

I hereby certify that this PUBLIC BILL has finally passed the Legislative Assembly of Queensland.

Legislative Assembly Chamber,
Brisbane,

M. Ries
The Clerk of the Parliament.
16 March 2018.

In the name and on behalf of the Queen, I assent to this Bill.

Paul de Jersey
Government House,
Brisbane,

16 March 2018



Queensland

No. 2 of 2018
A BILL for

An Act to amend the Criminal Code, the Liquor Act 1992, the Police Powers and Responsibilities Act 2000, the Police Service Administration Act 1990, the Transport Operations (Road Use Management) Act 1995 and the Transport Planning and Coordination Act 1994 for particular purposes



Queensland

Police and Other Legislation (Identity and Biometric Capability) Amendment Bill 2018

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2018

A Bill

for

An Act to amend the Criminal Code, the *Liquor Act 1992*, the *Police Powers and Responsibilities Act 2000*, the *Police Service Administration Act 1990*, the *Transport Operations (Road Use Management) Act 1995* and the *Transport Planning and Coordination Act 1994* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Police and Other Legislation (Identity and Biometric Capability) Amendment Act 2018*.

2 Commencement

Section 8(1) commences on 19 April 2018.

Part 2 Amendment of Criminal Code

3 Code amended

This part amends the Criminal Code.

4 Amendment of s 77 (Definitions for chapter)

Section 77, definition *relevant offence*, paragraph (b)(i), last dot point—

omit.

5 Replacement of s 470A (Unlawful deposition of explosive or noxious substances)

Section 470A—

omit, insert—

470A Unlawful dealing with explosive or noxious substances

A person who, in circumstances that may cause

injury to a person or damage to property, willfully and unlawfully—

- (a) throws, leaves down, or otherwise deposits an explosive or noxious substance; or
- (b) makes, or has possession of, an explosive or noxious substance;

commits a crime.

Maximum penalty—7 years imprisonment.

6 Amendment of s 540 (Preparation to commit crimes with dangerous things)

Section 540, penalty, ‘3 years’—

omit, insert—

7 years

Part 3 Amendment of Liquor Act 1992

7 Act amended

This part amends the *Liquor Act 1992*.

8 Amendment of s 4 (Definitions)

- (1) Section 4, definitions *assistant police commissioner, Broadbeach CBD safe night precinct, extended trading hour, games authority, games period, liquor commissioner, police report* and *Surfers Paradise CBD safe night precinct*—

omit.

- (2) Section 4—

insert—

assistant police commissioner, for part 10A, see section 235A.

[s 9]

Broadbeach CBD safe night precinct, for part 10A, see section 235A.

extended trading hour, for part 10A, see section 235C(5).

games authority, for part 10A, see section 235C(1).

games period, for part 10A, see section 235A.

liquor commissioner, for part 10A, see section 235A.

police report, for part 10A, see section 235G(2).

Surfers Paradise CBD safe night precinct, for part 10A, see section 235A.

9 Insertion of new pt 10A

After part 10—

insert—

Part 10A Extended trading hours and increased regulatory powers for the Commonwealth Games

Division 1 Preliminary

235A Definitions for part

In this part—

assistant police commissioner means an assistant commissioner under the *Police Service Administration Act 1990*.

Broadbeach CBD safe night precinct means the

area prescribed under section 173NC(1) as a safe night precinct by that name.

extended trading hour see section 235C(5).

games authority see section 235C(1).

games period means the period from and including 3 April 2018 to and including 17 April 2018.

liquor commissioner means the commissioner under this Act.

police report see section 235G(2).

Surfers Paradise CBD safe night precinct means the area prescribed under section 173NC(1) as a safe night precinct by that name.

235B Licensed premises to which this part applies

This part applies to—

- (a) licensed premises located in the Broadbeach CBD safe night precinct; and
- (b) licensed premises located in the Surfers Paradise CBD safe night precinct.

