

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.

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.

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.

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 RP&RSC webpage on the Service Intranet. 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;

- (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 and Intelligence Command (CIC) page of the Service Intranet 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

(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 CIC in an investigation will be at the discretion of the RCC and DSCG, CIC.

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 ACC 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

(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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