

Queensland



TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995

**Reprinted as in force on 31 July 1998
(includes amendments up to Act No. 66 of 1997)**

Warning—see last endnote for uncommenced amendments

Reprint No. 3A

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Information about this reprint

This Act is reprinted as at 31 July 1998. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995

[as amended by all amendments that commenced on or before 31 July 1998]

**An Act about road management and other purposes related to
transport**

CHAPTER 1—PRELIMINARY

Short title

1. This Act may be cited as the *Transport Operations (Road Use Management) Act 1995*.

Objectives

3.(1) The overall objectives of this Act are, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, to—

- (a) provide for the effective and efficient management of road use in the State; and
- (b) provide a scheme for managing the use of the State's roads that will—
 - (i) promote the effective and efficient movement of people, goods and services; and
 - (ii) contribute to the strategic management of road infrastructure in ways consistent with the *Transport Infrastructure Act 1994*; and
 - (iii) improve road safety and the environmental impact of road use in ways that contribute to overall transport effectiveness

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and efficiency; and

(iv) support a reasonable level of community access and mobility in support of government social justice objectives; and

(c) provide for the effective and efficient management of vehicle use in a public place.

(2) This Act establishes a scheme to allow—

(a) identification of vehicles, drivers and road users; and

(b) establishment of performance standards for vehicles, drivers and road users; and

(c) establishment of rules for on-road behaviour; and

(d) monitoring of compliance with this Act, including by using alternative compliance schemes; and

(e) management of non-performing vehicles, drivers and road users; and

(f) control of access to the road network, or parts of the road network, for vehicles, drivers and road users; and

(g) management of traffic to enhance safety and transport efficiency.

Achieving an appropriate balance between safety and cost

4.(1) Although it may be possible to regulate to achieve the highest level of safety, doing so would ignore the impact of the regulation on the effectiveness and efficiency of road use.

(2) Therefore, this Act acknowledges the need to achieve an appropriate balance between safety, and the costs that regulation imposes on road users and the community.

Definitions—the dictionary

5.(1) A dictionary in schedule 3 defines particular words used in this

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Act.¹

(2) Definitions found elsewhere in the Act are signposted in the dictionary.²

Act binds everyone, including government entities

6.(1) In this section—

“government entity” includes—

- (a) the State, the Commonwealth or another State; or
- (b) an instrumentality or agent of the State, the Commonwealth or another State.

(2) This Act binds everyone, including every government entity.

(3) However, a regulation may exempt a government entity from this Act or a provision of this Act.

CHAPTER 2—RESPONSIBILITIES FOR ROAD USE MANAGEMENT STRATEGIES AND PROGRAMS

PART 1—ROAD USE MANAGEMENT STRATEGIES

Development of strategies

7.(1) The chief executive must, from time to time, develop for the

¹ In some Acts, definitions are contained in a dictionary that appears as the last schedule and forms part of the Act—*Acts Interpretation Act 1954*, section 14.

² The signpost definitions in the dictionary alert the reader to the terms defined elsewhere in the Act and tell the reader where the section definitions can be found. For example, the definition “performance standard” see section 15, tells the reader that the term “performance standard” is defined in section 15.

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Minister's approval a road use management strategy designed to give effect to the transport coordination plan in accordance with this Act's objectives.

(2) In developing a road use management strategy, the chief executive must take reasonable steps to engage in public consultation.

(3) The Minister may, at any time, direct the chief executive—

- (a) to prepare a new road use management strategy for the Minister's approval; or
- (b) to amend a road use management strategy.

(4) The Minister may—

- (a) approve a road use management strategy submitted for approval; or
- (b) require the chief executive to amend a road use management strategy submitted for approval.

Contents of strategies

8.(1) A road use management strategy must include—

- (a) a statement of the specific objectives to be achieved; and
- (b) road use management initiatives; and
- (c) criteria for deciding priorities for government spending on road use management initiatives; and
- (d) appropriate performance indicators for deciding whether, and to what extent, the strategy's objectives have been achieved.

(2) A road use management strategy must aim to provide an adequate framework for coordinating and integrating road use management policies as between the different transport modes and levels of government.

(3) A road use management strategy may also take into account agreements about transport between the State and the Commonwealth, a local government or another State.

(4) A road use management strategy for the SEQTA area under the *Transport Planning and Coordination Act 1994* must not be inconsistent

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with, and must give effect to any integrated regional transport plan in force for the area.

Tabling of strategies

9. The Minister must table a copy of each road use management strategy, and each amendment of a road use management strategy, approved by the Minister in the Legislative Assembly within 5 sitting days after it is approved.

PART 2—ROAD USE IMPLEMENTATION PROGRAMS

Development of programs

10.(1) Before the start of each financial year, the chief executive must develop, for the Minister's approval, a road use implementation program for the year and for 1 or more later years.

(2) A road use implementation program must include—

- (a)** a statement of the policies, projects and financial provisions for implementing the road use management strategy; and
- (b)** a statement of the performance targets to be achieved.

(3) A road use implementation program may include a proposal to spend an amount not directly related to road use, if the proposal would contribute to the effectiveness and efficiency of road use management.

(4) In developing a road use implementation program, the chief executive must take reasonable steps to engage in public consultation.

(5) A road use implementation program must be made available to the public in the way decided by the Minister.

(6) The Minister may, at any time, direct the chief executive to amend a road use implementation program.

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(7) The Minister may—

- (a) approve a road use implementation program submitted for approval; or
- (b) require the chief executive to amend a road use implementation program submitted for approval.

Consistency with strategies

11.(1) Subject to the Minister's directions, a road use implementation program must be consistent with a road use management strategy.

(2) If the Minister's directions result in a road use implementation program being inconsistent with a road use management strategy, the Minister must table a copy of the directions in the Legislative Assembly within 5 sitting days after they are given.

Report on operation of programs

12. Each annual report of the department must include a report on the implementation of the road use implementation program during the year of the report.

PART 3—GUIDELINES

Guidelines

13.(1) This section applies to the Minister and chief executive in developing and implementing policies about road use management, and in exercising powers under this Act.

