

4. Driver Licences

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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 On-Line 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 on-line 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.

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 on-line 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

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:

- (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 and Youth Crime 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. 213(4) 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 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.

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

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.

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

(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.

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.

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).

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 that 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.

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.

Appendix 4.1 Alcohol Ignition Interlock Flow Chart

(s. 4.9)

