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## Part 3B Alcohol ignition interlocks

### Division 1 Preliminary

#### 91I Definitions for pt 3B

In this part—

*alcohol ignition interlock* means a device that, when fitted to a motor vehicle, prevents the vehicle from being started unless the device is provided with a specimen of a person's breath containing either no alcohol or less than a particular concentration of alcohol.

*approved* means approved under a regulation.

*disqualification period* see section 91J(1).

*drink driving offence* means any of the following—

- (a) an offence against section 78(1) for which the offender was disqualified under section 78(3)(j) from holding or obtaining a Queensland driver licence for a particular period;
- (b) an offence against section 79(1), involving a motor vehicle, while under the influence of liquor;
- (c) an offence under section 80(11), involving a motor vehicle, in relation to failing to provide—
  - (i) a specimen of breath for analysis; or
  - (ii) a specimen of blood for a laboratory test if the requisition to which the failure relates was made for the purpose of determining the concentration of alcohol (if any) in the person's blood;
- (d) an offence against the Criminal Code, section 328A(1) or (4), involving a motor vehicle, when accompanied by the circumstance of aggravation that at the time of committing the offence the offender was adversely affected by alcohol;

- (e) an offence against section 91W(1) for which paragraph (a)(i) or (ii) of the penalty for the offence applies;
- (f) an offence against section 91X(1);
- (g) an offence against section 79(1F), (2), (2A), (2B), (2J), (2K) or (2L) involving a motor vehicle and committed within 5 years after the offender was previously convicted of—
  - (i) an offence against any of those provisions committed after the commencement of this definition; or
  - (ii) an offence mentioned in any of paragraphs (a) to (f) committed after the commencement of this definition.

*exemption certificate* see section 91R(3).

*interlock* means an alcohol ignition interlock.

*interlock condition* see section 91K(1).

*interlock driver*—

- (a) means a person whose Queensland driver licence is subject to the interlock condition; and
- (b) includes a person who has an interlock exemption.

*interlock exemption* means an exemption, granted under section 91Q, from the application of the interlock condition while the exemption has effect.

*interlock period* see section 91M.

*nominated vehicle*, for a person, means a motor vehicle nominated by the person under section 91L.

*nominated vehicle fitted with a prescribed interlock*, for a person, includes a vehicle fitted with an interlock in compliance by the person with a non-Queensland interlock requirement.

*non-Queensland interlock period* means the period during which a person, under a non-Queensland interlock

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requirement, may drive only a motor vehicle fitted with an alcohol ignition interlock.

***non-Queensland interlock requirement*** means a requirement under, or imposed under, a law of another jurisdiction allowing a person to drive only a motor vehicle fitted with an alcohol ignition interlock during a particular period.

***prescribed interlock*** means an approved interlock provided by a person who is an approved interlock provider and installed and maintained by a prescribed interlock installer.

***prescribed interlock installer*** means a person with whom an approved interlock provider has an arrangement for the person to install or maintain approved interlocks provided by the provider.

***prescribed period*** see section 91N(1).

## Division 2            Interlock condition

### 91J    Persons to whom div 2 applies

- (1) This division applies to a person who—
  - (a) is convicted of a drink driving offence committed after the commencement of this section; and
  - (b) is disqualified, other than under a prescribed provision, by or because of the conviction or offence, or under the penalty imposed for the offence, for a particular period (the ***disqualification period***) from holding or obtaining a Queensland driver licence.
- (2) This division also applies to a person who is subject to a non-Queensland interlock requirement.
- (3) Despite subsection (2), this division does not apply to a person mentioned in the subsection if, were this division to apply to the person, the person's interlock period would have ended under section 91M.

(4) In this section—

*prescribed provision* means section 79B(4), 81(4)(b), 89(1) or 90(1).

**91K Interlock condition**

- (1) A Queensland driver licence granted to a person mentioned in section 91J(1) after the person's disqualification period ends is subject to the condition (*interlock condition*) that, during the interlock period applying to the person, the person may drive only—
  - (a) if paragraph (b) or (c) does not apply—a motor vehicle that is a nominated vehicle fitted with a prescribed interlock; or
  - (b) when the person is receiving driver training from a person accredited as a driver trainer under a regulation—
    - (i) a motor vehicle mentioned in paragraph (a); or
    - (ii) a motor vehicle provided by the accredited driver trainer; or
  - (c) when the person is taking a practical driving test under the driver licensing regulation—any motor vehicle.
- (2) A Queensland driver licence granted to a person mentioned in section 91J(2) during the person's non-Queensland interlock period is subject to the interlock condition.