(2) The Minister and chief executive must endeavour to—

- (a) achieve an appropriate balance between safety, and the costs that regulation imposes on road users and the community; and
- (b) establish the benefits and costs of policy alternatives; and

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- (c) take account of national and international benchmarks and best practice; and
- (d) promote efficiency, affordable quality and cost-effectiveness; and
- (e) ensure competition is not unjustifiably restricted; and
- (f) ensure accountability for, and transparency of, decisions affecting road use.

(3) Each annual report of the department must include a report on how effect has been given to this section during the year of the report.

PART 4—OBJECTIVES

Objectives

14.(1) The following objectives are, as far as practicable, to be applied by anyone wanting to encourage a high level of road user performance and compliance with this Act—

- (a) information about their obligations under this Act should be made available to road users;
- (b) voluntary compliance should be sought in preference to enforcement;
- (c) enforcement should be aimed primarily at deterring noncompliance by road users;
- (d) enforcement strategies should, accordingly, try to increase road users' perceptions of the risk of being detected if they offend;
- (e) measures aimed at encouraging compliance should—
 - (i) target the road users who are least likely to comply with this Act; and
 - (ii) try to avoid imposing costs on the road users who are likely to comply voluntarily;
- (f) appropriate alternative compliance schemes should be used as a

way of demonstrating compliance.

(2) Preventing the continued commission of offences and imposing appropriate penalties should be seen as objectives that support the other objectives in subsection (1).

CHAPTER 3—ROAD USER PERFORMANCE AND COMPLIANCE

PART 1—ALTERNATIVE COMPLIANCE

Alternative ways of complying with Act

15.(1) In this part—

“alternative compliance scheme” means a way of demonstrating that vehicles operated by a person, or drivers of vehicles operated by a person, achieve and maintain at least a performance standard other than by directly complying with provisions of this Act.

“performance standard” means a provision of this Act that—

- (a) imposes an obligation to achieve a particular outcome; and
- (b) is identified under a regulation as a performance standard.

(2) A person who operates a vehicle (an **“operator”**) may apply in writing to the chief executive for approval of an alternative compliance scheme for a performance standard.

(3) The chief executive may approve the scheme by written notice to the operator.

(4) The approval must specify—

- (a) the performance standard; and
- (b) the provisions of this Act that are not to apply to the operator’s vehicles or drivers.

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(5) The approval may be given on conditions stated in it and operates for the period stated in it.

(6) The chief executive may approve a scheme only if satisfied it provides an effective way of demonstrating the operator's vehicles or drivers operating under it in Queensland achieve and maintain at least the performance standard.

Approving alternative compliance schemes operating interstate

16.(1) In this section—

“interstate scheme” means an alternative compliance scheme approved under a corresponding law to this chapter for an operator.

(2) The chief executive may approve an interstate scheme for Queensland only if satisfied it provides an effective way of demonstrating the operator's vehicles or drivers operating under it in Queensland achieve and maintain at least the performance standard to which it applies.

(3) The approval must specify—

- (a) the performance standard; and
- (b) the provisions of this Act that are not to apply to the operator's vehicles or drivers.

(4) The approval may be subject to conditions stated in it and operates for the period stated in it.

Specified provisions of Act do not apply while scheme complied with

17. While—

- (a) an approval of an alternative compliance scheme is in force under this Act for an operator; and
- (b) the operator complies with the scheme, including the conditions of its approval;

the provisions of this Act specified in the scheme do not apply to the operator's vehicles or drivers as provided under the scheme.

PART 1A—APPROVALS

Definition

17A. In this part—

“approval” includes accreditation, certificate, consent, exemption, licence and permit given or granted by the chief executive under this Act but does not include an approval under section 82.

Granting, renewing or refusing approval

17B.(1) A regulation may provide for the granting, issuing or renewing of, or refusing to grant or renew, an approval.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to refuse to grant or renew an approval prescribed under a regulation if the applicant or holder has been—

- (a) convicted of a disqualifying offence; or
- (b) charged with a disqualifying offence and the charge has not been finally disposed of.

(3) In this section—

“approval” does not include an approval for an alternative compliance scheme under section 15.

Grounds for amending suspending or cancelling approvals

18. Each of the following is a ground for amending, suspending or cancelling an approval—

- (a) the approval was issued because of a document or representation that is—
 - (i) false or misleading; or
 - (ii) obtained or made in another improper way;
- (b) the holder of the approval has contravened a condition of the approval;

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- (c) the holder has been convicted of—
 - (i) an offence against this Act or a corresponding law; or
 - (ii) for the holder of an approval prescribed under a regulation—a disqualifying offence;
- (d) for an approval of an alternative compliance scheme under section 16—
 - (i) the scheme is not, or is no longer, an effective way of demonstrating the operator’s vehicles or drivers operating under it in Queensland achieve and maintain at least the relevant performance standard; or
 - (ii) for an interstate scheme—the approval under a corresponding law to this chapter is amended, suspended or cancelled.

Procedure for amending, suspending or cancelling approvals

19.(1) If the chief executive considers a ground exists to amend, suspend or cancel an approval, (the “**proposed action**”), the chief executive must give the holder written notice—

- (a) stating the proposed action; and
- (b) stating the ground for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the ground; and
- (d) if the proposed action is to amend the approval (including a condition of the approval)—stating the proposed amendment; and
- (e) if the proposed action is to suspend the approval—stating the proposed suspension period; and
- (f) inviting the holder to show (within a stated time of at least 28 days) why the proposed action should not be taken.

(2) If, after considering all written representations made within the stated time, the chief executive still considers a ground exists to take the proposed action, the chief executive may—

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- (a) if the proposed action was to amend the approval—amend the approval; or
- (b) if the proposed action was to suspend the approval—suspend the approval for no longer than the period stated in the notice; or
- (c) if the proposed action was to cancel the approval—amend the approval, suspend the approval for a period or cancel it.

(3) The chief executive must inform the holder of the decision by written notice.

(4) If the chief executive decides to amend, suspend or cancel the approval, the notice must state—

- (a) the reasons for the decision; and
- (b) that the holder may—
 - (i) under section 65—ask for the decision to be reviewed and appeal against the reviewed decision; and
 - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

(5) The decision takes effect on the later of the following—

- (a) the day the notice is given to the holder;
- (b) the day stated in the notice.

