conditions listed within the issued National Heavy Vehicle Regulator (NHVR) permit supplied by the Heavy Vehicle Road Operations Program Office (HVROPO) are complied with;

(ii) if a condition or permit detail requires a major alteration, the operator contacts the NHVR for permission to amend the permit;

(iii) the route shown on the permit is followed except in emergent circumstances. If a change in the route is required due to an emergent circumstance or in the case of a late change, the police escort supervisor is to seek approval to alter the route from the NHVR-HVROPO during business hours;

(iv) government authorities, local electricity authorities or Queensland Rail employees, if required to be present at particular locations, are in attendance prior to allowing the load to pass through those particular locations;

(v) no limbs of any trees are cut or damaged;

(vi) no power lines are lifted by any person other than a person approved by an electricity authority;

(vii) no traffic lights are interfered with (including lifting, lowering, electrical disconnection or unbolting) other than by a delegate of the DTMR or the relevant local authority;

(viii) when stopped, the excess dimension vehicle is not left unattended by officers unless it:

(a) is parked safely and well off the carriageway; and

(b) does not interfere with the travel of any vehicle travelling in either direction past the parked excess dimensional escort;

(ix) officers are not to be absent from their home station/establishment for a period of more than 3 days from the time of commencement of the movement of an excess dimension vehicle until the return to their station or establishment (see Chapter 10: 'Public Event Planning and Special services' of the MSM);

(x) when the driver of an excess dimension vehicle has been directed to disobey a particular provision of the TO(RUM)A and Transport Operations (Road Use Management—Road Rules) Regulation, ensure adequate warning is given to motorists to minimise inconvenience and possible danger;

(xi) officers direct vehicular and pedestrian traffic using hand signals or illuminated traffic wand if required in accordance with s. 59: 'Power for regulating vehicular and pedestrian traffic' of the PPRA and Schedule 4: 'Signals for directing traffic' of the PPRR:

(a) during a daylight escort, officers are to use standardised hand signals or illuminated traffic wand from the police vehicle, extending outside the window, ensuring they are executed clearly and easily understood by all road users; and

(b) during a night-time and low light escort, officers are to use an illuminated traffic wand from the police vehicle, extending outside the window, to provide maximum visibility and clear directional guidance;

(xii) the excess dimension vehicle is stopped regularly to allow road users to overtake safely provided a suitable location can be selected;

(xiii) regular rest stops are made to ensure neither escorting police officer nor the driver of heavy vehicles or pilot or escort vehicles become fatigued;

(xiv) if a traffic crash involving the excess dimension vehicle or pilot vehicle occurs during the movement of the excess dimension vehicle, arrange for the crash to be investigated by a police officer who is not involved in the movement of the excess dimension vehicle. In the case of a minor traffic crash, arrange for particulars to be obtained from the various parties involved and report the minor traffic crash upon the completion of the movement. In addition, HVROPO should be advised of the incident at the earliest opportunity;

(xv) if a traffic crash involving a police escort vehicle occurs during the movement of the excess dimension vehicle, members are to ensure s. 5.13: 'Investigation of traffic crashes involving Service vehicles' of this Manual is complied with;

(xvi) persons involved in the excess dimensional escort, other than the escorting police officers and the driver of the pilot/escort vehicles, are to ensure any obstructing traffic signs that are dismantled immediately prior to the arrival of the excess dimension/mass vehicle are immediately returned to their original position after the excess dimension/mass vehicle has passed the point at which the traffic sign was located; and

(xvii) damage incurred to any property as a result of the escort must be reported by the driver of the pilot/escort vehicle to an escorting police officer for notation on the PT 73: 'Wide load escort checklist'.

When providing directional instructions, officers are to:

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(i) use clear hand or traffic wand signals and verbal communication (via UHF radio or direct vehicle instruction) to warn motorists of an approaching oversize load;

(ii) direct road users to promptly move to a safe position before the oversize vehicle approaches;

(iii) position police and escort vehicles so signals are highly visible to all affected road users;

(iv) confirm road users understand verbal instructions and hand signals; and

(v) maintain continuous communication and monitor road users to ensure compliance taking corrective action as required.

12.14.3 Responsibilities of officers upon the completion of the escort

Upon completion of an excess dimension vehicle escort, the police escort supervisor 'in control' of the escort is to:

(i) ensure any equipment supplied to police by the owner, driver or operator of the excess dimension vehicle or by any other person is returned;

(ii) complete the PT 73: 'Wide load escort checklist' in all instances and submit it to the Heavy Vehicle Road Operations Program Office (HVROPO). Where damage has been caused to any property by any vehicle involved in the excess dimension vehicle escort, the appropriate section of the report should be completed; and

(iii) where damage has been caused to any property by any vehicle involved in the excess dimension vehicle escort, ensure:

(a) the PT 73 is forwarded to the relevant authority whose property has been damaged (e.g. Queensland Rail where damage to Queensland Rail property has occurred); and

(b) in cases of damage caused to private property, the owner of the property has been appropriately notified (see s. 5.2: 'Attending and investigating traffic crashes' of this Manual).

The OIC of the HVROPO who receives a completed PT 73 should ensure a copy of the form is attached to and filed with the QP 0023B: 'Statement of special services—wide load escort only'.

12.14.4 Mandatory training for excess dimension/mass vehicle escorts

Officers are only permitted to perform unsupervised excess dimension/mass vehicle escorts after having successfully completed the relevant training.

Police escort officers and police escort supervisors are to complete the mandatory requalification online learning product (OLP) on Ignite every two years.

ORDER

Officers are not to perform excess dimension/mass escorts unless they hold a current qualification as a police escort officer or police escort supervisor.

Police escort officer

Officers who wish to undertake supervised excess dimension/mass vehicle escorts are to complete the 'Excess dimensional loads—police escort officer' OLP on Ignite. It is the responsibility of the officer to provide a copy of their Ignite qualification to their OIC so they may be considered for wide load escort duty.

A first-year constable who is an authorised police escort officer is ineligible to enrol in police escort supervisor assessment until after confirmation of their appointment.

To complete the mandatory requalification as a police escort officer, officers are to complete the 'Excess dimensional loads—police escort officer' OLP on Ignite.

ORDER

An officer who is an authorised police escort officer (level 2 officer) is not to perform escort duties unless supervised by a police escort supervisor (level 1 officer).

Police escort supervisor

An officer wishing to progress from police escort officer to police escort supervisor is to:

(i) participate in at least three supervised excess dimension/mass vehicle escorts, including complex escorts and be assessed by an authorised police escort supervisor under the following practical wide load escort conditions:

(a) pre-load responsibilities;

(b) risk assessment;

(c) work diary/log book (fatigue management compliance);

(d) built up areas;

(e) highway escorts;

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(f) night escorts (where applicable); and

(g) post-load responsibilities;

(ii) successfully complete the 'Excess dimensional loads—police escort supervisor initial training' OLP training on Ignite; and

(iii) submit a QP 1020: 'Application for approval police wide load supervisor' with:

(a) a copy of the applicant officer's Ignite history showing:

- the accreditation date for the wide load escort officer qualification; and
- that the 'Excess dimensional loads—police escort supervisor initial training' OLP training has been successfully completed;

(b) copies of the PT 73 for a minimum of three escorts co-signed by the relevant police escort supervisor with any additional commentary;

(c) copies of the relevant National Heavy Vehicle Regulator permits co-signed by the police escort supervisor;

(d) copies of the relevant police escort supervisor/s Ignite history showing their current police escort supervisor qualification,

to their OIC for certification.

If the application for upgrading to police escort supervisor is supported, the OIC is to forward the QP 1020 to the district officer or equivalent officer for consideration and approval if supported.

Where the district officer or equivalent officer approves the application, the signed QP1020 is to be forwarded to the local education and training office for recording on Ignite.

Regional limitations may exist which do not allow for practical testing of all the above assessment criteria. Where regional limitations exist, for example, where no escorts are permitted during the night time, a police escort supervisor (the assessing officer) may assess the police escort officer as competent if they have demonstrated sufficient expertise in general to be declared competent under those particular criteria for the purpose of the police escort supervisor authorisation.

Practical assessments are not to be completed in a single wide load escort.

Responsibility of Education and Training Office

The OIC of each Education and Training Office is responsible for ensuring a list of all competent police escort officers and police escort supervisors is maintained and provided to relevant personnel as required.

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12.14.5 Use of police wide load escort vehicles

RPG maintains a fleet of purposely outfitted police vehicles to undertake wide load escorts. The vehicles are located within a region and allocated in accordance with the existing demand for wide load escort services across the State.

The vehicles are a RPG fleet asset and their primary use is for wide load escort duties. The vehicle fit-out does not include operational duty equipment, as the vehicles are not designated for operational duties.

RPG is responsible for all replacement, running and maintenance costs of the vehicles.

OICs of a station or Highway Patrol where a police wide load escort vehicle is attached are to ensure the vehicle is:

(i) serviced and any required maintenance is performed; and

(ii) kept in a clean and operational state.

Vehicle deployment

The Superintendent, RPG is responsible for coordinating the deployment of police wide load escort vehicles.

Use of police wide load escort vehicles for other policing activities

Police wide load escort vehicles may be used to assist regional/district policing functions so that the vehicle is not left parked for extended periods when not required for wide load escort duties.

The use of police wide load escort vehicles may include short term general use by staff to attend meetings, training and other transport related purposes. The vehicle is to remain readily available for wide load escort duties if required.

Officers using a police wide load escort vehicle for other duties should ensure the vehicle:

(i) log book clearly identifies the 'purpose of use' as being non-wide load escort related; and

(ii) is refuelled after use and left in a state of readiness for wide load escort duties.

ORDER

Should an emergent reason exist for the use of a police wide load escort vehicle for operational duties, then a risk-based assessment is to be made with respect to officer safety, and the relevant district officer and Superintendent, RPG are to be advised of the circumstances as soon as practicable.

Police wide load escort vehicles are not to be used for special services other than for performing wide load escorts.

Damage to police wide load escort vehicles

Where a police wide load escort vehicle is damaged during the course of a wide load escort, relevant details are to be recorded on the relevant PT 73: 'Wide load escort checklist'. The officer operating the vehicle at the time of the incident is to comply with s. 5.13: 'Investigation of traffic crashes involving Service vehicles' of this Manual.

ORDER

In the event of damage to the police wide load escort vehicle, or its equipment, the OIC, Heavy Vehicle Road Operations Program Office, RPG is to be advised as soon as practicable.

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13. Traffic operations and the recording of statistics

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13.1 Introduction

Traffic operations are an effective method of targeting specific traffic related problems. The effectiveness of these operations can be evaluated by statistical data. The importance of recording accurate statistical data for purposes of evaluating the performance of traffic operation cannot be understated.

Research Analysts at the Road Safety Strategic Development and Intelligence Unit, RPG are responsible for the collation and analysis of statewide operational traffic statistics. Such statistics are utilised for monitoring regional enforcement activity levels.

13.2 Intelligence, Tactical and Analysis System

The Intelligence, Tactical and Analysis System (ITAS) centrally records and collates operational activity and enforcement information from ITAS Activity logs, QPRIME, alcolmeter downloads (including GPS functionality), CAD/IMS, TINMS and produces an ITAS statistical return. ITAS data may be searched by members who have been provided appropriate access.

ITAS can produce preformatted reports to managers with the necessary information to assist in planning activities and making tasking decisions.

Changing ITAS access level

OICs may instigate changes to ITAS access levels in relation to members under their control.

An OIC requiring a change to a member's ITAS access level (e.g. general duties to intelligence officer) can access the SysAdmin Tab of ITAS or complete an ICT Customer Portal request (ITAS—Access/Role Change).

When consideration is being given to change a member's ITAS access level, the OIC is to take into account:

(i) the officer's assigned role(s) within the organisational unit;

(ii) the appropriateness of assigning the ITAS role to that officer;

(iii) the nature of duties undertaken by that station or establishment; and

(iv) reason for change of access level.

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13.2.1 Statistical reporting

OICs of stations or establishments of officers completing ITAS activity logs are to:

(i) ensure the logs are completed on a daily basis; and

(ii) be satisfied that the logs are complete and accurate prior to submission.

To enable OICs of stations or establishments using ITAS to be satisfied that the statistical reports generated by ITAS are complete and accurate, a process should be implemented whereby the patrol group inspector, shift supervisor or OIC randomly sample:

(i) actual documentation (i.e. infringement notices, breach reports, notice to attend, bench charge sheet or court brief, summonses); or

(ii) information from QPRIME occurrences; and

(iii) information contained in ITAS activity logs or taskings.

Such process should not be onerous or disproportionately increase the administration workload associated with using ITAS.

Alcolmeter download data will be the statistical source for motor vehicle intercepts and RBT numbers.

Modification of ITAS Activity logs

If a member becomes aware that a modification is required to a submitted ITAS activity log, that member is to immediately notify their supervisor or OIC.

Upon being satisfied that a modification is necessary, the supervisor or OIC is to:

(i) unlock/unconfirm the members activity log; and

(ii) advise the member to make necessary changes and confirm the log, or make changes on behalf of the member and confirm the log once complete.

13.2.2 Traffic complaints by members of the public

Occasionally members may receive reports of traffic offences from external agencies and members of the public (traffic complaints). Some reports may be made through incident reporting schemes such as that which operates for school crossing supervisors while others may be received verbally or in writing.

The recording of traffic complaints is to be made in QPRIME. ITAS will automatically download traffic complaint data from QPRIME for identification and analysis of problem areas.

Traffic complaints requiring immediate attention received from external agencies and members of the public should be recorded in accordance with s. 1.6.1: 'Recording initial demand' of the OPM.

Traffic complaints of a protracted or recurrent nature should be recorded as a 'Traffic complaint occurrence' in QPRIME.

OICs of stations or establishments should establish local procedures to ensure that traffic complaints, other than minor complaints (e.g. minor parking complaints), are entered in QPRIME.

OICs of stations or establishments should check QPRIME daily to determine whether any new traffic complaints have been allocated to their station or establishment for attention.

Traffic complaints which clearly identify an offending driver or offending vehicle should be thoroughly investigated.

Traffic complaints which do not identify an offending driver or offending vehicle should be referred to the OIC of the appropriate station or Highway Patrol for consideration of appropriate traffic enforcement activities.

Members receiving traffic complaints (oral or written) from external agencies or members of the public should:

(i) ensure that details of the complaint are entered on as a 'Traffic complaint occurrence' in QPRIME, in accordance with local procedures; and

(ii) forward written complaints to the OIC of the station responsible for the area in which the offence occurred.