Division 2 Extended trading hour

235C Commonwealth Games extended trading hours authority

- (1) The licensee for each of the licensed premises is taken to hold a Commonwealth Games extended trading hours authority (a *games authority*) for the licensed premises for the games period.
- (2) The games authority authorises the licensee to sell liquor, under authority of the licence and subject to this Act, during each extended trading hour that

[s 9]

falls within the games period.

- (3) The games authority authorises the sale of liquor on the licensed premises for consumption on the premises.
- (4) This section applies subject to section 235H.
- (5) In this section—

current trading hours, for a day—

- (a) means the period, starting on that day and ending on that day or the following day, during which the licensee is, apart from this section, authorised by the licence to sell liquor on the licensed premises; and
- (b) does not include any period during which the licensee is authorised by an extended hours permit to sell liquor on the licensed premises.

extended trading hour means a period of 1 hour starting at the end of the licensee's current trading hours for a day.

Example—

A licensee's current trading hours for Friday 6 April are from 10a.m. on Friday 6 April to 3a.m. on Saturday 7 April. The period on Saturday 7 April from 3a.m. to 4a.m. is an extended trading hour.

235D ID scanning

- (1) Subsection (2) applies if the licensed premises are regulated premises for part 6AA.
- (2) The premises' regulated hours for section 173EH include each extended trading hour during which the premises are open for business under the authority of the licensee's games authority.
- (3) To remove any doubt, it is declared that if the licensed premises are not regulated premises for

part 6AA, they do not become regulated premises only because the licensee's games authority authorises the sale of liquor on the premises during an extended trading hour falling between midnight and 5a.m.

Division 3 Fees

235E No additional fees for games authority

The licensee for the licensed premises is not liable for a fee under this Act, or for an increase in the amount of a fee payable by the licensee under this Act, only because the licensee—

- (a) holds a games authority; or
- (b) is authorised to trade for a particular period under a games authority.

235F Fee waiver for particular extended hours permits

- (1) This section applies to an application by the licensee for the licensed premises for an extended hours permit under section 103I(a)(i) to extend trading hours on a day within the games period.
- (2) Despite section 105(1)(d), no application fee is payable for the application.

Division 4 Public safety restriction notices

235G Police may give report recommending action

- (1) This section applies if the police commissioner or an assistant police commissioner believes that—

[s 9]

- (a) alcohol-related violence, disorderly behaviour or anti-social behaviour is happening, or is likely to happen, at or in the vicinity of 1 or more of the licensed premises; and
 - (b) the violence or behaviour is likely to adversely affect public safety or public order.
- (2) The police commissioner or assistant police commissioner may give a written report (the ***police report***) to the liquor commissioner stating—
- (a) the belief under subsection (1); and
 - (b) an outline of the facts and circumstances that form the basis for the belief; and
 - (c) a recommendation about the liquor commissioner taking stated action under section 235H in relation to the licensed premises.

235H Public safety restriction notice

- (1) This section applies if the liquor commissioner considers it necessary to take action under this section in relation to licensed premises to deal with violence or behaviour mentioned in the police report.
- (2) The liquor commissioner may, by notice (a ***public safety restriction notice***) given to the licensee for the licensed premises, take any 1 or more of the following actions—
 - (a) revoke the licensee’s games authority;
 - (b) reduce the hours during which the licensee is authorised, other than under this part, to sell liquor on the licensed premises;

- (c) vary the licensee's licence by imposing a new condition, amending a condition or revoking a condition;
 - (d) suspend the licensee's licence.
- (3) The actions need not be the actions recommended in the police report.
- (4) The public safety restriction notice must state—
 - (a) each action that is being taken; and
 - (b) the reasons for the action; and
 - (c) that the notice has effect when it is given to the licensee; and
 - (d) the period for which the notice remains in effect; and
 - (e) that there is no review under this Act of the liquor commissioner's decision to take the action.
- (5) The public safety restriction notice—
 - (a) has effect when it is given to the licensee; and
 - (b) remains in effect for the period stated in it, no later than the end of the games period, unless it ends sooner under subsection (6).
- (6) If the liquor commissioner stops being satisfied an action stated in the public safety restriction notice is necessary to deal with violence or behaviour mentioned in the police report, the liquor commissioner must immediately give the licensee a further notice—
 - (a) revoking the public safety restriction notice; or
 - (b) amending the public safety restriction notice to change or omit the action.