(6) However, despite subsection (1), if the chief executive considers it necessary in the public interest, the chief executive may, by written notice given to the holder, immediately suspend the approval until the earliest of the following—

- (a) the chief executive informs the operator of the chief executive's decision by notice under subsection (3), given after complying with subsections (1) and (2);
- (b) the end of 56 days after the notice is given to the holder.

(7) If the chief executive immediately suspends the approval, the notice must state—

- (a) the reasons for the decision; and

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- (b) that the holder may—
 - (i) under section 65—ask for the decision to be reviewed and appeal against the reviewed decision; and
 - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.
- (8) Subsections (1) to (7) do not apply—
 - (a) if the chief executive proposes to amend the approval only—
 - (i) for a formal or clerical reason; or
 - (ii) in another way that does not adversely affect the holder's interests; or
 - (b) if the holder asks the chief executive to amend or cancel the approval and the chief executive proposes to give effect to the request.
- (9) The chief executive may amend or cancel an approval under subsection (8) by written notice given to the holder.

PART 2—AUTHORISED OFFICERS AND ACCREDITED PERSONS

Appointment of authorised officers

- 20.(1)** Every police officer is an authorised officer.
- (2) The chief executive may appoint any of the following persons to be an authorised officer—
 - (a) officers and employees of the public service;
 - (b) other persons prescribed under a regulation.
- (3) The chief executive may appoint a person as an authorised officer only if satisfied the person has the necessary expertise to be an authorised officer.

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Appointment of accredited persons

21.(1) The chief executive may appoint a person to be an accredited person to perform functions prescribed under a regulation only if satisfied the person has the necessary expertise to be an accredited person to perform the functions.

(2) A regulation may provide for accreditation documents for accredited persons.

Powers

22.(1) An authorised officer or accredited person—

- (a) has the powers given under this or another Act; and
- (b) is subject to the directions of the chief executive or commissioner in exercising the powers.

(2) The powers may be limited—

- (a) under a regulation; or
- (b) under a condition of appointment; or
- (c) by written notice given by the chief executive or commissioner to the authorised officer or accredited person.

Appointment conditions

23.(1) An authorised officer or accredited person holds office on the conditions stated in the instrument of appointment.

(2) An authorised officer or accredited person—

- (a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and
- (b) if the conditions of appointment provide—ceases holding office on ceasing to hold another office stated in the appointment conditions (the “**main office**”); and
- (c) may resign by signed notice given to the chief executive or commissioner.

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(3) However, an authorised officer or accredited person may not resign from the office under this Act (the “**secondary office**”) if a term of employment to the main office requires the officer or person to hold the secondary office.

Identity cards

24.(1) This section does not apply to an authorised officer who is a police officer.

(2) The chief executive must give each authorised officer an identity card.

(3) The identity card must—

- (a) contain a recent photo of the person; and
- (b) be signed by the person; and
- (c) identify the person as an authorised officer; and
- (d) state an expiry date.

(4) A person who stops being an authorised officer must return the person’s identity card to the chief executive as soon as practicable (but within 21 days) after the person stops being an authorised officer, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(5) This section does not prevent the giving of a single identity card to a person for this and other Acts.

Production or display of identity cards

25.(1) This section does not apply to a uniformed police officer.

(2) An authorised officer may exercise as power in relation to a person only if—

- (a) the officer—
 - (i) for an officer who is a police officer—first produces the officer’s police identity card for the person’s inspection; or
 - (ii) for any other officer—first produces the officer’s identity

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card for the person's inspection; or

- (b) the officer has the officer's identity card displayed so it is clearly visible to the person.

(3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the officer must produce the identity card as soon as it is practicable.

PART 3—POWERS OF AUTHORISED OFFICERS

Division 1—Powers for places

Entry to places

26.(1) An authorised officer may enter a place if—

- (a) its occupier consents to the entry; or
- (b) the entry is authorised by a warrant; or
- (c) it is mentioned in a licence or other document prescribed under a regulation as a place of business, or another place, required to be open to inspection and the entry is made when the place is—
- (i) open for the conduct of business or otherwise open for entry; or
- (ii) required under the licence or document to be open for inspection.

(2) An authorised officer, without the occupier's consent or a warrant, may—

- (a) enter a public place when the place is open to the public; or
- (b) enter the land around premises to ask its occupier for consent to enter the premises.

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Consent to entry

27.(1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the officer or another officer entering the place.

(2) Before asking for the consent, the officer must inform the occupier—

- (a) of the purpose of the entry; and
- (b) that the occupier is not required to consent.

(3) If the consent is given, the officer may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state that—

- (a) the occupier was informed—
 - (i) of the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
- (b) the occupier gives an authorised officer consent to enter the place and exercise powers under this Act; and
- (c) the time and date the consent was given.

(5) If the occupier signs an acknowledgment of consent, the officer must immediately give a copy to the occupier.

(6) Subsection (7) applies to a court if—

- (a) a question arises, in a proceeding in or before the court, whether the occupier of a place consented to an authorised officer entering the place under this Act; and
- (b) an acknowledgment under this section is not produced in evidence for the entry; and
- (c) it is not proved that the occupier consented to the entry.

(7) The court may presume that the occupier did not consent.

Warrants to enter

28.(1) An authorised officer may apply to a magistrate for a warrant to enter a place.

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(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against a transport Act; and
- (b) the evidence is, or may be within the next 7 days, at the place.

(5) The warrant must state—

- (a) that an authorised officer may, with necessary and reasonable help and force, enter the place and exercise the officer’s powers under this Act; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours when the place may be entered; and
- (e) the date, within 7 days after the warrant’s issue, the warrant ends.

Warrants—applications made other than in person

29.(1) An authorised officer may apply for a warrant by phone, fax, radio or another form of communication if the officer considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the officer’s remote location.

(2) Before applying for the warrant, the officer must prepare an application stating the grounds on which the warrant is sought.