OICs of stations who receive traffic complaints from external agencies or members of the public or have traffic complaints assigned to their station through QPRIME should:

(i) determine whether the complaint requires investigation on the basis of the seriousness of the reported offence and the likelihood of obtaining sufficient evidence to commence a prosecution;

(ii) consider whether enforcement action or some other remedial action (i.e. education and awareness programs or an engineering solution raised at the Speed Management Advisory Committee) at the location of the traffic complaint should be undertaken and make arrangements for such action as deemed necessary. OICs who decide that general enforcement or some other remedial action is the appropriate response to a traffic complaint should ensure that appropriate notations are made in the relevant QPRIME occurrence and that the entry is finalised at an appropriate time;

(iii) ensure that the person making the complaint is advised of any action to be taken by police (e.g. enforcement will be conducted in the relevant area, an investigation will be conducted into the specific incident or no further action will be taken);

(iv) if investigation of the complaint is warranted, assign an officer to investigate the report;

(v) ensure that any investigation is finalised promptly; and

(vi) ensure that the details of any action taken in respect of a traffic complaint are recorded in the relevant QPRIME occurrence.

Officers required to investigate traffic complaints should:

(i) if insufficient information is contained in the initial complaint, interview the person making the complaint and any witnesses. Statements should be taken from the informant and any witnesses at this time;

(ii) interview the offender, if necessary first interview the owner of the vehicle subject of the complaint in order to establish the identity of the offender;

(iii) if sufficient evidence exists to justify enforcement action, commence a proceeding by:

(a) issuing an infringement notice;

(b) issuing and serving a Notice to Appear; or

(c) complete a PT 57A: 'Traffic Breach Report' (which should be completed within the relevant QPRIME occurrence),

as appropriate;

(iv) if insufficient evidence exists to justify commencing a proceeding, the investigating officer is to enter brief details of the action taken to investigate the complaint and the reason why no further action is proposed into the relevant QPRIME occurrence and submit the occurrence to their supervisor for finalisation; and

(v) at the conclusion of the action taken into the complaint:

(a) advise the person making the complaint of the action taken; and

(b) ensure that details of the action taken are recorded on the relevant 'Traffic complaint occurrence' in QPRIME and that the occurrence and all associated tasks have been completed.

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For the purposes of providing advice to the person making a complaint or entering details in QPRIME under these circumstances an investigation may be considered finalised when the investigating officer commences a proceeding or decides that there is insufficient evidence to commence a proceeding. The person making the complaint should be advised only that action has been proposed or taken for a particular offence or that there is insufficient evidence to commence a prosecution.

Officers assigned to investigate traffic complaints made by external agencies and members of the public may request the assistance of other officers to carry out investigations or to conduct other actions, but retain responsibility for finalising the investigation.

13.3 Road policing operations

Various sources of analytical data are available for use for planning road policing operations such as ITAS, WebCrash, QPRIME and local knowledge (also see s. 13.4: 'WebCrash' of this chapter).

Members who undertake road policing enforcement planning should access analytical information from available sources. When a member uses that information in a document they should make reference as to the source of that information.

When a region, station or establishment is involved in a road policing operation either designated by the Superintendent, RPG or instigated within the region, station or establishment (see s. 13.2.1: 'Statistical reporting' of this chapter), statistical data is to be obtained and an ITAS statistical report furnished at the conclusion of the operation. The statistical data can be used for the purpose of evaluating the operation. The statistical data will also enable relevant information to be distributed through the media (see also s. 1.10: 'Release of Information' of the OPM.

When a region, station or establishment is involved in a road policing operation either designated by the Superintendent, RPG or instigated within the region, station or establishment (see s. 13.2.1: 'Statistical reporting' of this chapter), statistical data is to be obtained and a traffic return furnished. The statistical data can be used for the purpose of evaluating the operation. The statistical data will also enable relevant information to be distributed through the media.

13.3.1 Road policing operations instigated by Superintendent, Road Policing Group

The Superintendent, RPG may request regions to take part in road policing enforcement operations. These operations may include seasonal statewide campaigns and any other special road policing campaigns, which may be conducted in combination with other States, as national campaigns or in conjunction with the DTMR.

Media involvement is an important part of any road policing operation and should be encouraged.

OICs of regions should allocate sufficient resources to support road policing operations instigated by the Superintendent, RPG.

OICs of regions should ensure that OICs of stations and establishments provide the necessary statistical information as requested by the Superintendent, RPG (see also s. 7.14.4: 'Statistical returns for breath analyses and breath tests' of this Manual).

The Superintendent, RPG should consult with the OICs of regions prior to the commencement of a road policing operation.

ORDER

OICs of regions are to ensure that the relevant district officers coordinate any designated road policing operation within their respective areas for the purpose of maximising the effectiveness of that operation's goals and objectives.

OICs of stations and establishments are to provide all available resources to assist in the successfulness of the road policing campaign.

OICs of stations and establishments are to ensure that any required statistical information is entered into ITAS in accordance with the requirements of the Superintendent, RPG and in all other cases in accordance with s. 13.2.1: 'Statistical reporting' of this chapter.

13.3.2 Road policing operations instigated by regions, stations or establishments

OICs of regions or districts should ensure that road policing operations (see SMD) within their area of responsibility are managed and recorded within ITAS. The Superintendent, RPG is able to access ITAS statistical information in relation to any road policing operation being carried out within a region or command.

OICs of regions or districts should consult with the Superintendent, RPG prior to the commencement of the operation to determine the type of information to be supplied and a suitable reporting schedule.

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13.4 WebCrash

WebCrash is an online database that allows members of the Service to access information about crashes that have occurred on Queensland roads since 1992, using information the DTMR has collated from verified crash data contained in QPRIME traffic crash occurrences. The data is then transferred to the WebCrash database.

WebCrash provides a tool for analysing road crashes in Queensland. The data allows members to value add this information to support road policing enforcement and operations within their particular division, district, or region to achieve the best possible result in the reduction of road trauma with the most cost effective use of resources (including monetary and human resources).

After entering the requested information (including geographic, date, time and crash characteristics) into WebCrash, a high quality report in a PDF format with statistical summary is produced including graphs and notations.

The RPG closely liaises with the DTMR Data Analysis and Reporting Centre regarding WebCrash.

Members who regularly prepare traffic operations and determine planned road policing enforcement should access the WebCrash data base to assist in these tasks. When a member uses such information in a document they should make reference to WebCrash as the source of that information.

Members requesting access to WebCrash should apply through the ‘QT Road Crash Database’ portal on the Service Intranet. The user manual for WebCrash and other information is also available from this site. WebCrash training is conducted by the DTMR as required. Members who require training should provide a request to the DTMR Data Analysis Unit (see SMCD).

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14. Miscellaneous

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14.1 Introduction

This chapter deals with traffic related issues which are not appropriate for inclusion in other chapters of this Manual.

14.2 Obstruction of pedestrian traffic

In appropriate circumstances infringement notices may be issued for offences against:

(i) s. 236(2): 'Pedestrians not to cause a traffic hazard or obstruction' of the TO(RUM–RR)R; and

(ii) s. 151(1)(c): 'Goods and other obstructions upon road' of the Traffic Regulation.

Election signage

Section 36: 'Election advertising' of the *Local Government Act* provides that a local government must not make a local law that prohibits the placement of election signs or posters.

However, local governments are entitled to make local laws that control the display of election signage within their respective areas. The Chief Executive, DTMR, is responsible for the display of all election signs on all state controlled roads (gazetted roads).

Local governments may require the issue of permits to persons to erect election signage.

Officers receiving complaints regarding election signage should firstly contact the relevant local government authority or the DTMR to determine if:

(i) for a local government authority, a permit is required and has been issued for such signage; and

(ii) whether the local government authority or DTMR intend to have their own inspectors attend for enforcement purposes.

Where the relevant local government authority or DTMR intend to have their own inspectors attend the complaint for enforcement purposes, officers should liaise with such inspectors to ensure the complaint is satisfactorily resolved.

Officers should attempt to resolve complaints regarding election signage without taking enforcement action. Where officers are required to take enforcement action in regard to election signage on a road, the provisions of s. 151(1)(c) of the Traffic Regulation should be considered.

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14.3 Radar detectors and similar devices

Section 225: 'Using radar detectors and similar devices' of the TO(RUM–RR)R creates an offence for a person:

(i) to drive a vehicle which has in or on it;

(ii) to travel in or on a vehicle, whilst having in their possession,

a device for preventing the effective use of a speed measuring device or for detecting the use of a speed measuring device (radar detector or similar device).

Section 225(3) of the TO(RUM–RR)R provides that the prohibition applies whether or not the device is in working order.

Upon observing a radar detector or similar device being used, officers should satisfy themselves by visual observation and careful questioning that the device is in fact a radar detector or similar device (see s. 63: 'Power to inspect vehicles' PPRA).

Officers may enter the vehicle to inspect and test a device which may be evidence of an offence against s. 225 of the TO(RUM–RR)R (see s. 64: 'Power to enter vehicles etc. other than for vehicle inspection' PPRA).

Once satisfied that a device is a radar detector or similar device, officers should:

(i) if the device is to be seized, issue a notice to appear in respect of the offence; or

(ii) if the device cannot be seized, issue an infringement notice in respect of the offence.

If the device can be removed from the vehicle at the point of interception without causing unreasonable damage to the vehicle or device, officers should seize the device for inspection and certification by an expert that the device is a radar detector or similar device. The seized device should be retained for evidentiary purposes.

If the device is unable to be removed from the vehicle, officers should issue a F 4890: 'Defect Notice' for a minor defect requiring the owner of the vehicle to produce the vehicle for inspection at a nominated police station at a stated reasonable time (see s. 8.9: 'Defect notices' of this Manual).

Officers who seize any such device are to issue a QPB 32A: 'Field Property Receipt' for the device and deal with it in accordance with s. 4.2: 'Receiving property' of the OPM.

Where a seized device is found to be a device for preventing the effective use of a speed measuring device or for detecting the use of a speed measuring device, an order for the destruction of the device or for its forfeiture in accordance with s. 701: 'Disposal of seized things at end of proceeding' of the PPRA should be sought at the conclusion of proceedings.

Where it is established that a seized device is not a device for preventing the effective use of a speed measuring device or for detecting the use of a speed measuring device, officers are to return the device to the owner. Where the owner of the seized device cannot be located, the forfeiture of the device should be sought in accordance with s. 718: 'Order for forfeiture of particular relevant things' of the PPRA.

Seized or forfeited devices are to be dealt with in accordance with Chapter 4: 'Property' of the OPM.

14.4 Diplomatic immunity and consular immunity for traffic offences

Section 11.8.1: 'Diplomatic immunity entitlement' of the OPM outlines diplomatic immunity and s. 11.8.2: 'Consular immunity entitlement' of that manual outlines consular immunity.

Section 11.8.3: 'Privileges and immunities of foreign representatives' of the OPM outlines the general procedure when dealing with persons who are entitled to diplomatic or consular immunity. The general principles and guidelines outlined in s. 11.8.3 of the OPM should be applied to traffic related matters.

Infringement notices

Officers may issue infringement notices to persons entitled to diplomatic or consular immunity.

No prosecution is to be commenced in respect of an alleged offence and the infringement notice is to be waived where a person entitled to diplomatic immunity:

(i) has been issued an infringement notice; and

(ii) declines to pay the prescribed penalty; or

(iii) makes representations to a prescribed officer to claim diplomatic immunity in respect of the alleged offence for which the infringement notice was issued.

Persons entitled to consular immunity, accredited officials of international organisations or service staff of diplomatic missions and consular posts (Service Staff) may be prosecuted for an offence for which an infringement notice has been issued.

Before commencing a prosecution against an official of an overseas mission i.e. the Hong Kong Economic and Trade Office or the Taipei Economic and Cultural Office for an offence for which an infringement notice has been issued, officers are to seek a direction on the matter from their supervising commissioned officer. Commissioned officers receiving requests for such a direction should contact the Protocol Branch, Department of Foreign Affairs and Trade (see SMCD) to establish the particular official's immunities and privileges.

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Breath and saliva testing

Officers may stop any vehicle, including vehicles bearing diplomatic or consular registration plates for the purpose of breath or saliva testing.

Officers may require the driver of a vehicle bearing diplomatic or consular registration plates to provide a specimen of breath for a roadside breath test or a specimen of saliva for a roadside saliva test.

A person who is entitled to diplomatic immunity may decline to provide a specimen of breath or saliva.

If a person refuses or fails to provide a specimen of breath or saliva for a roadside test or provides a specimen of breath or saliva for a roadside test which indicates:

(i) that the person has a blood alcohol concentration equal to or exceeding the legal limit; or

(ii) a relevant drug in their saliva,

in the case of:

(i) persons entitled to diplomatic immunity (red or blue ID card holders), officers are not to arrest or detain the person for breath or saliva analysis;

(ii) Consular Officers (green ID card holders), officers are not to arrest or detain the person for breath or saliva analysis but should commence a prosecution where appropriate by issuing a Notice to Appear or Complaint and Summons. Officers should consider commencing proceedings for offences against s. 79: 'Vehicle offences involving liquor or drug' of the TO(RUM)A based on the available evidence of any roadside breath or saliva test result and indicia (see s. 7.22: 'Observing the subject person and noting of indicia relating to the consumption of liquor/drugs' of this Manual) exhibited by the alleged offender;

(iii) Consular Employees (lime ID card holders), Honorary Consular Officers (grey ID card holders) or members of Service Staff (yellow ID card holders), officers should detain the person for the purpose of breath or saliva analysis and should commence a prosecution for any offences committed; or

(iv) officials of an international organisation (olive ID card holders) or officials of an overseas mission i.e. the Hong Kong Economic and Trade Office or the Taipei Economic and Cultural Office (purple ID card holders), officers are to contact their supervising commissioned officer for advice on what further action to take. Commissioned officers who are advised of such cases should contact the Duty Officer, Protocol Branch, Department of Foreign Affairs and Trade to establish the particular official's immunities and privileges.

Officers should not permit a person entitled to any form of immunity who appears to the officer to be under the influence of liquor or a drug or to be affected by liquor or a drug to continue to drive a motor vehicle. In such cases officers should make reasonable arrangements for the person entitled to immunity to be safely transported to their destination.

Reporting traffic offences and incidents involving foreign representatives

Officers who detect a foreign representative committing an offence relating to a transport Act (see SMD) are to report the matter to the Commissioner through the normal chain of command. The report is to contain details of action already taken (e.g. infringement notice issued, prosecution withdrawn), in addition to the information required by s. 11.8.3: 'Privileges and immunities of foreign representatives' of the OPM.

The Commissioner may refer such reports to the Department of Foreign Affairs and Trade.