[s 10]

235I No QCAT review

Despite section 21, a decision by the liquor commissioner under section 235H is not reviewable by the tribunal.

235J No compensation

No compensation is payable to any person in respect of action taken or not taken by the police commissioner, an assistant police commissioner or the liquor commissioner under this division.

Division 5 Expiry

235K Expiry

This part expires on 18 April 2018.

Part 4 Amendment of Police Powers and Responsibilities Act 2000

10 Act amended

This part amends the *Police Powers and Responsibilities Act 2000*.

11 Omission of ch 7, pt 5A (Accessing registered digital photos and other information)

Chapter 7, part 5A—
omit.

12 Insertion of new ch 7, pt 8

Chapter 7—

insert—

Part 8 Miscellaneous

197E Accessing information stored electronically on smartcard transport authorities

- (1) A police officer may, without the consent of the holder of a smartcard transport authority, access information stored electronically on the document for exercising a power—
 - (a) under a prescribed transport Act; or
 - (b) in relation to the Criminal Code, section 328A.

Note—

The Criminal Code, section 328A creates offences for the dangerous operation of a vehicle.

- (2) In this section—

access, in relation to information stored electronically on a smartcard transport authority, means view or take a copy of the information.

prescribed transport Act means the following Acts—

 - (a) the *Tow Truck Act 1973*;
 - (b) the *Transport Operations (Marine Safety) Act 1994*;
 - (c) the *Transport Operations (Passenger Transport) Act 1994*;
 - (d) the *Transport Operations (Road Use Management) Act 1995*.

smartcard transport authority means the following authorities—

[s 13]

- (a) a smartcard driver's certificate or smartcard assistant's certificate as defined in the *Tow Truck Act 1973*, schedule 2;
- (b) a smartcard marine licence indicator as defined in the *Transport Operations (Marine Safety) Act 1994*, schedule 1;
- (c) a smartcard driver authorisation as defined in the *Transport Operations (Passenger Transport) Act 1994*, schedule 3;
- (d) a smartcard authority as defined in the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

13 Amendment of sch 6 (Dictionary)

Schedule 6, definitions *access*, *access approval order*, *chief executive (transport)*, *digital photo*, *post-access approval order*, *prescribed smartcard Act*, *prescribed transport Act*, *registered digital photo*, *smartcard transport authority* and *TPC Act*—

omit.

Part 5 Amendment of Police Service Administration Act 1990

14 Act amended

This part amends the *Police Service Administration Act 1990*.

15 Amendment of s 1.4 (Definitions)

Section 1.4—

insert—

face matching services, for part 10, division 1AA, see section 10.2FA.

host agency, for an identity matching service, for part 10, division 1AA, see section 10.2FA.

identity document, for part 10, division 1AA, see section 10.2FA.

identity information, for part 10, division 1AA, see section 10.2FA.

identity matching services, for part 10, division 1AA, see section 10.2FA.

information, for part 10, division 1AA, see section 10.2FA.

participating entity, in relation to an identity matching service, for part 10, division 1AA, see section 10.2FA.

16 Amendment of s 10.2 (Authorisation of disclosure)

Section 10.2(2), after ‘or 10.2D’—

insert—

, or a provision of division 1AA,

17 Insertion of new pt 10, div 1AA

Part 10, after division 1—

insert—

Division 1AA National identity matching services

10.2FA Definitions for division

In this division—

face matching services means the following services involving facial biometric matching—

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- (a) the service (known as the face verification service) enabling the comparison of a facial image associated with an individual against a facial image held on a specific government record associated with the individual to verify the individual's identity;
- (b) the service (known as the face identification service) enabling the comparison of a facial image against multiple images held on a database of government records to establish an individual's identity;
- (c) the service (known as the one person one licence service) enabling the comparison of an individual's facial image against other facial images used on driver licences and other identity documents to identify whether the individual holds multiple licences, in the same or a different identity, in 1 or more jurisdictions.

host agency, for an identity matching service, means the Commonwealth agency responsible for maintaining the service under an agreement between the Commonwealth and the States.

identity document means a document that—

- (a) contains or incorporates identity information; and
- (b) is capable of being used as evidence of identity.

identity information means information relating to an individual, whether living, dead, real or fictitious, that is capable of being used, alone or in conjunction with other information, to identify or purportedly identify the individual.