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(3) The officer may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately fax a copy to the officer if it is reasonably practicable to fax a copy.

(5) If it is not reasonably practicable to fax a copy to the officer—

(a) the magistrate must—

(i) tell the officer what the terms of the warrant are; and

(ii) tell the officer the date and time the warrant was issued; and

(b) the officer must complete a form of warrant (“**warrant form**”) and write on it—

(i) the magistrate’s name; and

(ii) the date and time the magistrate issued the warrant; and

(iii) the warrant’s terms.

(6) The facsimile warrant, or the warrant form properly completed by the officer, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.

(7) The officer must, at the first reasonable opportunity, send the magistrate—

(a) the sworn application; and

(b) if the officer completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) Subsection (10) applies to a court if—

(a) a question arises, in a proceeding in or before the court, whether a power exercised by an authorised officer was not authorised by a warrant issued under this section; and

(b) the warrant is not produced in evidence.

(10) The court must presume that the exercise of the power was not authorised by a warrant issued under this section, unless the contrary is proved.

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General powers after entering places

30.(1) This section applies to an authorised officer who enters a place with the occupier's consent or a warrant.

(2) The officer may, for monitoring or enforcing compliance with this Act—

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film the place or anything in the place; or
- (c) take samples of anything in the place; or
- (d) copy a document in the place; or
- (e) take the persons, equipment and materials the officer reasonably requires for exercising a power under this Act into the place; or
- (f) require a person in the place to give the officer reasonable help to exercise the powers mentioned in paragraphs (a) to (e).

(3) A person must comply with a requirement under subsection (2)(f), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(4) A requirement under subsection (2)(f) does not include a requirement to produce a document or give information.³

Division 2—Powers for vehicles

Power to stop private vehicles

31.(1) A police officer may require the person in control of a private vehicle to stop the vehicle to check whether the vehicle or person is complying with a transport Act.

(2) An authorised officer, who is not a police officer, may require the person in control of a private vehicle to stop the vehicle—

³ For the power to require documents to be produced see section 49. For the power to require information see section 50.

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- (a) at a checkpoint—only if the vehicle is a type of vehicle that the officer is stopping at the checkpoint by reference to objective criteria that are part of a program approved under section 47;⁴ or
- (b) if the officer reasonably believes the vehicle does not comply with a transport Act.

(3) A requirement may be made under subsection (1) or (2) in a way prescribed under a regulation.

(4) A person must comply with a requirement under subsection (1) or (2), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

Example of a reasonable excuse—

It is a reasonable excuse for a person not to comply with a requirement if—

- (a) the person reasonably believes that to immediately comply would endanger the person or someone else; and
- (b) the person complies with the requirement at the first reasonable opportunity.

(5) A regulation may impose restrictions on the stopping of private vehicles by authorised officers who are not police officers, including restrictions on stopping private vehicles at night.

Power to stop heavy vehicles

32.(1) An authorised officer may require the person in control of a heavy vehicle to stop the vehicle to check whether the vehicle or person is complying with a transport Act.

(2) The requirement may be made in a way prescribed under a regulation.

(3) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—120 penalty units.

⁴ Section 47 (Power to set up checkpoints)

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Power to require vehicles to be moved

33.(1) This section applies to a motor vehicle that is stationary on a road or has been stopped under section 31 or 32.⁵

(2) To enable an authorised officer to exercise a power under a transport Act, the officer may require the person in control of the vehicle to move to a stated reasonable place.

Example—

The officer may require the person to move the vehicle onto a weighing or testing device.

(3) However, the place must not be more than—

(a) for a private vehicle—5 km from where the vehicle was stopped;
or

(b) for a heavy vehicle—25 km from where the vehicle was stopped.

(4) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—

(a) for a private vehicle—60 penalty units; or

(b) for a heavy vehicle—120 penalty units.

(5) For a heavy vehicle, if the person does not comply with the requirement, the officer may move the vehicle to the required place.

Power to inspect vehicles

34.(1) This section applies to a motor vehicle that is stationary on a road or has been stopped under section 31 or 32.

(2) To check whether the vehicle complies with a transport Act, an authorised officer may inspect or test it.

(3) To enable the officer to inspect or test the vehicle, the officer may do anything reasonable to be done for the inspection or test.

⁵ Section 31 (Power to stop private vehicles)
Section 32 (Power to stop heavy vehicles)

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Examples of what may be reasonable for an inspection or test—

The officer may—

- (a) enter the vehicle; or
- (b) unlock, unfasten, open or remove any part of it; or
- (c) move its load.

(4) To avoid any doubt, the officer does not have the powers mentioned in section 35.⁶

Power to enter vehicles etc. other than for vehicle inspection

35.(1) This section applies to an authorised officer who reasonably believes—

- (a) a vehicle is being, or has just been, used to commit an offence against a transport Act; or
- (b) a vehicle, or a thing in the vehicle, may provide evidence of an offence against a transport Act that is being, or has just been, committed.

(2) The officer may, for enforcing a transport Act—

- (a) enter the vehicle, using necessary and reasonable help and force;⁷ or
- (b) search any part of the vehicle; or
- (c) inspect, measure, test, photograph or film the vehicle or anything in the vehicle; or
- (d) take samples of the vehicle or anything in the vehicle; or
- (e) copy a document in the vehicle; or
- (f) move the vehicle's load; or
- (g) take the persons, equipment and materials the officer reasonably

⁶ Section 35 (Power to enter vehicles etc. other than for vehicle inspection)

⁷ In addition, to enable the vehicle to be entered, the officer may stop the vehicle under section 31 (Power to stop private vehicles) or 32 (Power to stop heavy vehicles).

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requires into the vehicle.

(3) An authorised officer may not exercise the powers under subsection (2) in relation to the following things found in a vehicle—

- (a) a personal possession;
- (b) for a private vehicle—a document that is not issued, or required to be kept, under a transport Act or a corresponding law.

Power to require vehicle inspections

36.(1) If an authorised officer reasonably believes a vehicle may not comply with this Act, the officer may require its owner to have it inspected at a stated reasonable time and place.