14.5 Disputes concerning public passenger vehicle fares

Section 218(1)(a): 'Proceedings for particular offences' of the *Transport Operations (Passenger Transport) Act* (TOPTA) provides that a passenger on a public passenger vehicle must not evade payment of the lawful fare for the vehicle's use or hire. Section 143AB: 'When does a person evade payment of a fare' of the TOPTA defines when a person evades payment of a fare. Additionally, s. 143AD: 'Obtaining hire or use of vehicle by fraud or misrepresentation' of the TOPTA provides that a person must not obtain or attempt to obtain the use or hire of a public passenger vehicle by fraud or misrepresentation.

Section 84(1): 'Fares and charges for taxis' of the Transport Operations (Passenger Transport) Regulation (TOPTR) provides that a driver of a taxi service may charge the hirer who soils the taxi an additional amount (not more than 1 penalty unit) for the cleaning of the taxi. A 'fare' for a taxi, in accordance with s. 143AA: 'Definitions for ch 11A' of the TOPTA includes the cleaning charge under s. 84(1).

Officers attending disputes over fares arising between the hirer of any public passenger vehicle and the driver of that vehicle are to ascertain whether an offence against the provisions of the TOPTA has been committed in respect of an evasion or attempted evasion of a lawful fare (i.e. in compliance with the provisions of the TOPTR).

Where it appears to an officer that the dispute between the hirer and the driver of the taxi is:

(i) one which is carried on in good faith over the lawfulness of a fare; or

(ii) in relation to the cleaning charge levied by the driver,

the officer is to ensure that the parties exchange names and addresses and is not to take action against the hirer for non-payment of the fare.

An infringement notice is not to be issued in respect of offences against ss. 218(1)(a) or 143AD of the TOPTA unless the complainant agrees with such a course of action. The complainant in such cases is to be advised, prior to the issuing of any infringement notice, that restitution is not made through the payment of the infringement notice penalty. If restitution is sought by the complainant, the officer is to issue and serve a Notice to Appear on the offender.

In any proceedings where a person is charged with fare evasion in respect of a taxi fare, in addition to any other evidence that is produced, a certificate is required to be presented to the court showing that the relevant taxi was licensed to operate in a particular area on the date of the alleged fare evasion.

When a person charged with an offence of taxi fare evasion pleads not guilty, the investigating officer is to obtain a certificate showing that the taxi was licensed to operate in a particular area on the date of the fare evasion. To obtain such a certificate officers are to contact the relevant regional Passenger Transport Office of the DTMR (available on the 'Contact us' webpage of the DTMR website) and request a 'court certificate relating to fare evasion'. When such a request is made the following information is to be provided:

(i) the date of the alleged offence;

(ii) the registration number of the taxi involved;

(iii) the name of the licensee, the lessee, or the licensed driver of the taxi, whichever is relevant;

(iv) the area in which the particular taxi is operated, e.g. Brisbane, Gold Coast, Cairns; and

(v) the name, rank and station/establishment of the officer requiring the information.

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Officers are to ensure that the request for a certificate is made to the DTMR at least two weeks prior to the hearing date to allow sufficient time for the delivery of the certificate.

14.6 Driver Reviver Program

The Driver Reviver Program is a community-based road safety initiative of the DTMR and the Service in association with several businesses, local sponsors and volunteers from all sections of the community.

Information in relation to Driver Reviver Program is available on the Road Policing Group SharePoint page. Officers should use this information to appropriately deal with any matters relating to this community-based road safety initiative.

14.7 Road closure information

POLICY

Members seeking to confirm a road has been temporarily closed due to wet weather or flooding or has restrictions on its use or reopened after a period of temporary closure, can do so by contacting 13 19 40 or by viewing qldtraffic.qld.gov.au.

13 19 40 website

The DTMR 13 19 40 Traffic and Traveller Information website provides the public with a real-time view of road conditions on major Queensland roads.

Members are able to enter details of road closures due to wet weather and flooding through the '13 19 40—Traffic and Travel Information' webpage portal on the Service Intranet.

OICs of stations who become aware of any road closure due to wet weather or flooding within their area of responsibility are to ensure that an appropriate entry is submitted to the 13 19 40 webpage through the '13 19 40—Traffic and Travel Information' webpage portal on the Service Intranet.

OICs of stations are to ensure that:

(i) all 13 19 40 entries for roads closures due to wet weather or flooding within their area of responsibility are regularly monitored for accuracy and modified to show the current status of the road.

The 13 19 40 'Submit a Road Closure' webpage requires a review date to be entered when submitting a road closure. An email will be generated on the review date directed to the relevant QPS business email account requiring an update of the closure via the website;

(ii) appropriate inquiries or inspections are made to ascertain the current status of road closures within their area of responsibility; and

(iii) when a road within their area of responsibility, previously closed due to wet weather or flooding, is reopened, the relevant 'Submit a Road Closure' webpage entry should be updated stating the date the road is reopened. Where applicable, notification of the reopening of a road is to be made in consultation with the owner of the road to ensure the integrity of road surfaces or structures (e.g. bridges) prior to the website being updated.

Where traffic related incidents other than wet weather and flooding necessitate road closures, OICs of stations responsible for that area should ensure such matters are reported by telephoning 13 19 40. Such incidents include traffic incidents and hazards, scheduled and unscheduled roadwork and special events requiring road closures. OICs should ensure that the 13 19 40 telephone number is called upon the cessation of these closures and appropriate notification provided.

In some cases, OICs of police communications centres may receive advice of road closures from local government authorities, other government departments or from officers at the scene of an incident which requires a road closure, e.g. a serious traffic crash. In these instances the OIC of the police communications centre should ensure the advice is reported on the 13 19 40 telephone number. In the case of short duration road closures which have been advised directly to the OIC of a police communications centre, e.g. a four hour closure to clear a serious traffic crash, the OIC of the relevant police communications centre should ensure that the 13 19 40 telephone number is called upon the cessation of the closure and appropriate notification provided.

14.8 Surrogate vehicle identification

Surrogate vehicle identification particulars (vehicle's identification number (VIN) or chassis number, and/or vehicle's engine number) may need to be obtained when:

(i) a vehicle has been repaired and the chassis number no longer matches the compliance plate number;

(ii) a stolen vehicle has been recovered and vehicle identification particulars have been removed or altered;

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(iii) a vehicle's engine has been replaced and the vehicle's identification particulars no longer match;

(iv) police or DTMR staff conduct field inspections of motor vehicles and suspect the vehicle identification particulars are missing, suspect, altered or damaged;

(v) the compliance plate is missing and/or the stamped vehicle's identification number or chassis number on the chassis is not visible or appears altered;

(vi) a motor vehicle is presented at a station or DTMR Customer Service Centre (CSC) because of changes to its registration status or identification particulars;

(vii) an individually constructed vehicle is presented at a station or DTMR CSC with no or invalid vehicle identification particulars; or

(viii) a motor vehicle or motorcycle that was constructed prior to 1939 may not have had a stamped chassis number.

Surrogate vehicle identification particulars are issued when the original vehicle identification particulars are:

(i) missing;

(ii) altered;

(iii) concealed;

(iv) damaged;

(v) erased;

(vi) not matching to either the:

(a) vehicle's identification number;

(b) chassis number; or

(c) the compliance plate number; or

(vii) duplicated on other vehicles that have a stolen restriction attached and it has been proven by police that the particular vehicle is not stolen.

The owner of a vehicle who needs to place a surrogate vehicle identification number on the engine or chassis of the motor vehicle is required to sign and deliver a notice to the Commissioner for permission (see s. 134(b)(i): 'Altering, defacing or removing identifying numbers' of the TO(RUM)A).

The Commissioner has delegated this authority to all OICs of stations and establishments (see Delegation D 25.19).

Vehicle inspections

Major and Organised Crime Squad (MOCS), Drug and Serious Crime Group (DSCG), Crime Command SharePoint page has contact details for the unit and a number of resources to assist in locating vehicle identification particulars.

Officers who conduct an inspection/investigation relating to a motor vehicle with no apparent identification particulars should, if the identification particulars cannot be readily located, arrange for the vehicle to be inspected by an officer who has undergone training in auto theft investigation (contact your local district education and training office or MOCS).

Any inquiries relating to the investigation of motor vehicles with missing, suspect, altered or damaged identification particulars should be directed to MOCS.

DTMR referrals

Where an application is made to:

(i) register or change registration details of; or

(ii) change identification particulars of,

a motor vehicle that has:

(i) missing;

(ii) suspect;

(iii) altered; or

(iv) damaged,

identification particulars, DTMR, CSC will, assess the applicant's bona fides and the reasons provided for the state of the identification particulars and if:

(i) satisfied:

(a) issue a 'TMR Referral to QPS (Surrogate Identifier)'; and

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(b) advise the applicant to take the motor vehicle and form to a nominated station to seek approval to place surrogate vehicle identification particulars on the motor vehicle; or

(ii) not satisfied advise the person that the motor vehicle is to be presented at a nominated station for inspection and, if required, investigation. If agreement is:

(a) reached on where the motor vehicle will be produced, DTMR will advise the OIC of the station; or

(b) not reached where the motor vehicle is to be produced or the applicant indicates an intention not to proceed with the application, DTMR will advise the regional crime coordinator (RCC) where the owner of the motor vehicle resides,

of the applicant's and motor vehicle's particulars.

An OIC who receives advice from DTMR of a person who has agreed to attend their station for a motor vehicle inspection for a missing, suspect, altered or damaged identification particulars, is to:

(i) if the vehicle is presented within two weeks of receiving advice, ensure an officer with appropriate investigative experience inspects the vehicle and, if required, conducts investigations to establish the lawfulness or otherwise of the possession of the motor vehicle concerned; or

(ii) if the vehicle is not presented within two weeks of receiving such advice, refer the matter to the RCC.

A RCC who is advised of a motor vehicle in accordance with the provisions above is to ensure the advice received is acted upon with a view to establishing whether or not the vehicle may be subject to unlawful activity.

The engagement of Crime Command in an investigation will be at the discretion of the RCC and DSCG, Crime Command.

Police instigated application for surrogate vehicle identification particulars

An officer may apply for the issue of surrogate vehicle identification particulars when:

(i) the owner of a vehicle is referred to a station by a motor mechanic or mechanical engineer that was inspecting the vehicle for the purpose of issuing a roadworthy certificate and was not satisfied with the identification particulars on the vehicle;

(ii) a motor vehicle is presented for inspection at a station because of changes to its registration status or identification particulars; or

(iii) a field inspection of a motor vehicle is conducted and deficiencies with the vehicle identification particulars are detected.

Process for obtaining surrogate vehicle identification particulars

Where the owner of a motor vehicle attends a station to obtain surrogate vehicle identification particulars, officers are to:

(i) confirm the validity of the 'TMR Referral to QPS (Surrogate Identifier)' with the issuing DTMR CSC; and

(ii) inspect the particulars on the form to satisfy themselves they are correct and relate to the motor vehicle presented.

To apply for the issue of surrogate vehicle identification particulars an officer is to:

(i) inspect the motor vehicle and ascertain all possible particulars in section 1 of QP 0346: 'Result of inspection and investigation of motor vehicle with 'suspect' identification particulars'. Where the particulars are not present, indicate as such on the form;

(ii) conduct any necessary checks or inquiries deemed necessary, (i.e. QPRIME, stolen vehicle, NVOI through ACIC database);

(iii) complete all remaining sections of QP 0346;

(iv) complete the relevant fields of parts 1 and 2 on a QP 0347: 'Request for permission to place a surrogate number on the engine or chassis of a motor vehicle' and have an owner (not a representative) sign part 2;

(v) email where applicable a copy of the completed and signed QP 0346 and QP 0347 to the VIN Coordinator, DTMR;

(vi) upon receipt of the processed QP 0346, QP 0347 and computer generated surrogate vehicle identification particulars from the VIN Coordinator, obtain the signature of the OIC of the station or establishment (see Delegation D 25.19) on the QP 0347 and imprint the station/establishment stamp on the bottom of the form;

(vii) give the owner of the motor vehicle:

(a) the original copy of the completed and signed forms and advise them to retain them;

(b) a copy of the 'Advice to owners' document (attached to the rear of the QP 0347); and

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(c) the computer-generated surrogate vehicle identification particulars notification printout;

(viii) give the OIC a copy of the completed and signed forms for retention as a station file record; and

(ix) email where applicable a copy of the QP 0347 which contains the signatures of the:

(a) officer;

(b) vehicle owner; and

(c) OIC of the station or establishment,

to the VIN Coordinator, DTMR to verify the matter has been finalised.

If the vehicle is not presented to a DTMR CSC within 28 days after the surrogate vehicle identification particulars have been issued, the VIN Coordinator may cancel the surrogate vehicle identification particulars. This is done to prevent the unlawful use of the surrogate vehicle identification particulars.

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15. Impounding motorbikes for noise offences

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15.1 Introduction

In accordance with Chapter 19, Part 3: 'Powers relating to noise' of the PPRA, officers may issue a 'noise abatement direction' for a number of environmental nuisances by noise complaints. Where the noise generated by motorbike operating off a road is deemed to be excessive, an officer may initially issue a motorbike noise abatement direction. If the motorbike noise abatement direction is contravened, the officer may then seek a motorbike noise abatement order (see s. 13.29.4: 'Motorbike noise abatement orders' of the OPM). If the driver of the motorbike contravenes the order, the motorbike may be impounded in accordance with this chapter.

15.2 Powers for impounding motorbikes

Section 80: 'Impounding motorbike for motorbike noise direction offence or motorbike noise order offence' of the PPRA provides that an officer may impound a motorbike if, in relation to the motorbike:

(i) the driver of the motorbike is charged with having committed:

(a) a motorbike noise direction offence; or

(b) a motorbike noise order offence; or

(ii) the driver of the motorbike is a child, paragraph (i) does not apply, and the officer reasonably suspects the child has committed:

(a) a motorbike noise direction offence; or

(b) a motorbike noise order offence.

For example, the child is to be cautioned or referred to a youth justice conference instead of being charged for the offence (see Chapter 5: 'Children' of the OPM).

A motorbike impounded under s. 80 may be impounded for the initial impoundment period. For the definition of motorbike noise direction offence, motorbike noise order offence and initial impoundment period see s. 69: 'Definitions for ch 4' of the PPRA.

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15.3 Procedures for motorbike noise direction offences

Where a motorbike has been impounded because an officer reasonably suspects the driver of a motorbike has committed a motorbike noise direction offence, the impounding officer is to ensure that, as soon as reasonably practicable after impounding the motor vehicle:

(i) a Form 103: 'Impounding Notice (Motorbike Noise Direction Offence)' (available in QPRIME and on QPS Forms Select) is completed and served in accordance with s. 16.6: 'Service of impounding notices' of this Manual;

(ii) an application for a motorbike noise abatement order is made (see s. 13.29.4: 'Motorbike noise abatement orders' of the OPM); and

(iii) a 'Direction—noise/move on/ eviction' flag is created against the person's QPRIME record.