Examples—

- a photo of, or other information about, an individual on a drivers licence, passport or other identity document
- other information about an individual submitted to verify the individual's identity

identity matching services means the following services administered by the Commonwealth under an agreement entered into by the Commonwealth and the States—

- (a) the service (known as the document verification service) enabling biographical information on identity documents to be verified against corresponding records held by a participating entity for the service;
- (b) the service (known as the identity data sharing service) enabling the sharing of identity information between the Commonwealth and the States to ensure the accuracy and integrity of identity-based records;
- (c) the face matching services;
- (d) any other service prescribed by regulation, to the extent the operation of the service relates only to a permitted purpose within the meaning of section 10.2FF(2).

information includes a document.

participating entity, in relation to an identity matching service, means an entity—

- (a) participating in the service; and
- (b) with whom the commissioner has entered into an agreement in relation to the use of the service.

[s 17]

10.2FB Division binds all persons

This division binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

10.2FC Disclosure of identity information by commissioner

For a purpose related to the operation of an identity matching service, the commissioner may disclose identity information lawfully in the commissioner's possession to—

- (a) the host agency for the service; or
- (b) a participating entity for the service.

10.2FD Collection and use of identity information by commissioner

The commissioner may collect and use identity information, by the operation of an identity matching service, from—

- (a) the host agency for the service; or
- (b) a participating entity for the service.

10.2FE Collection, use and disclosure by host agency

The host agency may, for a purpose related to the operation of an identity matching service—

- (a) collect or use identity information disclosed to it under this division; or
- (b) disclose the identity information to the commissioner or a participating entity for the service.

10.2FF Disclosure, use or collection must be for permitted purpose

- (1) Despite sections 10.2FC, 10.2FD and 10.2FE, identity information may be disclosed, collected or used under this division only for a permitted purpose.
- (2) Each of the following purposes is a *permitted purpose*—
 - (a) preventing, detecting, investigating or prosecuting crimes involving fabricated, manipulated, stolen or otherwise assumed identities;
 - (b) preventing, detecting, investigating or prosecuting other offences against Commonwealth or State laws;
 - (c) conducting investigations or gathering intelligence for purposes related to national security within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004* (Cwlth);
 - (d) promoting the security of a participating entity's assets, facilities or personnel;

Examples—

- protecting and managing legally assumed identities
 - security or background checking
- (e) identifying individuals who are at risk of, or have experienced, physical harm;

Examples—

- investigating individuals reported as missing
- identifying individuals reported as dead, or unidentified human remains
- identifying individuals when addressing significant risks to public health or safety

[s 18]

- identifying individuals in relation to disaster events or major events
- (f) improving road safety, including the detection of unlicensed and disqualified drivers and individuals who hold multiple licences;
- (g) verifying an individual's identity with the individual's consent or as authorised or required by law.

10.2FGInconsistency with other laws

To the extent this division is inconsistent with another law, this division prevails to the extent of the inconsistency.

18 Insertion of new pt 11, div 9

Part 11—

insert—

Division 9 Transitional provision for Police and Other Legislation (Identity and Biometric Capability) Amendment Act 2018

11.17Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act as it was in force immediately before the commencement to the operation of this Act as amended by the *Police and Other*

Legislation (Identity and Biometric Capability) Amendment Act 2018; and

- (b) this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day of commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) A transitional regulation may only be made within 2 years after the commencement.
- (5) This division and any transitional regulation expire 3 years after the day of commencement.

Part 6 Amendment of Transport Operations (Road Use Management) Act 1995

19 Act amended

This part amends the *Transport Operations (Road Use Management) Act 1995*.