**91L Nomination of vehicle**

- (1) For section 91K(1)(a), a person—
  - (a) may nominate only a motor vehicle of a class the person is authorised to drive under the person's Queensland driver licence; and
  - (b) may nominate more than 1 motor vehicle.

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*Examples—*

- the person's own motor vehicle
  - a motor vehicle owned by the person's spouse, friend or employer
- (2) A particular vehicle can not be the nominated vehicle for more than 1 person unless a regulation provides for identifying the driver of the vehicle at a particular time.

*Example of what a regulation may provide for—*

- a scheme involving the driver using a PIN or swipe card or keeping a logbook
- (3) The nomination must be made in the approved form to the chief executive.

## **91M Interlock period**

The *interlock period* is the period—

- (a) starting—
- (i) for a person mentioned in section 91J(1)—when the person's disqualification period ends; or
  - (ii) for a person mentioned in section 91J(2)—when the person's non-Queensland interlock period starts; and
- (b) ending when whichever of the following happens first—
- (i) a period of 2 years elapses after—
    - (A) for a person mentioned in section 91J(1)—the person's disqualification period ended; or
    - (B) for a person mentioned in section 91J(2)—the person was first issued with a non-Queensland driver licence after becoming subject to a non-Queensland interlock requirement of the jurisdiction that issued the licence;

- (ii) the person's prescribed period ends;
- (iii) the day, if any, the person's Queensland driver licence is cancelled under section 127 because of a disqualification for a drink driving offence.

*Note—*

If a person's interlock period ends under subparagraph (iii)—

- (a) the interlock condition ends under section 91O; and
- (b) any interlock exemption relating to the person stops having effect under section 91S(d); and
- (c) section 91K may apply in relation to the disqualification mentioned in the subparagraph.

**91N Prescribed period**

- (1) The *prescribed period* for a person is the period of 12 months during which—
- (a) the person held a valid Queensland driver licence and had—
    - (i) a nominated vehicle fitted with a prescribed interlock; or
    - (ii) an interlock exemption that had effect; or
  - (b) the person, while driving under the authority of a valid non-Queensland driver licence—
    - (i) complied with a non-Queensland interlock requirement; or
    - (ii) had an exemption from the non-Queensland interlock requirement that had effect; or
  - (c) the person satisfied paragraph (a) for part of the period and satisfied paragraph (b) for the balance of the period.

*Example—*

The prescribed period may comprise 3 months during which the person satisfies paragraph (a)(i), 3 months during which the person satisfies paragraph (a)(ii), 3 months during which the

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person satisfies paragraph (b)(i) and 3 months during which the person satisfies paragraph (b)(ii).

- (2) However, if a person's prescribed period is extended under division 4, the prescribed period for the person is the period comprising—
- (a) the period of 12 months mentioned in subsection (1); and
  - (b) each period—
    - (i) by which the period mentioned in subsection (1) is extended under division 4; and
    - (ii) during which the person meets the requirements of subsection (1)(a), (b) or (c).

*Example—*

If a person's prescribed period is extended under division 4 for a period of 3 months, the person's prescribed period is the period of 15 months during which the person meets the requirements of subsection (1)(a), (b) or (c).

- (3) The prescribed period need not be continuous.
- (4) In this section—
- valid* means—
- (a) in relation to a Queensland driver licence—
    - (i) the licence has not expired; or
    - (ii) the licence has not been cancelled or suspended; or
    - (iii) the licensee is not disqualified from holding or obtaining a Queensland driver licence; or
  - (b) in relation to a non-Queensland driver licence—
    - (i) the licence has not expired; or
    - (ii) the licence has not been cancelled or suspended; or
    - (iii) the licensee is not disqualified from holding or obtaining the licence in the jurisdiction in which it may be issued.

## 91O When interlock condition ends

The interlock condition ends when the interlock period ends.

## Division 3 Interlock exemption

### 91P Applying for interlock exemption

- (1) A person mentioned in section 91J(1) may apply to the chief executive for an interlock exemption.
- (2) The application can not be made sooner than 6 weeks before the end of the person's disqualification period.
- (3) A person mentioned in section 91J(2) may, at any time, apply to the chief executive for an interlock exemption.
- (4) An application under subsection (1) or (3) must be made in the approved form and be accompanied by the fee prescribed under a regulation.