15.4 Procedures for motorbike noise order offences

Where a motorbike has been impounded because of a motorbike noise order offence and s. 84: 'Content of notice for second or subsequent motorbike noise order offence' of the PPRA:

(i) does not apply, the impounding officer is to ensure that as soon as reasonably practicable after impounding the motorbike:

(a) a Form 104: 'Impounding Notice (First Motorbike Noise Order Offence)' (available in QPRIME and on QPS Forms Select) is completed and served in accordance with s. 16.6: 'First type 2 vehicle related offence (pre-impoundment offence)' of this Manual;

(b) an application for an impounding order is made within forty-eight hours after charging the driver with the offence (see s. 16.7: 'Applications for impounding order and forfeiture orders generally' of this Manual and s. 15.5: Application for impounding order for motorbike noise order offences' of this chapter); and

(c) a 'Direction—noise/move on/eviction' flag is created against the person's QPRIME record;

(ii) applies, the impounding officer is to ensure that, as soon as reasonably practicable after impounding the motor vehicle:

(a) a Form 105: 'Impounding Notice (Second or Subsequent Motorbike Noise Order Offence)' (available in QPRIME and on QPS Forms Select) is completed and served in accordance with s. 16.8: 'Service of impounding notices' of this Manual;

(b) an application for a forfeiture order is made within forty-eight hours after charging the driver with the offence (see s. 16.20: 'Obtaining a court order to impound or forfeit a motor vehicle for evasion offences' of this Manual and s. 15.6: 'Application for forfeiture order for motorbike noise order offences' of this chapter); and

(c) a 'Direction—noise/move on/eviction' flag is created against the person's QPRIME record.

15.5 Application for impounding order for motorbike noise order offence

Where s. 86(1): 'Application for impounding order for motorbike noise order offence' of the PPRA applies, the impounding officer is to, within forty-eight hours after charging the driver with the initiating impoundment offence, apply, or ensure that another officer applies, for an order that the motorbike be held at a holding yard for a period of not more than three months (an 'impounding order').

The application is to be made in a Form 106: 'Application for Impounding Order (Motorbike Noise Order Offence)' (available in QPRIME and on QPS Forms Select).

The applicant officer is to lodge, or ensure the following documentation is lodged, with the clerk of the court of the relevant court within forty-eight hours after charging the driver with the initiating impoundment offence:

(i) a copy of the Form 104: 'Impounding Notice (First Motorbike Noise Order Offence)' with completed endorsement as to service for each of the persons served with the notice;

(ii) a completed Form 106: 'Application for Impounding Order (Motorbike Noise Order Offence)';

(iii) a certified copy of the motorbike noise order to which the application relates; and

(iv) a Form 046: 'Affidavit' outlining the grounds for the application.

The following documentation is required for the hearing of the application and should be provided to the relevant police prosecutions corps or to the Office of the Director of Public Prosecutions, as is appropriate, in sufficient time to allow for an examination of the application for an impounding order by a prosecutor prior to the hearing of the application:

(i) a copy of the Form 104: 'Impounding Notice (First Motorbike Noise Order Offence)' with completed endorsement as to service for each of the persons served with the notice;

(ii) a copy of the completed Form 106: 'Application for Impounding Order (Motorbike Noise Order Offence)' with completed endorsement as to service for each of the persons served with the notice;

(iii) a Form 046: 'Affidavit' outlining the grounds for the application;

(iv) all statements/affidavits taken from witnesses, including those of a corroborative, conflicting or negative nature;

(v) a certified copy of the noise abatement order to which the application relates;

(vi) the criminal and traffic histories of the driver of the vehicle at the time of impounding; and

(vii) a QP 0681: 'Impounding Order (Motorbike Noise Order Offence)' or QP 0682: 'Impounding Order (Motorbike Noise Order Offence—Not Decided)' as appropriate, prepared for issuance by the relevant court. The correct particulars of the applicant officer and vehicle should be included on the 'Impounding Order' document in the appropriate spaces provided on the documents.

The applicant officer is responsible for completing the documentation required for an application for an impounding order and providing those documents to the relevant prosecuting authority.

Officers should note that if the driver is a child and has not been charged with the motorbike noise order offence (e.g. cautioned) no application should be made.

15.6 Application for forfeiture order for motorbike noise order offences

Where s. 91(1): 'Application for forfeiture order for motorbike noise order offence' of the PPRA applies, the impounding officer is to, within forty-eight hours after charging the driver with the initiating impoundment offence, apply, or ensure that another officer applies, for an order that the motorbike be forfeited to the State (a **'forfeiture order'**).

The application is to be made in a Form 107: 'Application for Forfeiture Order (Motorbike Noise Order Offence)'.

The applicant officer is to lodge, or ensure the following documentation is lodged, with the clerk of the court of the relevant court within forty-eight hours after charging the driver with the initiating impoundment offence:

(i) a copy of the Form 105: 'Impounding Notice (Second or Subsequent Motorbike Noise Order Offence)' with completed endorsement as to service for each of the persons served with the notice;

(ii) a completed Form 107: 'Application for Forfeiture Order (Motorbike Noise Order Offence)';

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(iii) a certified copy of the motorbike noise order to which the application relates; and

(iv) a form 046: 'Affidavit' outlining the grounds for the application.

The following documentation is required for the hearing of the application and should be provided to the relevant police prosecutions corps or to the Office of the Director of Public Prosecutions, as is appropriate, in sufficient time to allow for an examination of the application for an impounding order by a prosecutor prior to the hearing of the application:

(i) a copy of the Form 105: 'Impounding Notice (Second or Subsequent Motorbike Noise Order Offence)' with completed endorsement as to service for each of the persons served with the notice;

(ii) a completed Form 107: 'Application for Forfeiture Order (Motorbike Noise Order Offence)' with completed endorsement as to service for each of the persons served with the notice;

(iii) a form 046: 'Affidavit' outlining the grounds for the application;

(iv) all statements/affidavits taken from witnesses, including those of a corroborative, conflicting or negative nature;

(v) a certified copy of the motorbike noise order to which the application relates;

(vi) the criminal and traffic histories of the driver of the vehicle at the time of impounding and the facts relating to the previous motorbike noise order offences on which the application relies. These facts may be obtained from the Court Brief (QP9); and

(vii) a QP 0683: 'Forfeiture Order (Motorbike Noise Order Offence)' document prepared for issuance by the relevant court. The correct particulars of the applicant officer and vehicle should be included on the 'Forfeiture Order' document in the appropriate spaces provided on the documents.

The applicant officer is responsible for completing the documentation required for an application for a forfeiture order and providing those documents to the relevant prosecuting authority.

Officers should note that if the driver is a child and has not been charged with the motorbike noise order offence (e.g. cautioned) no application is to be made.

15.7 Execution of motorbike noise order offence impounding and forfeiture orders

Upon the impounding order or forfeiture order being issued by the court for a motorbike noise order offence, the following action should be taken as soon as practicable:

(i) the prosecutor appearing in relation to the matter is to:

(a) ensure the particulars of the order, including the vehicle details, are entered into the case file in the relevant QPRIME occurrence; and

(b) forward the original order to the OIC of the originating station;

(ii) the OIC of the originating station is to:

(a) scan the order into the relevant QPRIME occurrence and retain the original court order; and

(b) task an appropriate officer to serve the order and impound the motorbike;

(iii) the appropriate officer is to print a copy of the order and commence action to seize the motorbike;

(iv) upon execution of the order and impoundment/seizure of the motorbike, the executing officer is to add a supplementary report to the relevant QPRIME occurrence reflecting particulars of service; and

(v) where the order is not served, and the motorbike has not been impounded/seized, further attempts are to be made until successful service is affected. If the respondent is unable to be located, the officer is to:

(a) create a BOLO for the person and motorbike via the 'add flag' section of QPRIME; and

(b) commence a narrative of circumstances of attempts of service in QPRIME.

15.8 Authorisation to enter, search and seize impounded or forfeited motorbikes

Officers may need to locate and retrieve motorbikes in situations where the owner has had possession of the motorbike as it was returned until the application for the impounding order or forfeiture order has been decided.

Section 110: 'Powers for enforcing court order' of the PPRA provides that for giving effect to the impounding order or forfeiture order, the relevant court may, in the order, authorise an officer, without warrant, to enter any place the officer

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reasonably suspects is a place where the motorbike may be found and search for, impound, or if the motorbike is forfeited to the State, take possession of, and remove the motorbike.

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16.1 Introduction

Chapter 4: 'Motor vehicle impounding and immobilising powers for prescribed offences and motorbike noise direction offences' of the PPRA allows officers to impound or immobilise motor vehicles to deter certain driving behaviours, particularly 'hoon' behaviour offences (**type 1 offences**).

The inclusion of type 2 offences into Chapter 4 of the PPRA allows for these powers to be used where drivers have committed offences that may not be directly related to 'hoon' type behaviour.

The legislation exposes repeat offenders to graduated sanctions by way of increasing impoundment or immobilisation periods, and ultimately forfeiture of vehicles used to commit offences.

The vehicle immobilisation and impoundment material contained in this chapter is to be read in conjunction with the motor vehicle immobilisation and impoundment information on the Vehicle Impoundment Team SharePoint page.

For the purposes of this chapter, a reference to immobilisation of a motor vehicle is a reference to number plate confiscation.

This chapter outlines the requirements for frontline officers conducting duties that may require vehicle impoundment or immobilisation. Deviation from policy requirements may be authorised by district officers if necessary, to address district specific issues and nothing in this chapter prevents individual district instructions being enacted. Any deviation from policy within district instructions is to be clearly articulated, with the rationale for changes outlined. Legislative requirements are not to be deviated from at any time.

16.1.1 Issues relating to impoundment of motor vehicles

Cost recovery

Section 112: 'Liability to pay costs of impounding or immobilisation—adult driver' of the PPRA provides that an adult driver of a motor vehicle impounded for a prescribed offence is liable for the costs of removing or keeping the motor vehicle.

The Service is liable for costs if:

(i) a vehicle is impounded from a child driver;

(ii) the driver is found not guilty of the offence for which the vehicle was impounded; or,

(iii) the proceedings are withdrawn.

Fees accrued due to a vehicle being impounded and held may outweigh the value of the vehicle. When a vehicle is forfeited to the State as a result of the offences committed, the vehicle may be disposed of. Generally, the sale or transfer of ownership of the disposed vehicle is used to recompense tow operators.

The value of the vehicle may be insufficient to cover accrued fees and tow operators may be unable to recoup their costs. The impoundment of vehicles of low or negligible value provides little deterrent to offenders but leads to disadvantage for tow operators and exposes the Service to risk of liability should the prosecution be unsuccessful.

The legislation allows the use of immobilisation as an alternative to impoundment and these issues are to be considered by officers when determining the preferred course of action.

To ensure appropriate use of Service resources, the use of immobilisation over impoundment is preferred in all instances of type 2 offending.

Where the driver is other than the owner

Owners (see s. 69: 'Definitions for ch 4' and Schedule 6: 'Dictionary' of the PPRA) of immobilised or impounded vehicles can apply for early release of the vehicle based on the vehicle being used to commit the offence without their consent. The impounding or immobilising of motor vehicles when an offence has been committed without the owner's consent not only disadvantages owners of vehicles but also adds to the administrative burden associated with the assessment of early release applications.

Type 1 Example

Where an owner gives permission to use their vehicle to another person who then uses the vehicle to commit a type 1 offence without permission, such as performing a burn out or making unnecessary noise.

Type 2 Example

The owner gives permission to use their vehicle to another person but is unaware that the person is unlicensed due to a SPER suspension.

ORDER

Officers are to make relevant enquiries when the driver of the vehicle is not the owner in order to establish if the offence happened with the owner's consent. If the offence happened without the owner's consent, the vehicle is not to be impounded or immobilised.

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Unlawfully used, stolen or rental motor vehicle

Where an officer immobilises or impounds an unlawfully used, stolen or rental motor vehicle, the vehicle is to be released to the owner as soon as reasonably practicable (see s. 76: 'Release of motor vehicle in particular circumstances' of the PPRA).

The impounding officer is to consider commencing an investigation of any relevant criminal offences. Subsequent withdrawal of a complaint does not necessarily prevent the commencement or continuation of the prosecution of an offender. See ss. 3.4.3 and 3.4.4 of the OPM.

An application for early release is not required if s. 76 of the PPRA applies.

16.2 Power to stop and move motor vehicles for immobilisation or impoundment

Divisions 1, 1A and 1B of Chapter 4, Part 2: 'Impounding and Immobilising motor vehicles and forfeiture of motor vehicles' of the PPRA provide officers with powers to immobilise and impound motor vehicles for type 1 and type 2 vehicle related offences (see ss. 16.7: 'Immobilisation of motor vehicles' and 16.8: 'Impounding of motor vehicles' of this chapter).

Section 75: 'Particular powers for impounding or immobilising motor vehicles' of the PPRA provides the power to stop a motor vehicle for the purpose of impounding or immobilising.

When an early release condition has been breached, s. 79P: 'Power to take certain action if breach of condition' of the PPRA allows an officer to use any of the powers under s. 75 of the Act to immobilise or impound the vehicle for the remainder of the original period.

16.2.1 Vehicle production notice

Section 74K: 'Power to require motor vehicle to be produced' of the PPRA provides where an officer may immobilise or impound a motor vehicle under Part 2, Division 1, 1A or 1B. The officer may require the production of the vehicle at a stated place and time for immobilisation or impoundment by issuing a Form 202: 'Vehicle production notice (vehicle related offence)' (available from Richland Supply Centre) to the vehicle's owner or driver.

Where it is not practicable to provide a Form 202, the requirement may be made verbally and confirmed by providing a Form 202 as soon as practicable (see s. 74K(4) of the PPRA).

Officers are to ensure the date stated in the Form 202 for production of the motor vehicle is a date no later than the first business day occurring 5 days after the notice is given.

The period of immobilisation or impoundment starts only when the motor vehicle has been produced at the place stated in the notice.

Examples of when an officer may be justified in using a Form 202 include where:

(i) the immobilising or impounding officer has been called away to more urgent duties;

(ii) the vehicle cannot be towed to a holding yard at the time due to circumstances beyond the control of police, e.g. tow truck unavailable; and

(iii) officers have made a decision to immobilise or impound the vehicle at a time when the vehicle is not present, e.g. after investigating the offence.

Officers are to ensure the nominated 'stated place' is reasonable in all the circumstances.

Officers must ensure the stated place is a police station, or an approved holding yard at a place, and the stated time is when a police officer can be physically present to take possession of the vehicle from the person producing it, and make the necessary arrangements for the impoundment of the vehicle.