20 Amendment of s 77 (Restricted written or electronic release of person's prescribed authority and traffic history information)

- (1) Section 77(1)(e), 'governments'—
omit, insert—
 Australian jurisdictions
- (2) Section 77(5)—
omit, insert—
- (5) Before releasing information to an entity under

[s 21]

subsection (1)(e), the chief executive must be satisfied any release of the information by the entity will be limited to circumstances similar to those mentioned in subsection (1).

- (5A) To remove any doubt, it is declared that the release of information under subsection (1)(e) is not limited by the *Transport Planning and Coordination Act 1994*, part 4D.

Note—

The *Transport Planning and Coordination Act 1994*, part 4D provides for disclosure, collection and use of identity information in connection with identity matching services under that part.

- (3) Section 77(5A) and (6)—
renumber as section 77(6) and (7).

Part 7 Amendment of Transport Planning and Coordination Act 1994

21 Act amended

This part amends the *Transport Planning and Coordination Act 1994*.

22 Amendment of s 28E (Definitions for pt 4C)

Section 28E, definitions *prescribed authorisation Act* and *prescribed authority—*
omit.

23 Amendment of s 28ED (Restricted access to a digital photo and digitised signature)

- (1) Section 28ED(4), from ‘this Act’—

omit, insert—

a prescribed authorisation Act if the access is for a permitted purpose within the meaning of section 28EP(2).

(2) Section 28ED—

insert—

(4A) To remove any doubt, it is declared that access to a digital photo under subsection (4) is not subject to any requirement under part 4D.

24 Insertion of new pt 4D

After part 4C—

insert—

Part 4D National identity matching services

Division 1 Preliminary

28EI Definitions for part

In this part—

document verification service means the service enabling biographical information on identity documents to be verified against corresponding records held by a participating entity for the service.

face matching services means the following services involving facial biometric matching—

(a) the service (known as the face verification service) enabling the comparison of a facial image associated with an individual against a facial image held on a specific government

[s 24]

record associated with the individual to verify the individual's identity;

- (b) the service (known as the face identification service) enabling the comparison of a facial image against multiple images held on a database of government records to establish an individual's identity;
- (c) the service (known as the one person one licence service) enabling the comparison of an individual's facial image against other facial images used on driver licences and other identity documents to identify whether the individual holds multiple licences, in the same or a different identity, in 1 or more jurisdictions;
- (d) the service (known as the facial recognition analysis utility service) enabling a participating entity for the service that has responsibility for driver licensing in a State to undertake biometric matching using its own data.

host agency, for an identity matching service, means the Commonwealth agency responsible for maintaining the service under an agreement between the Commonwealth and the States.

identity document means a document that—

- (a) contains or incorporates identity information; and
- (b) is capable of being used as evidence of identity.

identity information means information relating to an individual, whether living, dead, real or fictitious, that is capable of being used, alone or in conjunction with other information, to identify or purportedly identify the individual.

Examples—

- a photo of, or other information about, an individual on a drivers licence, passport or other identity document
- other information about an individual submitted to verify the individual's identity

identity matching services means the following services administered by the Commonwealth in accordance with an agreement entered into by the Commonwealth and the States—

- (a) the document verification service;
- (b) the service (known as the identity data sharing service) enabling the sharing of identity information between the Commonwealth and the States to ensure the accuracy and integrity of identity-based records;
- (c) the face matching services;
- (d) any other service prescribed by regulation, to the extent the operation of the service relates only to a permitted purpose within the meaning of section 28EP(2).

information includes a document.

participating entity, in relation to an identity matching service, means an entity—

- (a) participating in the service; and
- (b) with whom the chief executive has entered into an agreement in relation to the use of the service.

28EJPart binds all persons

- (1) This part binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

[s 24]

- (2) However, the State, the Commonwealth or another State can not be prosecuted for an offence against this part.