(2) The requirement—

- (a) must be made by notice in the approved form; or
- (b) if for any reason it is not practicable to give the notice—may be made orally and confirmed by notice in the approved form as soon as practicable.

(3) A person must comply with a requirement under subsection (1), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—60 penalty units.

Power to prohibit use of vehicles

37.(1) If an authorised officer reasonably believes a vehicle is unsafe, the officer may, by notice in the approved form, require its owner not to use it, or permit it to be used, on a road until—

- (a) it is inspected at a stated reasonable place and found to comply with this Act; or
- (b) stated reasonable action is taken in relation to the vehicle to ensure it complies with this Act.

Examples of action that may be reasonable under paragraph (b)—

1. The vehicle's load be adjusted or moved.
2. Stated repairs be carried out to the vehicle and the vehicle be inspected at a

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stated place and found to comply with this Act.

(2) A person must not contravene, or attempt to contravene, a requirement under subsection (1), unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—

- (a) for a private vehicle—60 penalty units; and
- (b) for a heavy vehicle—120 penalty units.

Power to prohibit persons driving

38.(1) This section applies to the driver of a motor vehicle that is stationary on a road or has been stopped under section 31 or 32.⁸

(2) If an authorised officer reasonably believes the driver would contravene this Act by driving a vehicle, the officer may, by notice in the approved form, require the driver not to drive a vehicle in contravention of this Act.

(3) A person must not contravene, or attempt to contravene, a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—

- (a) for a private vehicle—60 penalty units; and
- (b) for a heavy vehicle—120 penalty units.

Powers to enable effective and safe exercise of other powers

39.(1) An authorised officer may require the person in control of a vehicle to give the officer reasonable help to enable the officer to effectively exercise a power under this Act in relation to the vehicle.

Examples of requirements for effectively exercising powers—

1. Requiring the vehicle to be held stationary on a weighing device to enable the

⁸ Section 31 (Power to stop private vehicles)
Section 32 (Power to stop heavy vehicles)

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vehicle to be weighed.

2. Requiring the vehicle's bonnet to be opened to enable the engine to be inspected.

(2) An authorised officer may require the person in control of a vehicle, or a person who is in or just left the vehicle, to do or not to do anything the officer reasonably believes is necessary—

- (a) to enable the officer to safely exercise a power under a transport Act in relation to the vehicle; or
- (b) to preserve the safety of the officer, the person or other persons.

Examples of safety requirements—

1. Requiring the persons in a vehicle to get out of the vehicle while the officer inspects the vehicle's undercarriage.

2. Requiring a person who has just left the vehicle to stand back from the carriageway of the road.

3. Requiring a person to remain in control of a vehicle for a reasonable time.

(3) A person must comply with a requirement under subsection (1) or (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—

- (a) for a private vehicle—60 penalty units; or
- (b) for a heavy vehicle—120 penalty units.

Division 3—Power to seize evidence

Power to seize evidence

40.(1) An authorised officer who enters a place under this part with the occupier's consent may seize a thing in the place if—

- (a) the officer reasonably believes the thing is evidence of an offence against a transport Act; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(2) An authorised officer who enters a place under this part with a

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warrant may seize the evidence for which the warrant was issued.

(3) An authorised officer may also seize anything else in a place mentioned in subsection (1) or (2) if the officer reasonably believes—

- (a) the thing is evidence of an offence against a transport Act; and
- (b) the seizure is necessary to prevent the thing being hidden, lost, destroyed or used to continue or repeat the offence.

(4) An authorised officer who enters a vehicle under this part may seize anything in the vehicle if the officer reasonably believes the thing is evidence of an offence against a transport Act.

Powers supporting seizure

41.(1) Having seized a thing under this division, an authorised officer may—

- (a) move the thing from the place or vehicle where it was seized (the “**place of seizure**”); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

1. Sealing a thing and marking it to show access to it is restricted.
2. Sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted.

(2) If an authorised officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with it without an authorised officer’s approval.

Maximum penalty—60 penalty units.

(3) To enable a thing to be seized, an authorised officer may require the person in control of it to take it to a stated reasonable place by a stated reasonable time.

(4) The requirement—

- (a) must be made by notice in the approved form; or
- (b) if for any reason it is not practicable to give the notice—may be

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made orally and confirmed by notice in the approved form as soon as practicable.

(5) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

Receipt for seized things

42.(1) As soon as practicable after an authorised officer seizes a thing, the officer must give a receipt for it to the person from whom it was seized.

(2) However, if for any reason it is not practicable to comply with subsection (1), the officer must leave the receipt at the place of seizure, in a reasonably secure way and in a conspicuous position.

(3) An authorised officer need not give a receipt for a seized thing if—

- (a) the thing is unattended when seized; and
- (b) the officer does not know who the owner of the thing is; and
- (c) the officer cannot find the owner after making reasonable inquiries (given the thing's value).

(4) The receipt must generally describe each thing seized and its condition.

Forfeiture of seized things

43.(1) A seized thing is forfeited to the State if the chief executive or commissioner—

- (a) cannot find its owner after making reasonable inquiries (given the thing's value); or
- (b) is unable, after making reasonable efforts, to return it to its owner; or
- (c) reasonably believes—
 - (i) possession of the thing is an offence against a transport Act; or

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- (ii) it is necessary to keep the thing to prevent it being used to commit an offence against a transport Act; or
- (iii) the thing does not comply with a transport Act and cannot be repaired or otherwise changed to comply with a transport Act; or
- (iv) the thing is inherently unsafe.

(2) If the chief executive or commissioner decides to forfeit a thing under subsection (1)(c), the chief executive or commissioner must inform the owner of the thing of the decision by written notice.

(3) Subsection (2) does not apply if the chief executive or commissioner cannot find the owner after making reasonable inquiries (given the thing's value).

(4) The notice must state—

- (a) the reasons for the decision; and
- (b) that the owner may apply within 28 days for the decision to be reviewed; and
- (c) how the owner may apply for the review; and
- (d) that the owner may apply for a stay of the decision if the owner applies for a review.

Dealing with forfeited things

44.(1) On the forfeiture of a thing—

- (a) it becomes the State's property; and
- (b) it may be dealt with as the chief executive or commissioner considers appropriate.