Where an officer is to issue a vehicle production notice for the owner or driver to produce the vehicle at a stated place and time for immobilisation or impounding in accordance with s. 74K of the PPRA, the officer is to:

(i) complete the Form 202;

(ii) serve and explain the Form 202 to the driver. Where it is considered more effective, officers may serve the Form 202 on the owner, when the driver is not the owner;

(iii) complete the service details on the Form 202;

(iv) upload the completed Form 202 into the relevant QPRIME occurrence; and

(v) ensure suitable arrangements are made for the immobilisation or impoundment of the vehicle when produced.

Officers issuing a Form 202 on the driver or owner are also to complete and serve a Form 157 (impounding notice) or Form 201 (immobilising notice) (both available from Richland Supply Centre) in accordance with the procedures specified in s. 16.9 of this Manual, at the earliest opportunity on the driver and/or owner while they are in the company

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of the officer commencing the proceeding for the type 1 or type 2 vehicle related offence. When completing the oath of service for the Form 157 issued in these circumstances, the time and date for the Oath of Service will be similar to that for the issuing of the Form 202, notwithstanding this may be before the vehicle is produced in accordance with the Form 202.

Where the vehicle is not produced, the officer is to have the matter investigated in relation to an offence against s. 105A: 'Failure to comply with requirement to produce motor vehicle' of the PPRA.

16.3 Alternatives to impounding motor vehicles (immobilisation powers)

Chapter 4, Part 2, Division 1B: 'Immobilising powers for type 1 and type 2 vehicle related offences' of the PPRA provides alternatives to impounding a motor vehicle under Division 1 or 1A, namely:

(i) the removal and confiscation of number plates; or

(ii) attaching an immobilising device to the motor vehicle (e.g. wheel clamp).

Although provided for in legislation, the Service does not use immobilising devices as an alternative to impounding motor vehicles.

Immobilisation of motor vehicles, rather than impounding, mitigates the financial risk associated with impounding costs for the State and tow operators. The use of immobilisation is the preferred process to deal with all type 2 vehicle related offences.

ORDER

Officers dealing with type 2 vehicle related offences are not to impound the motor vehicle and are to prefer immobilisation in all instances (even when vehicle may be liable for forfeiture). When immobilising a vehicle for a third, fourth or subsequent type 2 vehicle related offence, the vehicle is to be immobilised for no longer than 90 days.

See s. 16.7: 'Immobilisation of motor vehicles' of this chapter for the process to immobilise a motor vehicle for a type 1 or type 2 offence.

Officers are not to use an immobilising device on a motor vehicle.

Impounding motor vehicles for first type 1 vehicle related offences

Where a motor vehicle is subject to impoundment in accordance with s. 74: 'Impounding motor vehicles for first type 1 vehicle related offence' of the PPRA, the investigating officer may choose to impound or immobilise the vehicle for 90 days, depending on the most appropriate circumstances.

Considerations are to include:

(i) the nature of the offending;

(ii) previous traffic offences committed;

(iii) the nature of the vehicle used; and

(iv) operational and resourcing issues.

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16.4 Charging a person in relation to a prescribed offence

Officers wishing to issue a QNotice for a type 1 or type 2 vehicle related offence are to be aware that this does not record the occurrence correctly in QPRIME, as a vehicle related offence. The issuing of a QNotice does not automatically add the appropriate flags to the person record. Therefore, to ensure the offence will be counted for further action under Chapter 4 PPRA, it is more appropriate to commence proceedings through other means. Officers may, however, use their discretion to determine if it is suitable in the circumstances to issue a QNotice and record flags against the person record.

ORDER

Officers intending to immobilise or impound a motor vehicle for a prescribed type 1 or type 2 offence are to commence proceedings by:

(i) issuing a PT56: 'Infringement notice' (available from Richland Supply Centre) (where applicable);

(ii) serving a notice to appear; or

(iii) arrest.

A person is deemed to have been charged with the prescribed offence when the PT56 or notice to appear is given to the person or when the person is arrested (see s. 71: 'When a person is charged for this chapter in relation to a prescribed offence' of the PPRA).

It is to be noted that the issuing of an arrest warrant does not constitute commencing proceedings under this section.

ORDER

When commencing a proceedings for an offence against s. 78(1): 'Driving of motor vehicle without a driver licence prohibited' of the TO(RUM)A officers are to consider the provisions of ss. 78(1A)–(1E) of TO(RUM)A which prohibit the commencement of proceedings by infringement notice in certain circumstances (e.g. previous conviction against s. 78(1) in 5 years, never held a licence; interlock driver). If the provisions apply to the driver proceedings are to be commenced by notice to appear or, where justified, arrest not by issuing an infringement notice. If an infringement notice is issued contrary to the provisions of ss. 78(1A)–(1E), the infringement notice is to be withdrawn and a notice to appear issued as soon as practicable.

Counting of occasions

For the purposes of immobilising, impounding and forfeiting motor vehicles in accordance with ss. 74A, 74B, 74C, 74D, 74E, 74F and 101 of the PPRA, the counting of the commission of an offence must be in addition to another commission of an offence to be counted, i.e. an event or series of events that happened must be separate to each occasion (see s. 108: 'Counting the occasions—general' of the PPRA).

Where a number of vehicle related offences of the same type occur from one event, they are to be counted as one event of the same type. For example, where a person is intercepted for driving a vehicle whilst unlicensed and high-end speed offences, this is to be counted as one event for each type and only one type 2 flag may be entered.

Where a number of vehicle related offences of different types occur from one event, they are to be counted as one event of different types. For example, where a person is intercepted for driving a vehicle whilst evading police and high-end speed offences, this is to be counted as one event and one type 1 and one type 2 flag may be entered in QPRIME.

QPRIME flags added to a person record can provide a way to record the number of occasions a person has been charged with a type 1 or type 2 vehicle related offence. The presence or absence of flags may not adequately reflect a person's traffic history. Therefore, officers are to ensure they scrutinise a person's traffic history to ensure there have been the required number of offences committed to justify any impoundment or immobilisation action.

Court Briefs (QP9)

Where an officer has commenced a proceeding for a vehicle related offence and the vehicle has been impounded and is subject to forfeiture under s. 74A: 'Impounding motor vehicles for second or subsequent type 1 vehicle related offence' of the PPRA, the officer is to include in the summary of facts of the Court Brief (QP9), advice the vehicle was impounded and is subject to forfeiture (see s. 16.16: 'Disposal of impounded and forfeited vehicles' of this chapter).

16.5 Deleted

16.6 First type 2 vehicle related offence (pre-impoundment offence)

A motor vehicle can only be immobilised if the driver of the motor vehicle has been previously charged with having committed a type 2 vehicle related offence (of any kind) (see SMD) on more than one occasion within the previous five years (see s. 74C: 'Impounding motor vehicles for second or subsequent type 2 vehicle related offence' of the PPRA).

Where an officer is commencing a proceeding against a driver for a type 2 vehicle related offence, the officer is to determine whether the driver has been charged with committing one or more type 2 vehicle related offences within the previous five years.

Where a previous type 2 offence is identified, see s. 16.7: 'Immobilisation of motor vehicles' of this chapter.

Where the person has not been charged with a previous type 2 offence within the previous five years, the officer may:

(i) issue an infringement notice, NTA or, where justified, arrest the person for the offence; and

(ii) personally, or electronically serve a QP 0964: 'Notice of pre-impoundment/Notice of first type 2 vehicle related offence' on the driver; and

(iii) prior to termination of their shift, ensure a QPRIME occurrence is created, which includes:

- a 'Type 2' flag against the person; and
- the narrative containing all elements of the offence and the officer action taken, including service of the QP 0964.

An officer may issue a QNotice for the type 2 offence, however it will not add a flag against the person record. Officers are to avoid the use of QNotices to commence proceedings where the offence is to be counted towards possible future immobilisation action.

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16.7 Immobilisation of motor vehicles

Section 74H: 'Power to remove and confiscate number plates' of the PPRA provides, where a motor vehicle may be impounded for a type 1 or 2 offence, the officer may remove and confiscate the vehicle's number plates and attach a QP 0960: 'Number plate confiscation notice' (available from Richland Supply Centre) to the motor vehicle for the impoundment period.

Except when authorised by an officer under s. 74I: 'Moving motor vehicle to which number plate confiscation notice is attached' of the PPRA, a motor vehicle to which a QP 0960 is attached is prohibited from being operated for the period stated in the notice (the number plate confiscation period).

Where the vehicle cannot be lawfully driven on a road to where it may lawfully stand, the owner or driver may tow the vehicle at their expense to where it may stand in accordance with the number plate confiscation notice.

In accordance with s. 16.3: 'Alternatives to impounding motor vehicles (immobilising powers)' of this chapter motor vehicles are to be immobilised in accordance with this section when taking action for type 2 offences.

When an officer authorises a person to move a vehicle in accordance with s. 74I of the PPRA, the officer is to record on the Form 201: 'Immobilising notice (Vehicle related offence)' (available from Richland Supply Centre) the details of where the motor vehicle is allowed to be driven to (if applicable) and stand.

Where a QP 0960 is attached to a motor vehicle, a Form 201 is to be given to the driver and, where applicable, each owner of the vehicle (see s. 78: 'Impounding notice or immobilising notice for vehicle related offence' of the PPRA).

Type 1 offences

Where the driver has not previously been charged with, or found guilty of a type one offence during the previous five years, officers are to immobilise or impound the motor vehicle for the prescribed impoundment period under s. 74: 'Impounding motor vehicles for first type 1 vehicle related offence' of the PPRA.

Type 2 offences

Where the driver of a motor vehicle has been charged with a type 2 vehicle related offence and has previously been charged with (where the charge is not yet decided in accordance with s. 71A of the PPRA) or found guilty of any type 2 vehicle related offence on one or more occasions within the previous five years, officers are to immobilise the motor vehicle for the prescribed impoundment period under:

(i) s. 74C: 'Impounding motor vehicles for second or subsequent type 2 vehicle related offence' of the PPRA, 7 days; or

(ii) s. 74D: 'Impounding motor vehicles for third or subsequent type 2 vehicle related offence' of the PPRA, 90 days.

Although s. 74E: 'Impounding motor vehicles for fourth or subsequent type 2 vehicle related offence' of the PPRA allows for a vehicle to be impounded until the end of proceedings, officers are to immobilise these vehicles for no longer than 90 days, as per s. 74D of the PPRA.

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Immobilisation procedures

When immobilising a motor vehicle for a type 1 or 2 offence, the officer is to:

(i) where applicable, issue a PT 56: 'Infringement notice', (available from Richland Supply Centre) notice to appear or, where justified, arrest the person for the relevant vehicle related offence;

(ii) remove the number plate(s) from the motor vehicle;

(iii) complete a QP 0960 and attach the appropriate notice (front or rear):

(a) for a vehicle other than a motorcycle, to the outside of the front windscreen (front notice) and the rear or side window or other appropriate location (rear notice); or

(b) for a motorcycle, attach the front notice in the most practical manner;

(iv) complete a Form 201 and serve a copy personally on the driver. A copy is to be either personally served or posted via normal postal methods to all owners as soon as reasonably practical (see s. 16.9: Service of impounding notices and immobilising notices' of this chapter);

(v) advise the owner of the vehicle that at the expiration of the number plate confiscation period they may collect the number plate(s) from the respective property point;

(vi) complete the service details on the Form 201;

(vii) complete a QPB 32A: 'Field Property Receipt' (available from Richland Supply Centre) and issue to the driver;

(viii) prior to termination of their shift:

(a) ensure a QPRIME occurrence is created and:

- a 'Type 1' or 'Type 2' flag is created against the person;

- the 'narrative' is completed and contains all elements of the offence and the officer action taken; and
- the QP 0960 notice number is entered into the 'Miscellaneous ID number'; and

(b) upload the:

- Form 201 and record the number plate confiscation notice number as a MISC ID against the vehicle in QPRIME; and
- QPB 32A; and
- infringement notice or NTA (where applicable),

into the occurrence; and

(c) lodge the number plate/s at a property point.

Cancelled number plates (except personalised number plates) are not to be lodged at a property point unless they are an exhibit. Cancelled number plates are to be returned to the DTMR (see s. 11.3.1: 'Seizing and disposing cancelled number plates' of this Manual).

Cancelled personalised number plates are to be lodged at a property point for eventual return to the owner.

16.8 Impounding of motor vehicles

ORDER

Unless exceptional circumstances exist, vehicles are not to be impounded for type 2 offences (see ss. 16.3: 'Alternatives to impounding motor vehicles (immobilising powers)' and 16.7: 'Immobilisation of motor vehicles' of this chapter).

Extraordinary circumstances

In some extraordinary circumstances involving recidivist type 2 offenders, it may be necessary to impound a vehicle to disrupt and prevent further offending. In these instances, consideration is to be given to using the powers provided under s. 74C 'Impounding motor vehicles for a second or subsequent type 2 vehicle related offence' of the PPRA and impound for 7 days. Short term impoundment minimises the financial risk to tow operators or the State. Once the impoundment period finishes, if the vehicle is not recovered by the owner within 30 days, the Commissioner may sell the vehicle and anything in it as per s. 118 'Sale of motor vehicle if not recovered after impounding ends' of the PPRA.

ORDER

Officers who impound vehicles for a 7-day period must ensure all required documents are served on all owners (including security interests) as soon as possible. Failure to serve documents in a timely manner may compromise the potential for administrative forfeiture and disposal of the vehicle.

Impounding procedure

Where a motor vehicle is to be impounded, the impounding officer is to:

(i) issue an NTA or, where justified, arrest the person for the offence;

(ii) complete a Form 157: 'Impounding Notice (Vehicle related offence)' (available from Supply Services) and serve a copy of the form personally on the driver. A copy is to be either personally served or posted via normal postal methods to all owners as soon as reasonably practical (see s. 16.9: 'Service of impounding notices and immobilising notices' of this chapter);

(iii) complete a QP 0907: 'Towing authority for impounded vehicles' (available from Supply Services) and serve a copy of the QP 0907 on the:

(a) driver of impounded vehicle; and

(b) tow truck operator;

(iv) direct the driver of a tow truck to tow the impounded vehicle to a particular holding yard (see s. 77: 'Police officer may authorise tow' of the PPRA);

(v) complete a QPB 32A: 'Field Property Receipt' (available from Supply Services) and issue to the driver of the impounded vehicle;

(vi) prior to shift termination, ensure that a QPRIME occurrence is created and:

(a) a flag is created against the person; and

(b) the narrative is completed and contains all elements of the offence and the officer action taken (including enquiry details) if the driver is not the owner of the vehicle; and

(c) where the vehicle is impounded for a type 2 offence include sufficient information to justify why the vehicle was impounded instead of being immobilised; and

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(d) upload the:

- Form 157;
- QP 0907; and
- QPB 32A,

into the occurrence.

Child offenders

The Service is liable for the towing and holding yard fees when a vehicle driven by a child is impounded. Officers are not to impound a motor vehicle when a child is driving. In these instances, immobilisation is the preferred option.