Division 2 Document verification service

28EK Disclosure of information about prescribed authorities

- (1) For a purpose related to the operation of the document verification service, the chief executive may disclose, in writing or electronically, information kept by the chief executive under an Act about a person's prescribed authority to an entity that, under an agreement between the State and other Australian jurisdictions, maintains a database containing information about identity documents.
- (2) Before disclosing information under subsection (1), the chief executive must be satisfied any disclosure of the information by the entity will be only for the operation of the document verification service.

Division 3 Other identity matching services

28EL Application of division

This division applies in relation to an identity matching service other than the document verification service.

28EM Disclosure of identity information by chief executive

For a purpose related to the operation of an identity matching service, the chief executive may disclose identity information kept under a prescribed authorisation Act to—

- (a) the host agency for the service; or
- (b) a participating entity for the service.

28EN Collection and use of identity information by chief executive

The chief executive may collect and use identity information, by the operation of an identity matching service, from—

- (a) the host agency for the service; or
- (b) a participating entity for the service.

28EO Collection, use and disclosure by host agency

The host agency may, for a purpose related to the operation of an identity matching service—

- (a) collect or use identity information disclosed to it under this division; or
- (b) disclose the identity information to the chief executive or a participating entity for the service.

28EP Disclosure, use or collection must be for permitted purpose

- (1) Despite sections 28EM, 28EN and 28EO, identity information may be disclosed, collected or used under this division only for a permitted purpose.
- (2) Each of the following purposes is a *permitted*

[s 24]

purpose—

- (a) preventing, detecting, investigating or prosecuting crimes involving fabricated, manipulated, stolen or otherwise assumed identities;
- (b) preventing, detecting, investigating or prosecuting other offences against Commonwealth or State laws;
- (c) conducting investigations or gathering intelligence for purposes related to national security within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004* (Cwlth);
- (d) promoting the security of the assets, facilities or personnel of a participating entity that is a government entity;

Examples—

- protecting and managing legally assumed identities
 - security or background checking
- (e) identifying individuals who are at risk of, or have experienced, physical harm;

Examples—

- investigating individuals reported missing
 - identifying individuals reported as dead, or unidentified human remains
 - identifying individuals when addressing significant risks to public health or safety
 - identifying individuals in relation to disaster events or major events
- (f) improving road safety, including the detection of unlicensed and disqualified drivers and individuals who hold multiple licences;

- (g) verifying an individual's identity with the individual's consent or as authorised or required by law.

28EQ Misuse of identity information

- (1) A person must not collect, use or disclose relevant identity information for a purpose other than a permitted purpose within the meaning of section 28EP(2).

Maximum penalty—100 penalty units.

- (2) In this section—

relevant identity information means identity information—

- (a) disclosed by the chief executive under this division; and
- (b) obtained by operation of an identity matching service.

28ER Inconsistency with other laws

To the extent this division is inconsistent with part 4C or another law, this division prevails to the extent of the inconsistency.

25 Omission of s 37A (Annual report about access to digital photos)

Section 37A—

omit.

26 Insertion of new pt 7, div 4

Part 7—

insert—

[s 27]

Division 4 Transitional provision for Police and Other Legislation (Identity and Biometric Capability) Amendment Act 2018

46 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act as it was in force immediately before the commencement to the operation of this Act as amended by the *Police and Other Legislation (Identity and Biometric Capability) Amendment Act 2018*; and
 - (b) this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day of commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) A transitional regulation may only be made within 2 years after the commencement.
- (5) This division and any transitional regulation expire 3 years after the day of commencement.

27 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *prescribed authorisation Act* and *prescribed authority*—
omit.

(2) Schedule 1—

insert—

document verification service, for part 4D, see section 28EI.

face matching services, for part 4D, see section 28EI.

host agency, for an identity matching service, for part 4D, see section 28EI.

identity document, for part 4D, see section 28EI.

identity information, for part 4D, see section 28EI.

identity matching services, for part 4D, see section 28EI.

information, for part 4D, see section 28EI.

participating entity, in relation to an identity matching service, for part 4D, see section 28EI.

prescribed authorisation Act means an Act prescribed by regulation for this definition.

prescribed authority means a certificate, licence or other authority or document prescribed by regulation for this definition.