(2) The chief executive or commissioner must not deal with the thing until any review of, or appeal against, the decision to forfeit the thing is decided.

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Access to seized things

45. Until a seized thing is forfeited or returned, an authorised officer must allow its owner—

- (a) to inspect it; or
- (b) if it is a document—to copy it.

Return of seized things

46.(1) If a seized thing has not been forfeited, the chief executive or commissioner must return it to its owner at the end of—

- (a) 6 months; or
- (b) if a proceeding for an offence involving it is started within the 6 months—the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), the authorised officer must return the seized thing to its owner immediately the officer stops being satisfied its retention as evidence is necessary.

Division 4—General powers

Power to set up checkpoints

47.(1) The chief executive may approve a program under which authorised officers may set up checkpoints to inspect motor vehicles to ensure the vehicles comply with a transport Act.

(2) Under an approved program, an authorised officer may set up a checkpoint on a road, or elsewhere with its occupier's consent.

Power to require name and address

48.(1) This section applies if—

- (a) an authorised officer finds a person committing an offence against a transport Act; or
- (b) an authorised officer finds a person in circumstances that lead, or

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has information that leads, the officer to suspect, on reasonable grounds, the person has just committed an offence against a transport Act; or

- (c) for an authorised officer who is a police officer—a vehicle is stationary on a road or has been stopped under section 31 or 32;⁹ or
- (d) for an authorised officer who is not a police officer—a vehicle is stationary on a road or has been stopped under section 32.

(2) The officer may require the following person to state the person's name and address—

- (a) for paragraph (a) or (b)—the person mentioned in the paragraph;
- (b) for paragraph (c) or (d)—the person in control of the vehicle mentioned in the paragraph.

(3) When making the requirement, the officer must warn the person it is an offence to fail to state the person's name or address, unless the person has a reasonable excuse.

(4) The officer may require the person to give evidence of the correctness of the stated name or address if the officer suspects, on reasonable grounds, the stated name or address is false.

(5) A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(6) A person does not commit an offence against subsection (5) if—

- (a) the person was required to state the person's name and address by an authorised officer who suspected the person had committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

⁹ Section 31 (Power to stop private vehicles)
Section 32 (Power to stop heavy vehicles)

Power to require documents to be produced

49. An authorised officer may require a person to produce for inspection a document issued, or required to be kept, under a transport Act or a corresponding law.

(2) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(3) The officer may keep the document to make a note on it or copy it.

(4) If the officer copies it, the officer may require the person responsible for keeping the document to certify the copy as a true copy of the document.

(5) The person must certify the copy, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(6) The officer must return the document to the person as soon as practicable after making the note or copying it.

Power to require information

50.(1) In this section—

“information offence” means an offence against a transport Act that—

- (a) involves a heavy vehicle; and
- (b) is declared under a regulation to be an information offence.

(2) This section applies if an authorised officer reasonably believes—

- (a) an information offence has been committed; and
- (b) a person may be able to give information about the offence.

(3) The officer may require the person to give information about the offence.

(4) When making the requirement, the officer must warn the person it is an offence to fail to give the information, unless the person has a reasonable excuse.

(5) The person must give the information, unless the person has a

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reasonable excuse.

Maximum penalty—120 penalty units.

(6) It is a reasonable excuse for an individual to fail to give the information if giving the information might tend to incriminate the individual.

PART 4—ADDITIONAL POWERS OF POLICE OFFICERS

Power of arrest

51.(1) A police officer may arrest a person if—

- (a) the officer—
 - (i) finds a person committing an offence against a section mentioned in subsection (2); or
 - (ii) finds a person in circumstances that lead, or has information that leads, the officer to suspect, on reasonable grounds, the person has just committed an offence against a section mentioned in subsection (2); and
- (b) the officer reasonably believes proceedings by way of complaint and summons against the person would be ineffective.

(2) The sections are—

- section 31 (Power to stop private vehicles)
- section 32 (Power to stop heavy vehicles)
- section 33 (Power to require vehicles to be moved)
- section 37 (Power to prohibit use of vehicles)
- section 38 (Power to prohibit persons driving)
- section 48 (Power to require name and address)
- section 50 (Power to require information)

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- section 52 (False or misleading statements)
- section 53 (False, misleading or incomplete documents)
- section 54 (Obstructing authorised officers or accredited persons)
- section 55 (Impersonating authorised officers or accredited persons).

(3) This section does not limit the powers a police officer has as an authorised officer.

PART 5—LEGAL PROCEEDINGS

Division 1—Offences

False or misleading statements

52.(1) In this section—

“**official**” means the chief executive, the commissioner, an authorised officer or an accredited person.

(2) A person must not—

- (a) state anything to an official for a transport Act that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to an official for a transport Act anything without which the statement is, to the person’s knowledge, misleading in a material particular.

Maximum penalty—60 penalty units.

(3) It is enough for a complaint against a person for an offence against subsection (2) to state that the statement made was false or misleading to the person’s knowledge.

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False, misleading or incomplete documents

53.(1) In this section—

“official” means the chief executive, the commissioner, an authorised officer or an accredited person.

(2) A person must not give, for a transport Act, an official a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—60 penalty units.

(3) Subsection (2) does not apply to a person if the person, when giving the document—

- (a) informs the official, to the best of the person’s ability, how it is false, misleading or incomplete; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

(4) It is enough for a complaint against a person for an offence against subsection (1) to state that the information given was false, misleading or incomplete to the person’s knowledge.

Obstructing authorised officers or accredited persons

54.(1) In this section—

“obstruct” includes hinder, intimidate, resist or threaten.

(2) A person must not obstruct an authorised officer or accredited person in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

Impersonating authorised officers or accredited persons

55. A person must not pretend to be an authorised officer or accredited person.

Maximum penalty—60 penalty units.

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Using documents voided for non-payment

56.(1) This section applies to a person (the “**applicant**”) who pays the fee for a licence or other document under a transport Act by cheque or other method of payment.