16.9 Service of immobilising notices and impoundment notices

If a motor vehicle is impounded or immobilised for a type 1 or type 2 vehicle related offence, as soon as reasonably practicable, the impounding or immobilising officer is to complete a Form 157: 'Impounding notice (Vehicle related offence)' or where applicable, Form 201: 'Immobilising notice (Vehicle related offence)' (both available from Richland Supply Centre) and:

(i) personally serve the driver with a copy of the Form 157 or Form 201;

(ii) where the driver is not the owner or only owner of the vehicle, either personally or by post, provide a copy of the Form 157 or where applicable, Form 201 to every owner of the vehicle;

(iii) if the driver is a child, either personally or by post, provide a copy of the Form 157 or Form 201 to the child's parent or guardian (a motor vehicle must not be impounded when a child is driving); and

(iv) ensure the copies of each of the served Form 157 or Form 201 are endorsed as to service, as appropriate.

Officers serving any required notice pursuant to Chapter 4 of the PPRA are to record details and proof of service of the relevant document(s) in the relevant QPRIME occurrence. Officers are to record details in QPRIME about the actions taken to identify any and all owners of the vehicle.

See s. 39: 'Service of documents' of the *Acts Interpretation Act* and s. 78: 'Impounding notice or immobilising notice for vehicle related offence' of the PPRA.

It is to be noted that there is no power to detain a person for the service of notices (see Walker v State of Queensland [2020] QCA 137).

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16.10 Service of impounding notice or immobilising notice on a child (additional responsibilities)

Where a child is to be served with a Form 157: 'Impounding notice (Vehicle related offence)' or Form 201: 'Immobilising notice (Vehicle related offence)' (both available from Richland Supply Centre), the impounding/immobilising officer is to, in addition to giving the impounding notice or immobilising notice:

(i) complete a Form 156: 'Statement of Explanation' (Type 1 or Type 2 Vehicle Related Offence and Motorbike Noise Offence) (available from Richland Supply Centre); and

(ii) ensure the child and the child's parent or guardian are given copies of the explanation notice (either personally or by post, see s. 39: 'Service of a documents' of the *Acts Interpretation Act*).

The officer giving the explanation notice is to endorse copies of each of the explanation notices given as to service.

See ss. 78(5) and (6): 'Impounding notice or immobilising notice for vehicle related offence' and 81(6) and (7): 'Impounding notice for motorbike noise direction offence or motorbike noise order offence' of the PPRA.

16.11 Application for early release of immobilised or impounded motor vehicles

Section 16.11 is intended for use by the relevant delegated commissioned officer.

See Appendix 16.3: 'Application for early release of impounded or immobilised motor vehicle flow chart' of this chapter.

Chapter 4, Part 2, Division 2: 'Other provisions relating to impounded or immobilised motor vehicles' of the PPRA provides for the early release of motor vehicles impounded or immobilised under Division 1, 1A, or 1B, after the eligible person (see s. 79: 'Definitions for div 2' of the PPRA) has made an application in the approved form to the Commissioner, and supported with enough information to enable the Commissioner to decide the application. The Commissioner has delegated this authority to all commissioned officers (see Delegations D 24.56 to D 24.59).

An eligible person can apply to the Commissioner for the release of an impounded or immobilised motor vehicle due to:

(i) severe hardship (see s. 79A: 'Application for release of impounded or immobilised motor vehicle on basis of severe hardship' of the PPRA);

(ii) the prescribed offence happened without the owner's consent (see s. 79C: 'Application for release of impounded or immobilised motor vehicle on basis prescribed offence happened without owner's consent' of the PPRA);

(iii) the circumstances giving rise to the offence have been rectified—type 2 unregistered motor vehicle and type 2 unlicensed driving (see s. 79E: 'Application for release of impounded or immobilised motor vehicle on basis that circumstances giving rise to offence have been rectified' of the PPRA); and

(iv) the grounds for impoundment or immobilisation were unreasonable (see ss. 79G: 'Application for release of impounded or immobilised motor vehicle on basis that grounds for impoundment or immobilisation unreasonable' and 79H: 'Decision on application for release of impounded or immobilised motor vehicle on basis that grounds for impoundment or immobilisation unreasonable' of the PPRA and s. 16.18: 'Infringement notice or charges withdrawn or dismissed' of this chapter).

The application must be supported by sufficient information to enable the delegated commissioned officer to decide the application.

Eligible persons can submit their applications:

(i) online on the QPS internet; or

(ii) by completing a Form 203: 'Application for early release of vehicle from impoundment/immobilisation' (available from the QPS internet and Forms Select).

Policelink will receive and task all applications and task them to the appropriate organisational unit for action.

Where a member at a station or establishment receives a completed Form 203, they are to ensure the application and any supporting documents are scanned into the relevant occurrence and a task sent to Policelink.

The delegated commissioned officer must consider an application after receiving all necessary information relevant to the application and either:

(i) grant the application with or without conditions; or

(ii) refuse to grant the application.

The delegated commissioned officer must, if reasonably practicable, decide the application within five business days of receiving the application and where applicable other supporting documents required.

If a person is aggrieved by the decision of the Commissioner, they may appeal to a magistrates court (see s. 79K: 'How to start appeal' of the PPRA).

Where a delegated commissioned officer receives a completed application from an eligible person for the early release of an impounded or immobilised vehicle, the officer is to:

(i) consider the application and supporting documentation and make any necessary inquiries to reach a decision. Where further information is required from the applicant, advise them as soon as practicable;

(ii) if satisfied, grant the application with or without conditions:

(a) ensure as soon as practicable the applicant is given a QP 0962: 'Vehicle release notice (Vehicle related offence)' for the motor vehicle;

(b) where the vehicle has been impounded, ensure the relevant vehicle impoundment coordinator (VIC) is advised that the vehicle can be released; and

(c) where the vehicle has been immobilised by having the number plates removed and confiscated, advise the relevant OIC and/or property officer that number plates can be returned to the owner; or

(iii) where the application is refused, as soon as practicable, ensure the applicant is given a QP 0963: 'Information notice (Vehicle related offence)'; and

(iv) update the relevant QPRIME occurrence providing:

(a) reference to any inquiries made to reach the decision;

(b) reference to any documents relied upon to reach the decision. Where such documents are not already part of the occurrence or scanned into the occurrence, ensure the documents relied upon are scanned into the occurrence; and

(c) sufficient details of the reasons for the decision.

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16.11.1 Consequences of granting an application for early release

Granting an application for early release entails that the vehicle will not be subject to forfeiture on conviction for a relevant type 1 vehicle related offence (pursuant to s. 74B of the PPRA), unless the application has been granted with conditions. If those conditions have been breached prior to the end of the impoundment period and action has been taken pursuant to s. 79P of the PPRA to immobilise or impound the vehicle for the remainder of the impoundment period the vehicle may be subject to forfeiture.

16.11.2 If an application for early release is received after the vehicle has been forfeited

If an application for early release is received after the vehicle has been forfeited pursuant to:

- ss. 74B or 74F of the PPRA (on conviction or the relevant type 1 or type 2 vehicle related offence);
- s. 118 of the PPRA (administrative forfeiture) or;
- s. 118A of the PPRA (forfeiture on issue of a fail to appear warrant)

then the application cannot properly be made and there is no power to grant the application for early release: Commissioner of the QPS v Gough [2015] QDC 254 at [14]–[15].

In those circumstances, the delegated commissioned officer is to advise the person attempting to make an application pursuant to ss. 79A, 79C, 79E or 79G of the PPRA in writing that the application cannot be made, and there is no power to grant the application where the vehicle has already been forfeited according to law (see QP1201 'Letter—Early Release Application (ERA) Made After Forfeiture' as a template) (available from Richland Supply Centre).

16.12 Release and recovery of motor vehicle after impoundment period ends

Unless ss. 76: 'Release of motor vehicle in particular circumstances' or 111: 'State's liability to pay costs of impounding or immobilisation' of the PPRA apply, the owner of the motor vehicle is liable for the costs of removing and keeping the motor vehicle (see s. 116: 'Release of motor vehicle impounded or immobilised under this chapter' of the PPRA). Motor vehicles are not to be released until the costs of removing and keeping the motor vehicle are paid (see s. 16.13: 'Costs of storage of impounded vehicles' of this chapter).

ORDER

If a motor vehicle is impounded in a property point and the owner of the motor vehicle is entitled to recover the motor vehicle because:

(i) the impoundment period has ended; or

(ii) a delegated commissioned officer has ordered its early release and the owner has produced a QP 0962: 'Vehicle release notice (Vehicle related offence)' (see s. 16.11: 'Application for early release of impounded or immobilised motor vehicle' of this chapter),

at the request of the owner, the relevant property officer is to ensure the release of the motor vehicle to the owner, or a person appointed in writing by the owner as soon as reasonably practicable. The vehicle is to be released during business hours on a business day, after the request is made (see s. 116 of the PPRA).

The owner or person appointed in writing to accept the released vehicle is to sign a QP 0034: 'Indemnity receipt' prior to release of the vehicle. The QPRIME occurrence is to be updated to record the release of the vehicle to the owner or their agent. The QP 0034 is to be uploaded and wherever practicable, accompanied by a copy of the receipt for payment of the towing and holding yard fees.

If the owner fails to recover the motor vehicle, see ss. 16.15: 'Recovering payment for storage of impounded vehicle' and 16.16: 'Disposal of impounded and forfeited motor vehicles for vehicle related offences' of this chapter.

16.13 Costs of storage of impounded vehicles

Chapter 4, Part 6, Division 1: 'Liability for costs of impounding or immobilisation' of the PPRA, states who is liable to pay the costs of impounding or immobilising a vehicle.

Whilst s. 112: 'Liability to pay the costs of impounding or immobilisation—adult driver' of the PPRA provides the adult driver is liable for the costs of removing an impounded or immobilised motor vehicle and keeping it, s. 116: 'Release of motor vehicle impounded or immobilised under this chapter' of the PPRA provides the owner of the motor vehicle is liable for payment of the fees prior to retrieving the vehicle.

However, in accordance with s. 111(2): 'State's liability to pay costs of impounding or immobilisation' of the PPRA, the Service is liable to pay the costs of removing an impounded or immobilised motor vehicle and keeping it, if:

(i) the driver of the motor vehicle is found not guilty of the offence for which the motor vehicle was impounded or immobilised; or

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(ii) the proceeding for the offence for which the motor vehicle was impounded or immobilised is withdrawn; or

(iii) the driver of the motor vehicle was a child when they committed the offence for which it was impounded or immobilised (see s. 16.14: 'Order for payment of costs to the Service (child driver)' of this chapter and s. 113: 'Liability to pay costs of impounding or immobilisation—child driver' of the PPRA).

Any costs of impoundment paid by someone else on the driver's behalf become a debt to the other person by the driver (see ss. 112 or 113 PPRA). For procedures regarding the recovery of money owed to the Service see s. 16.15: 'Recovering payment for storage of impounded vehicle' of this chapter.

If any of the circumstances in s. 111(2) of the PPRA exist then the region or command to which the impounding or immobilising officer is attached, unless other formal arrangements have been made, (e.g. State Highway Patrol performing an operation in a region that has agreed to meet the costs of the operation) is responsible for the payment of the costs of removing and keeping the motor vehicle for the impounding only. Finance managers are to ensure that the costs incurred for impounding and keeping of the motor vehicle are paid as required.

See also s. 116(3): 'Release of motor vehicle impounded or immobilised' of the PPRA.

16.14 Order for payment of costs to the Service (child driver)

ORDER

If a motor vehicle is impounded because of a prescribed offence or a motorbike noise direction offence and the driver of the motor vehicle was a child when they committed the offence for which it was impounded, the impounding officer must ensure, in the event the child driver is found guilty by a court of the prescribed offence, an order for payment of costs to the Service for moving and keeping the motor vehicle for the impoundment period is sought against the appropriate person (see ss. 103: 'Costs order for child drivers' and 113: 'Liability to pay costs of impounding or immobilisation—child driver' of the PPRA and s. 4.5: 'Credit Management Policy' of the Financial Management Practice Manual).

Officers are not to impound a motor vehicle when a child is driving. In these instances, immobilisation is the preferred option.

If it is necessary to impound a vehicle driven by a child and where a police holding yard declared as a property point exists, the impounded vehicle is to be stored at that location where practicable. This will reduce costs which may not be retrievable under s. 103 of the PPRA.

To obtain an order under s. 103 of the PPRA, the impounding officer is to include in the summary of facts section of the relevant Court Brief (QP9):

(i) a subheading titled: 'Advice to Prosecutor—order for payment of costs to the Service sought—towing and keeping';

(ii) details of costs owed to the Service as a result of the initial impoundment; and

(iii) if an order for payment of costs is sought under s. 113 of the PPRA, against a person other than a child driver (e.g. the child driver's parent), that person's particulars.

Where the child driver is found guilty of the prescribed offence for which the motor vehicle was impounded, the relevant police prosecutor is to make a verbal application for an order for the payment of the costs owed to the Service. If the child does not have the capacity to pay, the police prosecutor may seek the court to require the parents/guardian to show cause why they should not pay the costs associated with the impoundment of the vehicle.

Where an order is made against the parent or guardian to pay the costs of impounding the motor vehicle, see s. 16.15: 'Recovering payment for storage of impounded vehicle' of this chapter.

16.15 Recovering payment for storage of impounded vehicle

Where a court order under s. 103: 'Costs order for child driver' of the PPRA is made in respect of the child driver (i.e. the parent or guardian are ordered to pay the costs for the impoundment period), the impounding officer is to submit a report to the VIC for the region where the vehicle is held through their supervising commissioned officer.

The report is to include full details of the person who is liable to pay the costs and be accompanied by:

(i) a copy of the:

(a) Court Brief (QP9) for the relevant prescribed offence and the result of the court proceeding for the prescribed offence; or

(b) court order for payment of costs to the Service against the person, if an order was made; and

(ii) copies of relevant invoices for costs of impounding and keeping of the vehicle; and

(iii) any other relevant information.

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Responsibilities of commissioned officers and vehicle impoundment coordinators

Where a court order for payment of costs to the Service against a person exists (see s. 113(4): 'Liability to pay costs of impounding or immobilisation–child driver' of the PPRA), a commissioned officer is to forward a letter of demand together with a copy of the court order, to the person who is liable to pay the costs to the Service in an attempt to recover the debt directly from the person in accordance with s. 4.6: 'Debt management policy' of the Financial Management Practice Manual.

Where the debt is paid directly to the Service, the VIC is to provide evidence of payment to the relevant clerk of the court where the order was made.