### 91Q Deciding application for interlock exemption

- (1) The chief executive—
  - (a) must decide an application for an interlock exemption in the prescribed 28-day period; and
  - (b) must grant or refuse to grant the exemption.
- (2) If the chief executive grants the exemption, the chief executive may impose restrictions applying to the exemption.
- (3) The chief executive may only grant an interlock exemption if the chief executive is satisfied—
  - (a) that one of the following applies in relation to the applicant's principal place of residence (the *applicant's residence*)—
    - (i) the shortest reasonable distance, or shortest reasonable travelling time, using a motor vehicle, between the applicant's residence and the nearest



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- place of business of a prescribed interlock installer (the *nearest place of business*) is greater than the distance or time prescribed under a regulation;
- (ii) the applicant's residence is at a location, prescribed under a regulation, from which the nearest place of business is not reasonably accessible using a motor vehicle; or
  - (iii) the applicant's residence is outside both of the following—
    - (A) a radius prescribed under a regulation from the nearest place of business;
    - (B) an area in which a prescribed interlock installer provides or operates a mobile service for the installation of interlocks; or
- (b) that, as evidenced by a doctor's certificate provided to the chief executive, the applicant has a medical condition preventing the applicant from providing a sufficient breath sample to operate an approved interlock; or
- (c) of another matter prescribed under a regulation for this subsection.
- (4) If the chief executive reasonably believes further information or documents are required to make a decision about the application, the chief executive may give the applicant a written notice requesting the applicant, within a stated period of at least 28 days, to give further information or documents relevant to the application.
- (5) If the applicant does not comply with a notice given under subsection (4), the chief executive may declare, by further written notice given to the applicant, that the application is taken to be withdrawn on a day stated in the notice.
- (6) A notice given under subsection (5) must state—
- (a) the reasons for the decision to make the declaration; and
  - (b) the prescribed review information for the decision.

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- (7) If the chief executive does not decide the application within the prescribed 28-day period, the chief executive is taken to have made a decision (a *deemed decision*) refusing to grant the exemption on the last day of the period.
- (8) Despite subsection (7), the chief executive may continue to consider the application and make a considered decision in relation to it.
- (9) If a considered decision is made, the considered decision replaces any deemed decision for the purposes of this Act.
- (10) As soon as practicable after a deemed decision or considered decision is made, the chief executive must give the applicant a written notice stating—
- (a) the prescribed review information for the decision; and
  - (b) for a considered decision, the reasons for the decision.

*Note—*

Sections 65 and 65A provide for the review of the decision.

- (11) In this section—

*considered decision* means a decision in accordance with subsection (3).

*prescribed 28-day period* means the later of the following periods—

- (a) 28 days after the chief executive receives the application;
- (b) 28 days after the chief executive receives further information or documents about the application under subsection (4).

**91R Decision on application and exemption certificate**

- (1) The chief executive must inform an applicant for an interlock exemption of the chief executive's decision on the application by written notice.

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- (2) If the chief executive decides to grant the exemption, the written notice must contain a brief statement of—
  - (a) the matters of which the chief executive was satisfied under section 91Q(3); and
  - (b) the matters in relation to which the person must notify the chief executive, under section 91Y, of any change.
- (3) Also, if the chief executive decides to grant the exemption, the chief executive must give the applicant a certificate about the exemption (the *exemption certificate*).
- (4) The exemption certificate must be in the approved form and must state—
  - (a) the exemption's expiry date; and
  - (b) any restrictions applying to the exemption; and
  - (c) to the extent it is relevant, the information mentioned in section 91S.
- (5) If the chief executive decides to refuse to grant the exemption, the notice must state—
  - (a) the reasons for the decision; and
  - (b) the prescribed review information for the decision.

#### **91S When interlock exemption stops having effect**

A person's interlock exemption stops having effect when whichever of the following happens first—

- (a) the expiry date stated on the exemption certificate;
- (b) 14 days elapse after the person gives the chief executive a notice under section 91Y;
- (c) the exemption is cancelled under section 19;

*Note—*

Section 19 provides the procedure for cancelling an approval which, as defined in section 17A, includes an interlock exemption.

- (d) the interlock period ends.

**91T What happens when interlock exemption stops having effect**

When a person's interlock exemption stops having effect, the interlock condition of the person's Queensland driver licence applies to its full extent for the remainder of the person's interlock period.

**Division 4 Extending interlock driver's prescribed period**

**91U Grounds for extending prescribed period**

- (1) It is a ground for extending an interlock driver's prescribed period if—
- (a) the person drove a nominated vehicle for the person without first providing the vehicle's prescribed interlock with a specimen of the person's breath; or
  - (b) the person drove a nominated vehicle for the person when the person knew, or ought reasonably to have known, the vehicle's prescribed interlock was not operating properly; or
  - (c) the person drove a nominated vehicle for the person when the person knew, or ought reasonably to have known that the vehicle's prescribed interlock had been interfered with.
- (2) In this section—
- interfered with* includes tampered with, damaged, destroyed and removed.