(2) If the cheque or payment is not honoured on presentation or is later dishonoured—

- (a) the licence or document is void from the day it was issued; and
- (b) the applicant must, on demand by the chief executive or commissioner, immediately give the licence or document to the department or a police officer.

(3) If, after the demand—

- (a) the applicant fails to immediately give the licence or document to the department or a police officer; or
- (b) uses, continues to use, or allows someone else to use, the licence or document; or
- (c) a person other than the applicant (the “**other person**”) uses, continues to use, or allows someone else to use, the licence or document;

the applicant and the other person commit an offence.

Maximum penalty—60 penalty units.

(4) It is a defence for the other person to prove he or she did not know a demand had been made under subsection (2)(b).

(5) If the State incurs expense because a cheque or payment is not honoured or is later dishonoured—

- (a) the applicant must reimburse the expense; and
- (b) the amount of the expense may be recovered as a debt payable by the applicant to the State.

Liability for offences

57.(1) In this section—

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“liability offence” means an offence against a transport Act that—

- (a) involves a heavy vehicle; and
- (b) is declared under a regulation to be a liability offence.

(2) If the driver, or other person in control, of a heavy vehicle commits a liability offence, the following persons are also taken to have committed the offence—

- (a) the owner of the vehicle;
- (b) if someone else controls or directly influences the loading or operation of the vehicle—the other person.

(3) It is a defence for the owner or other person to prove he or she took reasonable precautions and exercised appropriate diligence to avoid the conduct alleged to constitute the offence.

Division 2—Evidence and procedure

Proof of appointments unnecessary

58. For a transport Act, it is not necessary to prove the appointment of the following persons—

- (a) the chief executive;
- (b) the commissioner;
- (c) an authorised officer;
- (d) an accredited person;
- (e) a police officer.

Proof of signatures unnecessary

59. For a transport Act, a signature purporting to be the signature of 1 of the following persons is evidence of the signature it purports to be—

- (a) the chief executive;
- (b) the commissioner;

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- (c) an authorised officer;
- (d) an accredited person;
- (e) a police officer.

Evidentiary aids

60.(1) In this section—

“certificate” means a certificate purporting to be signed by the chief executive or commissioner.

(2) A certificate stating any of the following matters is evidence of the matter—

- (a) a specified place was within a specified type of area declared under a transport Act;
- (b) a specified licence or other document under a transport Act or a corresponding law was or was not in force in relation to a specified person or vehicle;
- (c) a specified place was or was not a road;
- (d) a specified person was or was not registered as the owner of a specified vehicle;
- (e) a specified thing was State or local government property;
- (f) a specified sign—
 - (i) was or was not an official traffic sign; or
 - (ii) contained specified words; or
 - (iii) was on a specified place;
- (g) specified particulars of a specified conviction, disqualification, suspension, cancellation or licence or other condition under a transport Act or a corresponding law;
- (h) a specified vehicle was or was not inspected;
- (i) a specified vehicle was or was not inspected in accordance with a specified requirement of an authorised officer;
- (j) the results of a specified vehicle inspection;

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- (k) a specified fee under a transport Act was or was not paid by a specified person;
- (l) a specified application under a transport Act was or was not received;
- (m) a specified vehicle was or was not of a specified type or was carrying specified goods;
- (n) the contents of a specified substance that was tested by a specified analyst;
- (o) that a specified copy of a licence or other document was a copy of a licence or other document issued, or required to be kept, under a transport Act or a corresponding law.

(3) A certificate—

- (a) may relate to a specified time or period; and
- (b) if it is issued for a particular period—has the effect mentioned in subsection (1) for the entire period.

(4) A regulation may provide for evidence of other matters to be provided by a certificate.

(5) A document, or a copy of a document, purporting to be made or given by a person under a transport Act containing personal particulars given by the person is evidence of the particulars.

(6) Anything recorded by a photographic, mechanical, electronic or other device under a transport Act is evidence—

- (a) that the recording was made; and
- (b) of the accuracy of the recording; and
- (c) of the matters stated in the recording; and
- (d) of matters prescribed under a regulation.

(7) Evidence by an authorised officer of the contents of a document issued, required to be kept, under a transport Act or a corresponding law, that was examined by the officer while in someone else's possession, may be given by the officer without the document being produced.

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Example of subsection (7)—

An authorised officer who examines a driver's log book may return the log book to the driver to enable the driver to continue driving. The officer may give evidence of the contents of the log book without producing it.

Instruments

61.(1) In this section—

“instrument” means an instrument declared under a regulation to be an instrument for this section, and includes—

- (a) a speedometer; and
- (b) a breath analysing instrument; and
- (c) a weighing device.

(2) A certificate stating that, on a specified day or at a specified time on a specified day, a specified instrument—

- (a) was in a proper condition; or
- (b) had a specified level of accuracy;

is evidence of those matters on the specified day or at the specified time, and for any period, prescribed under a regulation, after that day.

(3) Evidence of the condition of the instrument, or the way in which it was operated, is not required unless evidence that the instrument was not in proper condition or was not properly operated has been given.

(4) A defendant who intends to challenge the condition of an instrument, or the way in which it was operated, must give the complainant or arresting police officer (if any) notice, in the approved form, of the intention to challenge.

(5) The notice must be given at least 3 working days before the return date of the summons or the appointed date for the hearing of the charge.

Proceedings for offences

62.(1) A proceeding for an offence against a transport Act is a summary proceeding under the *Justices Act 1886*.

- (2) The proceeding must start—
- (a) within 1 year after the offence was committed; or
 - (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence was committed.

PART 6—GENERAL

Notice of damage

63.(1) This section applies if—

- (a) an authorised officer damages anything when exercising or purporting to exercise a power under a transport Act; or
- (b) a person acting under the direction of an authorised officer damages anything.

(2) The officer must promptly give written notice of particulars of the damage to the person who appears to be the owner of the thing.

(3) If the officer believes the damage was caused by a latent defect in the thing or circumstances beyond the officer's control, the officer may state it in the notice.

(4) If, for any reason, it is not practicable to comply with subsection (2), the officer must leave the notice where the damage happened, in a reasonably secure way and in a conspicuous position.

(5) This section does not apply to damage the officer reasonably believes is trivial.