In accordance with s. 115: 'Registration of costs under State Penalties Enforcement Act 1999' of the PPRA, if the person:

(i) fails to pay the costs owing; or

(ii) has made part-payment of the costs owing to the Service and an outstanding amount remains past the due date,

the commissioned officer is to complete a QP 0495: 'Referral of costs to the State Penalties Enforcement Registrar' and attach copies of:

(i) invoice(s) for removing and keeping the impounded motor vehicle for the impoundment period indicating that payment has been made by the Service;

(ii) the order for payment of costs to the Service against the person;

(iii) the letter of demand issued by the Service to the person who is liable to pay the costs; and

(iv) the details of any part-payments made by the person.

The completed QP 0495 and its attachments may be forwarded to the State Penalties Enforcement Register by email or mail (see SMCD).

For debts that cannot be referred to the State Penalties Enforcement Register, Finance is to attempt to recover the debt in accordance with ss. 4.4: 'Receivables Policy' and 4.6 of the Financial Management Practice Manual.

PROCEDURE

Where the Service is seeking repayment of a debt where a court order is issued, the VIC is to:

(i) complete the relevant documentation for signing by a commissioned officer;

(ii) scan and upload the signed documentation to the relevant QPRIME occurrence; and

(iii) maintain oversight of the recovery of the outstanding debt.

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16.16 Disposal of impounded and forfeited motor vehicles

Section 120: 'Disposal of forfeited motor vehicles' of the PPRA provides that the Commissioner may dispose of a motor vehicle forfeited to the State under Chapter 4: 'Motor vehicle impounding and immobilising powers for prescribed offences and motorbike noise direction offences' of the PPRA in the way the Commissioner considers appropriate, including by selling it (see Delegation D 24.37).

The proceeds of any sale of an impounded or forfeited vehicle under s. 118: 'Sale of motor vehicle if not recovered after impounding ends', s.118A: 'Sale of impounded motor vehicle if driver fails to appear' or s. 120 of the PPRA are to be dealt with in accordance with s. 121: 'Application of proceeds of sale' of the PPRA.

Motor vehicles impounded or forfeited by a court order for an evasion offence under Chapter 22: 'Provisions about type 1 vehicle related offences' of the PPRA, whenever practicable, are to be disposed of in accordance with Chapter 4 of the PPRA.

Relinquishing motor vehicles and motorcycles

In accordance with:

(i) s. 119: 'Voluntary transfer of ownership of motor vehicle to the State' of the PPRA, the owner of a motor vehicle that is impounded under Chapter 4 and held at a holding yard, or a motor bike subject of an application for an impounding order or a forfeiture order for a motorbike noise order offence; or

(ii) s. 784: 'Voluntary transfer of ownership of motor vehicle to State' of the PPRA, the owner of a motor vehicle, involved in an evasion offence for which a proceeding against the driver or owner is started,

may agree to transfer ownership of the vehicle to the State. The agreement may be completed on a QP 0368: 'Relinquishing order' (available in QPRIME), in another similar format or by completing the forfeiture order contained within a QPB 32A: 'Field Property Receipt' (available from Richland Supply Centre). If the delegated officer, on behalf of the Service, agrees in writing to the transfer of the vehicle, the vehicle becomes the property of the Service. The

delegated officer may then sell or dispose of the vehicle and anything in it or on it in the way the delegated officer considers appropriate.

16.16.1 Vehicle not recovered after impounding period ends

Section 118: 'Sale of motor vehicle if not recovered after impounding ends' of the PPRA provides within 30 days after a period of impounding ends:

(i) where the owner of the motor vehicle has not recovered it; or

(ii) after making reasonable inquiries, a police officer cannot find out who owns the motor vehicle,

the Commissioner may:

(i) sell the motor vehicle and anything in or on it by public auction; or

(ii) dispose of it in the way the Commissioner considers appropriate.

Impounded motor vehicles not collected within 30 days after the period of impoundment ends are taken to have been forfeited to the State (see s. 118(3) of the PPRA).

Where a vehicle has not been recovered within 30 days of the impoundment period ending, the VIC seeking approval to dispose of the vehicle in accordance with s. 118 of the PPRA is to:

(i) ensure a Personal Property Securities Register Check has been conducted on the motor vehicle and, where applicable, a copy of the impounding notice has been served on any owner (see Schedule 6 of PPRA for definition of 'owner') of the vehicle (see s. 16.16.4: 'Personal Property Securities Register check' of this chapter); and

(ii) where the name of the owner is or becomes known, complete a draft letter (for signing by the delegated officer) to each owner advising in accordance with s. 118 of the PPRA, the motor vehicle and anything in or on it is to be sold by public auction or disposed of in the way the Commissioner considers appropriate; and

(iii) upload the draft letter to the relevant QPRIME occurrence and forward a task to the delegated officer (see Delegation D 24.37) advising the vehicle has not been recovered within the designated period and approval is sought to send the letter to the owner and dispose of the vehicle in accordance with s. 118 of the PPRA.

The delegated officer approving the request to sell or dispose of a vehicle not recovered under s. 118 of the PPRA is to ensure:

(i) if the name of the owner or financial interest holder is known, the signed letter is sent to the owner and financial interest holder of the vehicle;

(ii) the QPRIME occurrence is updated; and

(iii) notice of the proposed sale or disposal of the vehicle is published on the QPS website.

16.16.2 Forfeiting motor vehicles for type 1 and type 2 vehicle related offences

Sections:

(i) s. 74B: 'Forfeiture of motor vehicle if driver found guilty of second or subsequent type 1 vehicle related offence' of the PPRA provides where a motor vehicle has been impounded under s. 74A: 'Impounding motor vehicles for second or subsequent type 1 vehicle related offence' of the Act, and the driver of the motor vehicle:

(a) has been found guilty of a type 1 vehicle related offence committed on 1 previous occasion within the relevant period; and

(b) is found guilty of a second or subsequent type 1 vehicle related offence mentioned in s. 74A(1) of the PPRA; or

(ii) s. 74F: 'Forfeiture of motor vehicles if driver found guilty of fourth or subsequent type 2 vehicle related offence' of the PPRA provides where a motor vehicle has been impounded under s. 74E of the Act and the driver of the motor vehicle:

(a) has been found guilty of the three type 2 vehicle related offences committed within the relevant period; and

(b) is found guilty of a fourth or subsequent type 2 vehicle related offence mentioned in s. 74E(1),

upon the driver being found guilty, the motor vehicle becomes the property of the State unless the vehicle has already been released (pursuant to s. 79I of the Act), and has not been re-impounded (under s. 79P of the Act); or alternatively has previously been forfeited to the State.

For the purpose of any vehicle forfeiture, found guilty of an offence means:

(i) for a vehicle related offence for which an infringement notice has been served under s. 71: 'When a person is charged for this chapter in relation to a prescribed offence' of the PPRA:

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(a) ensuring there is payment of a penalty in full or by instalments under the *State Penalties Enforcement Act* (SPEA); or

(b) ensuring a default certificate for the infringement notice given to the person has been registered by the registrar under the SPEA; or

(ii) otherwise, there is a finding of guilt, or the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

The definition of **'found guilty'** is located in Schedule 6: 'Dictionary' of the PPRA.

Vehicle impoundment coordinator (VIC)

Where a motor vehicle is subject to forfeiture under s. 74B or s. 74E of the PPRA, the VIC is responsible for:

(i) monitoring the found guilty status of the driver of the motor vehicle for the offence/s relied upon to impound the motor vehicle;

(ii) where an infringement notice has been issued under s. 71 of the PPRA:

(a) ensuring there is payment of a penalty in full or by instalments under the SPEA;

The QPRIME traffic history status 'PAID' indicates that payment has been made in full. The status 'VIP' indicates a voluntary instalment plan has been entered into under the SPEA; or

(b) ensuring a default certificate for the infringement notice given to the person has been registered by the registrar under the SPEA.

The QPRIME traffic history status 'SPER FINALISED' indicates that a default certificate has been accepted and registered by the registrar under the SPEA;

(iii) where the person has had a finding of guilt, or the acceptance of a plea of guilty by a court for the relevant vehicle related offence, ensuring the person's court history outcome in QPRIME has been updated accordingly;

(iv) where the person failed to appear in court in relation to the relevant charge under s. 74A(1) or s. 74E(1) of the PPRA, and the court has issued a fail to appear warrant, ensuring the person's court history outcome in QPRIME has been updated accordingly. In such instances the vehicle is forfeited to the State (see s. 118A: 'Sale of impounded motor vehicle if driver fails to appear' of the PPRA);

(v) ensuring a Personal Property Securities Register Check has been conducted on the motor vehicle and, where applicable, a copy of the impounding notice has been served on any party with a financial interest in the vehicle (see s. 16.16.4: 'Personal Property Securities Register check' of this chapter); and

(vi) where a vehicle has been forfeited in accordance with s. 118 or s. 118A of the PPRA, VICs are to ensure notice of the proposed sale or disposal of the vehicle is published on the QPS internet website prior to disposal. Vehicles forfeited to the State may be disposed of under s. 120: 'Disposal of forfeited motor vehicle' of the PPRA.

Delegated officer

A delegated officer who receives a request from a VIC to have a forfeited vehicle disposed of is to:

(i) consider the basis of forfeiture of the vehicle to substantiate the disposal request;

(ii) determine an appropriate means for the vehicle to be disposed of, having regard to all the relevant circumstances (in accordance with the Act and Delegation D 24.37); and

(ii) where the vehicle is to be disposed of, advise the VIC of the details of the decision.

See also s. 16.7: 'Procedures for type 1 vehicle related offences' of this chapter.

16.16.3 Deleted

16.16.4 Personal Property Securities Register check

Where a vehicle has been forfeited to the State under s. 74B, s. 74F, s. 118, s. 118A, s. 119, s. 120, or s. 785 of the PPRA, the relevant VIC is to ensure an extract from the Personal Property Securities Register is obtained by sending a QPRIME task requesting the extract to the Police Information Centre, Release Unit Police [Org Unit 3272].

Where the extract from the Personal Property Securities Register (PPSR) indicates there is a registered security interest recorded against the vehicle, the:

(i) the VIC is to update QPRIME to add the entity as an 'interested party' against the vehicle (and remove the entity if information is received from the entity that it has no further interest in the vehicle).

(ii) the VIC is also to send a task to notify the impounding officer of the entity, which falls within the definition of **'owner'** in accordance with Schedule 6 of the PPRA.

(iii) the impounding officer is then to ensure all necessary notices are served on the entity in accordance with the requirements of Chapter 4 of the PPRA to serve notices on the 'owner' (see ss. 16.8–16.10 of this chapter).

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(iv) members are not to sell the vehicle at auction or to a person unless the security interest has been removed prior to sale. In such instances, the entity that has the registered security interest is to be contacted to request removal of their interest from the register to enable the vehicle to be sold. The Australian Financial Security Authority (Cwlth) is empowered to remove registered interest under the *Personal Property Securities Act* (Cwlth). (VICs are to refer to the Motor Vehicle Impoundment webpage on the QPS intranet or contact the Program Lead, Motor Vehicle Impoundment for further guidance).

Where the registered security interest against the vehicle is not removed, the delegated officer may consider disposing of the forfeited vehicle by:

(i) selling the vehicle to a licensed motor dealer (wrecker) for parts only. In such instances, a statutory declaration is to be obtained from an appropriate representative of the licensed motor dealer (wrecker) stating all identifying parts to the vehicle (engine number, chassis number etc.) will be destroyed by them and not sold or given to any person; or

(ii) having the vehicle destroyed, for example, by crushing the vehicle.

16.17 Vehicles impounded or immobilised in error

Where a member identifies a motor vehicle has been impounded or immobilised in error (e.g. an officer waiving or cancelling an infringement notice for a type 1 or type 2 vehicle related offence or a police prosecutor withdrawing a charge) that member is to notify the OIC of the impounding officer's station/establishment. The OIC, upon being satisfied the vehicle was impounded or immobilised (number plate confiscation) in error, is to, as soon as practicable, ensure:

(i) where the motor vehicle is still being held or immobilised:

(a) the motor vehicle is released (note this may include ensuring the costs of impounding the motor vehicle are paid by the Service if the vehicle is being held in a privately owned holding yard); and

(b) the owner of the vehicle is notified the vehicle may be collected or where the number plates have been removed and confiscated, the number plates can be collected; and/or

(ii) where the owner has incurred costs to collect the motor vehicle, the owner is notified the vehicle was impounded in error and any claim for reimbursement is to be directed to the OIC of the relevant station/establishment; and

(iii) where applicable, the relevant offence code flag created on the QPRIME system is deleted (not expired), by starting a workflow in QPRIME for the person 'QPS request correction to record' in QPRIME and requesting deletion of the person's incorrect type 1 or type 2 flag.

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16.18 Infringement notice or charges withdrawn or dismissed

In circumstances where an infringement notice is withdrawn or cancelled in relation to a type 1 or type 2 vehicle related offence, or a charge for a type 1 or type 2 vehicle related offence is withdrawn, the impounding or immobilising officer is to ensure the relevant offence code flag created on the QPRIME system upon charging, is deleted (not expired) as soon as practicable.

In circumstances where a vehicle related offence is dismissed by the court, the relevant prosecutor is to ensure the relevant offence code flag created on the QPRIME system upon charging, is deleted (not expired) as soon as practicable.

To delete the relevant flag in QPRIME, start a workflow for the person 'QPS request correction to record' and request deletion of the person's incorrect type 1 or type 2 flag.

16.19 Regional and command responsibilities

Vehicle impoundment coordinators (VIC) are to assist and support districts in the management of immobilised, impounded and forfeited vehicles and their disposal. VICs are responsible for the quality assurance and audits of type 1 and type 2 offences as they relate to immobilised and impounded vehicles. VICs may send tasks to officers to rectify anomalies and/or make corrections to ensure compliance with legislation and policy.

The OIC of each district is responsible for:

(i) ensuring delegated commissioned officer(s) within the district consider and determine to grant or refuse an application for early release;

(ii) financial responsibility for immobilised, impounded and forfeited vehicles;

(iii) assistance in making available appropriately trained staff to perform duties of VIC within their respective district when the substantive VIC is on an extended period of leave;

(iv) where applicable, station/establishment instructions are developed dealing with immobilised, impounded or forfeited motor vehicles subject to this policy (see s. 1.5.3: 'Regional, District and Station/Establishment Instructions' of the OPM).

16.20 Obtaining a court order to impound or forfeit a motor vehicle for evasion offences

When a person commits an evasion offence, officers have the option of impounding or immobilising the relevant motor vehicle at the time of charging the offender under Chapter 4: 'Motor vehicle impounding and immobilisation powers for prescribed offences and motor bike noise direction offences' of the PPRA (see s. 16.7: 'Impounding procedures for type 1 vehicle related offences' of this chapter).

Officers who commence a prosecution for an evasion offence and have not impounded or immobilised the vehicle at the time of charging the offender are to consider the provisions of Part 3: 'Obtaining impounding and forfeiture orders' and Part 4: 'Deciding applications' of Chapter 22 of the PPRA.