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**91V Procedure for extending prescribed period**

- (1) If the chief executive considers a ground exists to extend an interlock driver's prescribed period (the *proposed action*), the chief executive may give the person a written notice (the *show cause notice*).
- (2) The show cause notice must—
  - (a) state the proposed action; and
  - (b) state the ground for the proposed action; and
  - (c) outline the facts and circumstances forming the basis for the ground; and
  - (d) state the period, of not more than 3 months, by which the prescribed period is to be extended; and
  - (e) invite the person to show cause, within a stated time of at least 28 days, why the proposed action should not be taken.
- (3) The chief executive may, before or after the end of the time stated in the show cause notice, extend the time within which the person may show cause.
- (4) If, after considering any personal or written representations made within the time stated or allowed, the chief executive still considers a ground exists to take the proposed action, the chief executive may extend the prescribed period for a period not longer than the period stated in the show cause notice.
- (5) The chief executive must give the person written notice of the decision stating the following—
  - (a) the period for which the prescribed period is extended;
  - (b) the reasons for the decision;
  - (c) the prescribed review information for the decision.

## Division 5                      Offences

### 91W    Driving a motor vehicle other than as allowed under an interlock condition

- (1) An interlock driver must not drive a motor vehicle that is a prohibited vehicle for the person, unless the person has an interlock exemption that has effect.

Maximum penalty—

- (a) if the motor vehicle driven by the person was not fitted with a prescribed interlock, whether or not it was a nominated vehicle for the person—
- (i) for a first conviction—28 penalty units; or
  - (ii) for a conviction within 5 years after a previous conviction to which the circumstance mentioned in this paragraph applies—60 penalty units; or
- (b) if the motor vehicle driven by the person was not a nominated vehicle for the person but was fitted with a prescribed interlock—28 penalty units.
- (2) If the court convicts a person of an offence against subsection (1), the court, whether or not any other sentence is imposed, must disqualify the person from holding or obtaining a Queensland driver licence for the following period—
- (a) for a conviction mentioned in paragraph (a)(i) of the penalty—3 months;
  - (b) for a conviction mentioned in paragraph (a)(ii) of the penalty—6 months.
- (3) Subsection (4) applies if a police officer reasonably suspects an interlock driver is, or has been, driving a prohibited vehicle for the person.
- (4) If asked by the police officer whether the person may drive the vehicle under the interlock condition of the person's Queensland driver licence, the person must produce for inspection an exemption certificate given to the person under

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section 91Q for an interlock exemption that has effect, unless the person has a reasonable excuse for not complying with the request.

Maximum penalty—28 penalty units.

- (5) Without limiting the matters that may be a reasonable excuse for subsection (4), it is a reasonable excuse if the person has not been given an exemption certificate under section 91R.
- (6) In this section—

*conviction* means a conviction for an offence against subsection (1).

*prohibited vehicle*, for a person, means a motor vehicle other than a motor vehicle the person may drive under the interlock condition of the person's Queensland driver licence.

**91X Noncompliance with restrictions applying to interlock exemption**

- (1) An interlock driver who has an interlock exemption must comply with any restrictions applying to the exemption.

Maximum penalty—

- (a) for a first conviction—28 penalty units; or
- (b) for a conviction within 5 years after a previous conviction—60 penalty units.
- (2) If the court convicts a person of an offence against subsection (1), the court, whether or not any other sentence is imposed, must disqualify the person from holding or obtaining a Queensland driver licence for the following period—
- (a) for a conviction mentioned in paragraph (a) of the penalty—3 months;
- (b) for a conviction mentioned in paragraph (b) of the penalty—6 months.
- (3) In this section—

*conviction* means a conviction for an offence against subsection (1).

**91Y Person with interlock exemption must give notification of change in circumstances**

- (1) A person who has an interlock exemption must, within 14 days after the happening of a relevant change of circumstances, give written notice of the change to the chief executive.

Maximum penalty—28 penalty units.

- (2) In this section—

*relevant change of circumstances* means a change in any of the matters stated, as required under section 91R(2)(b), in a written notice given to the person.

**Division 6 Other provisions about interlocks**

**91Z Regulations relating to interlocks**

A regulation may be made under this division, including, for example, for making provision about the following—

- (a) the approval of interlocks;
- (b) the approval by the chief executive of providers or installers of interlocks, including conditions relating to an approval and the audit of approvals and conditions relating to approvals;
- (c) the criteria necessary to be met by a provider or installer of interlocks for obtaining and continuing to hold an approval, including criteria relating to service standards and requirements;
- (d) the installation, maintenance and removal of interlocks, including arrangements to be entered into in relation to their installation, maintenance or removal.



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