The application for an impounding order or a forfeiture order depends on whether the offender has previously been charged and/or convicted of an evasion offence.

Where a person has:

(i) not been charged or found guilty of an evasion offence within the relevant period (within 3 years before the offence date), an application to impound the motor vehicle is to be commenced (see s. 16.20.1: 'Application for an impounding order for an evasion offence' of this chapter); or

(ii) has been:

(a) found guilty of 1 evasion offence committed on a previous occasion within the relevant period; or

(b) charged with an evasion offence committed within the relevant period and the charge of that offence has not been decided,

an application to forfeit the motor vehicle is to be commenced (see s. 16.20.2: 'Application for a forfeiture order for an evasion offence' of this chapter).

Factors to be considered before applying for impounding or forfeiture orders

Prior to making an application for an impounding or forfeiture order, officers are to consider if the:

(i) owner of the motor vehicle was involved in the commission of the evasion offence;

(ii) motor vehicle is still in possession of the owner;

(iii) condition and value of the motor vehicle would support such application, e.g. the motor vehicle may be heavily damaged and irreparable at the time of applying for an impounding or forfeiture order;

(iv) owner of the motor vehicle involved in the evasion offence has agreed to transfer ownership of the vehicle to the State under s. 784: 'Voluntary transfer of ownership of motor vehicle to State' of the PPRA (see s. 16.16: 'Disposal of impounded and forfeited motor vehicles' of this chapter); and

(v) motor vehicle is the subject of a registered security interest in the Personal Property Securities Register (see s. 16.16.4: 'Personal Property Securities Register check' of this chapter).

Evidentiary provisions

Section 757: 'Evidentiary provision' of the PPRA provides for:

(i) the issuing of an evidentiary certificate under the hand of the Commissioner; and

(ii) certain statements within the notice to appear or complaint and summons regarding:

(a) ownership of the motor vehicle at the time of the offence;

(b) whether a named person was of, over or under a certain age at the time of the offence; or

(c) whether a thing is or was a motor vehicle or of a particular class or description of motor vehicle;

to be evidence of what is being stated or alleged.

When starting a proceeding for an evasion offence against a person by notice to appear or complaint and summons, officers are to include the appropriate allegation or statement in the relevant notice to appear or complaint and summons.

PROCEDURE

Where an evidentiary certificate under s. 757 of the PPRA is required for court purposes, requesting officers are to forward an email to the Investigations and Functional Support Unit, Police Information Centre (see the Police Information Centre webpage on the Service intranet), including the:

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(i) motor vehicle identifying particulars (e.g. type of vehicle, registration number, VIN, engine number);

(ii) date and time the motor vehicle's ownership details are to be certified;

(iii) date the certificate is required by the requesting officer; and

(iv) postal address for mailing.

The Manager, Information Service Centre, Police Information Centre has been delegated by the Commissioner (see Delegation D 24.12) to complete and forward a QP 0688: 'Evidentiary certificate (Evasion Offence)' to the requesting officer by email and post.

Defence provisions

Section 772: 'Defence' of the PPRA provides that in a proceeding for an impounding or forfeiture order under Chapter 22, it is a defence for an owner of the vehicle to prove that the evasion offence happened without the knowledge and consent of the owner.

Section 767: 'Community service instead of impounding or forfeiture order' of the PPRA allows a court to order the person to perform community service where it is satisfied impounding or forfeiting a motor vehicle will cause severe financial hardship to an owner or usual driver of the motor vehicle.

When an officer starts a proceeding for an evasion offence, the officer is to question the:

(i) owner about their knowledge and involvement in relation to the evasion offence; and

(ii) owner and, if applicable, the usual driver of the motor vehicle, about any financial hardship that any impounding or forfeiture of the motor vehicle may cause,

and where appropriate, obtain a statement.

16.20.1 Application for an impounding order for an evasion offence

An officer making application for an impounding order under s. 758: 'Application for impounding order for evasion offence' of the PPRA is to:

(i) complete a Form 110: 'Application for Impounding Order (Evasion Offence)';

(ii) lodge the completed application with the Registrar of the relevant court and, if the proceeding on the relevant evasion offence charge has:

(a) not been decided, where practicable, the application hearing date is to coincide with the next date set down for mention or hearing for the evasion offence charge; or

(b) been decided, a hearing date is to be sought as soon as possible after the person has been found guilty of the evasion offence.

ORDER

As soon as reasonably practicable after a date is set for the hearing of an impounding order application, the applicant officer is to ensure that a QP 0692: 'Advice to owner of date of hearing (written notice)' is given to each owner of the relevant motor vehicle. Where the owner of the motor vehicle is a child, and it is reasonably practicable to do so, the applicant officer is to ensure a QP 0692 is given to the child's parent or guardian (see s. 762: 'Advice to owner of date of hearing' of the PPRA).

The officer serving the QP 0692 is to:

(i) advise the owner of the motor vehicle of the provisions of s. 770: 'Motor vehicle not to be sold etc. before application is decided' of the PPRA and record that advice was given in their notebook; and

(ii) complete the service details on the form and return it to the applicant officer for inclusion with the impounding order application documentation.

Hearing of an impounding order application

The following documentation is to be provided to the relevant police prosecutions corps or to the ODPP, as appropriate, in sufficient time prior to the hearing of the application:

(i) an affidavit:

(a) outlining the grounds for the application, including the owner's knowledge and involvement in relation to the evasion offence and statements made by the owner or, if applicable, the usual driver of the motor vehicle, as to any financial hardship that any impounding of the motor vehicle may cause; and

(b) seeking authorisation for a police officer, without warrant, to enter any place the police officer reasonably suspects is a place that the motor vehicle may be found, and search for and impound the motor vehicle;

(ii) a copy of the Form 110: 'Application for Impounding Order (Evasion Offence)';

(iii) a copy of the QP 0692: 'Advice to owner of date of hearing (written notice)' including service details;

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(iv) a copy of the QP9 (Court Brief) for the relevant evasion offence;

(v) any other statement/affidavit taken from the owner/s of the motor vehicle or other witnesses;

(vi) any criminal and/or traffic histories of the driver of the motor vehicle; and

(vii) a completed QP 0687: 'Impounding Order' for issuance by the relevant court.

16.20.2 Application for a forfeiture order for an evasion offence

An officer making application for a forfeiture order under s. 759: 'Application for forfeiture order for evasion offence' of the PPRA is to:

(i) complete a Form 111: 'Application for Forfeiture Order (Evasion Offence)';

(ii) lodge the completed application with the Registrar of the relevant court and:

(a) if the proceeding on the relevant evasion offence charge or previous charge within the relevant period has not been decided, where practicable, the application hearing date is to coincide with the next date set for mention or hearing for the not yet decided evasion offence charge; or

(b) if all proceedings relating to evasion offences have been decided, a hearing date is to be sought as soon as possible after the person charged has been found guilty of the evasion offence/s.

ORDER

As soon as reasonably practicable after a date is set for the hearing of a forfeiture order application, the applicant officer is to ensure that a QP 0692: 'Advice to owner of date of hearing (written notice)' is completed and given to each owner of the relevant motor vehicle. Where the owner of the motor vehicle is a child, and it is reasonably practicable to do so, the applicant officer is to ensure a QP 0692 is given to the child's parent or guardian (see s. 762: 'Advice to owner of date of hearing' of the PPRA).

The officer serving the QP 0692 is to:

(i) advise the owner of the provisions of s. 770: 'Motor vehicle not to be sold etc. before application is decided' of the PPRA and record that advice was given in their notebook; and

(ii) complete the service details on the form and return it to the applicant officer for inclusion with the forfeiture order application documentation.

Hearing of a forfeiture order application

The following documentation is to be provided to the relevant police prosecutions corps or to the ODPP, as appropriate, in sufficient time prior to the hearing of the application:

(i) an affidavit:

(a) outlining the grounds for the application, including the owner's knowledge and involvement in relation to the evasion offence and statements made by the owner or, if applicable, the usual driver of the motor vehicle as to any financial hardship that forfeiture of the motor vehicle may cause; and

(b) seeking authorisation for a police officer, without warrant, to enter any place the police officer reasonably suspects is a place that the motor vehicle may be found, and search for and take possession of the motor vehicle for the State;

(ii) a copy of the Form 111: 'Application for Forfeiture Order (Evasion Offence)';

(iii) a copy of the QP 0692: 'Advice to owner of date of hearing (written notice)' including service details;

(iv) a copy of the QP9 (Court Brief) for the relevant evasion offence;

(v) any other statement/affidavit taken from the owner/s of the motor vehicle or other witnesses;

(vi) any criminal and/or traffic histories of the driver of the motor vehicle; and

(vii) a completed QP 0689: 'Forfeiture Order' for issuance by the relevant court.

16.20.3 Impounding and seizing motor vehicles by court order for evasion offences

Section 775: 'Powers for enforcing court order' and s. 776: 'Duties of police after impounding or seizing motor vehicle' of the PPRA provides specific powers for police when a relevant court makes an impounding order or a forfeiture order.

When an officer takes possession of a motor vehicle impounded or forfeited to the State by a court order issued under Chapter 22 of the PPRA, the officer is to:

(i) sign a towing authority for the motor vehicle and direct the driver of the tow truck to tow the motor vehicle to a:

(a) private holding yard designated as a property point; or

(b) police holding yard which is designated as a property point (where available) if it is not practicable to move the motor vehicle to a private holding yard;

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(ii) where the vehicle has been impounded for 90 days, give a QP0690: 'Recovery Details for Impounded Motor Vehicle (Evasion Offence)' to each owner of the vehicle; and

(iii) prior to the termination of their shift:

(a) ensure that a copy of the relevant court order is scanned and attached as an external document to the relevant QPRIME occurrence; and

(b) send a QPRIME task to the VIC for the region/district advising of the impounding or forfeiture.

The Superintendent, Road Policing Group is to ensure that the information received is collated and appropriately maintained.

16.20.4 Disposal of motor vehicles impounded or forfeited to the State for evasion offences

Whilst Chapter 22, Part 5: 'Other provisions' of the PPRA includes provisions for the disposal of vehicles impounded or seized by way of a court order for an evasion offence, whenever practicable vehicles are to be disposed under Chapter 4, Part 6: 'Other provisions' of the Act and in accordance with sections:

(i) 16.12: 'Release and recovery of motor vehicle after impoundment period ends';

(ii) 16.13: 'Costs of storage of impounded vehicles';

(iii) 16.14: 'Order for payment of costs to the Service (child driver)';

(iv) 16.15: 'Recovering payment for storage of impounded vehicle'; and

(v) 16.16: 'Disposal of impounded and forfeited motor vehicles'

of this chapter.

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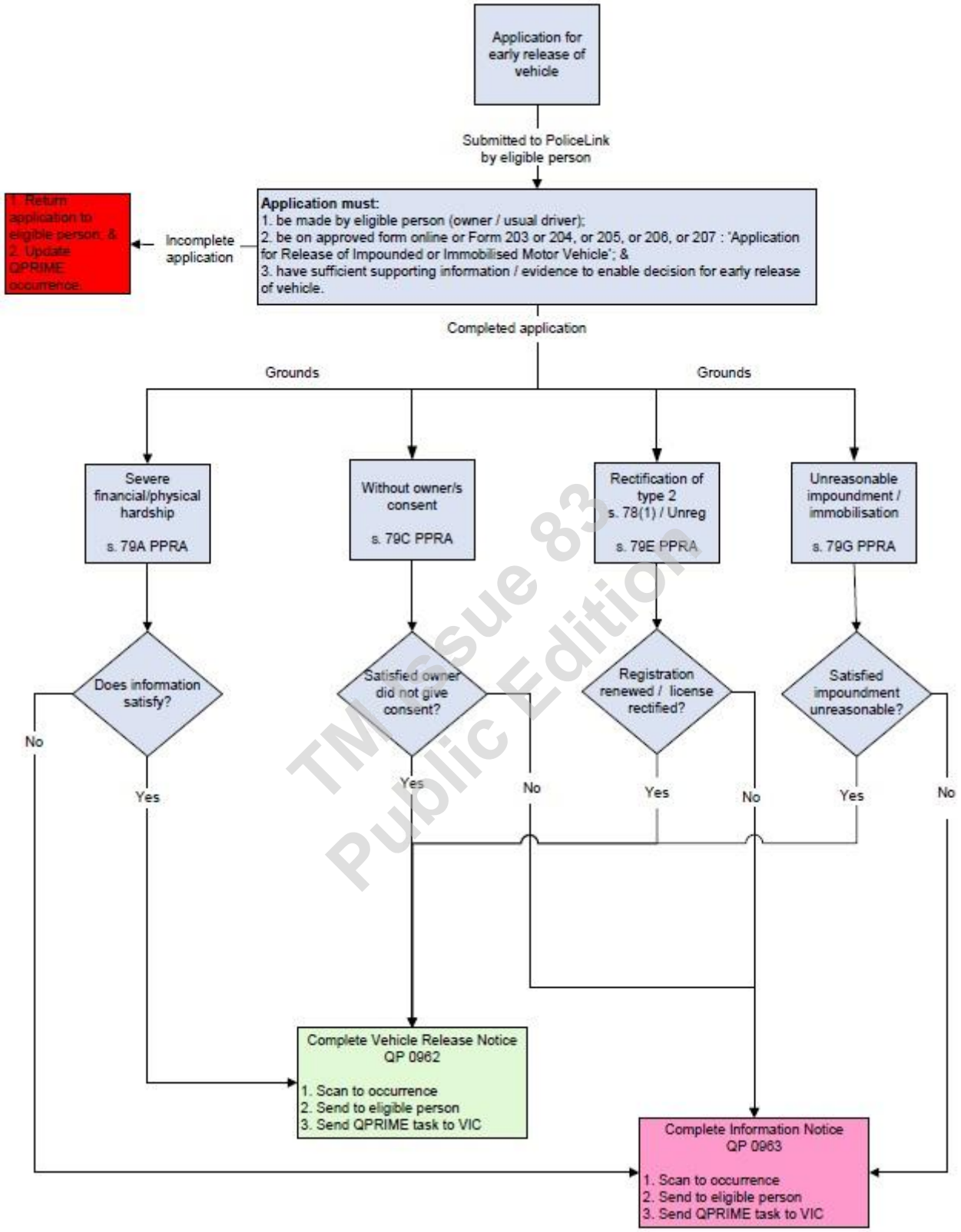
Appendix 16.1 Deleted

Appendix 16.2 Deleted

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Appendix 16.3 Application for early release of impounded or immobilised vehicles flow chart

(s. 16.12)



PPRA: Police Powers and Responsibilities Act
VIC: Vehicle Impoundment Coordinator

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