Compensation

64.(1) This section does not apply to the exercise of a power (including the making of a requirement) to which section 31(2)(a)¹⁰ applies.

¹⁰ Section 31 (Power to stop private vehicles)

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(2) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under a transport Act, including, for example, in complying with a requirement made of the person.

(3) Compensation may be claimed and ordered in a proceeding—

- (a) brought in a court with jurisdiction for the recovery of the compensation; or
- (b) for an offence against this Act brought against the person claiming compensation.

(4) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.

(5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

CHAPTER 4—REVIEW OF AND APPEALS AGAINST DECISIONS

Review of and appeals against decisions

65.(1) A person whose interests are affected by a decision (the “**original decision**”) described in schedule 2A may ask the chief executive or commissioner to review the decision.

(2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision of the Act under which the decision is made requires that the person be given a statement of reasons for the decision.

(3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—

- (a) applies to the review; and
- (b) provides—
 - (i) for the procedure for applying for the review and the way it

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is to be carried out; and

- (ii) that the original decision may be stayed by the person by applying to the court mentioned in subsection (4).

(4) Also, after the chief executive or commissioner confirms or amends the original decision or substitutes another decision, the person may appeal against the confirmed, amended or substituted decision (the “**reviewed decision**”) to the court stated in schedule 2A.

(5) The *Transport Planning and Coordination Act 1994*, part 5, division 3—

- (a) applies to the appeal; and
- (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the reviewed decision may be stayed by the person by applying to the court mentioned in subsection (4).

CHAPTER 5—ROAD USE

PART 1—VEHICLE AND ROAD USE FEES

Fees for road use

74.(1) Fees for road use (other than registration fees) must take into account, but must not be more than, the costs of the road use to other road users and the community and the administrative costs involved.

Examples of costs of road use to other road users and the community—

1. Accelerated road wear
2. Costs of ensuring safety
3. Congestion
4. Noise

5. Pollution.

(2) A regulation may prescribe a way of calculating or deciding the costs of road use.

PART 2—VEHICLE OPERATIONS

Vehicle operations and road rules

75. A regulation may prescribe rules about the operation of vehicles and use of the road network, including, for example, rules about—

- (a) driver behaviour; and
- (b) loading, unloading and securing loads; and
- (c) keeping and producing records; and
- (d) vehicle mass and dimension; and
- (e) defective vehicles and ways of managing them; and
- (f) the environmental impact of vehicle use; and
- (g) rules for using the road network for vehicles, trains, trams, drivers, cyclists, pedestrians and animals; and
- (ga) traffic density, routes and load restrictions for vehicles with a GVM of more than 4.5 t; and
- (h) removing vehicles from the road network if they pose a risk to safety or impede the use of the road network; and
- (i) the recovery of removed vehicles by their owners, and fees for removing and storing the vehicles.

PART 3—VEHICLE MANAGEMENT

Vehicle standards

76. A regulation may prescribe—

- (a) vehicle standards with which vehicles must comply to use the road network; and
- (b) rules about—
 - (i) requiring vehicles to be inspected and inspection certificates to be obtained, at stated times or in stated circumstances, to ensure the vehicles comply with the standards; and
 - (ii) issuing inspection certificates, defect notices and other documents for vehicles inspected; and
 - (iii) approving premises (including mobile premises) as inspection stations for vehicles.

Example of paragraph (b)(i)—

A requirement that—

- (a) a heavy vehicle be inspected at a regular interval; or
- (b) a vehicle be inspected and an inspection certificate issued for it before the vehicle is sold or the ownership of the vehicle is otherwise transferred.

Identification of vehicles

77. A regulation may—

- (a) prescribe ways of identifying vehicles; and
- (b) require the keeping of a register of the vehicles identified in those ways; and
- (c) provide for the circumstances in which details of the register's contents can be given to someone.

Nomination of responsible operator

77A.(1) If an owner has previously claimed the owner was not the driver

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and has failed to notify the name and address of the driver of a vehicle that was involved in a camera-detected offence, the chief executive may give written notice requesting the owner to nominate 1 responsible operator for each vehicle registered in the owner's name whether jointly or otherwise.

(2) If the owner wants to nominate the responsible operator the owner must give written notice containing the prescribed particulars to the chief executive within 28 days of receipt of the notice from the chief executive.

(3) If a person does not nominate a responsible operator within 28 days, or nominates a person who is ineligible to be a responsible operator, the chief executive may nominate an existing registered owner as the responsible operator.

(4) A responsible operator must be—

- (a) an individual who is—
 - (i) 16 years or more; and
 - (ii) the holder of a licence issued under a law of a State to drive a vehicle on a road; or
- (b) a corporation that is—
 - (i) a company registered under the Corporations Law; or
 - (ii) incorporated by or under an Act; or
 - (iii) incorporated for a public purpose by an Act of this or another State or the Commonwealth; or
- (c) this or another State or the Commonwealth.

(5) Except for a nomination by the chief executive, the nomination must be accompanied by the written consent of the responsible operator.

(6) If a licence is not required for the normal operation of the type of vehicle being registered and it is not designed to be towed, the responsible operator does not have to be the holder of a licence for the vehicle.

(7) A person must not nominate a person as a responsible operator knowing that—

- (a) the nominated person is ineligible to be a responsible operator; or
- (b) any particulars about the nominated person are inaccurate.

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Maximum penalty—40 penalty units.

(8) A person who has been requested to nominate a responsible operator—

- (a) may subsequently apply for, renew or transfer the registration of a vehicle only if a responsible operator has been nominated for the vehicle; and
- (b) must ensure there is a responsible operator during the registration of the vehicle.

(9) If for any reason there ceases to be a responsible operator for a vehicle, the chief executive may nominate a responsible operator.

PART 4—DRIVER MANAGEMENT

Regulations about driver management

78.(1) A regulation may prescribe rules about the management of drivers, including, for example—

- (a) standards about driver skills and knowledge; and
 - (aa) the training of drivers; and
 - (ab) the approval of driver trainers and driver trainer competency assessors; and
- (b) the testing and licensing of drivers; and
- (c) rules about licences, including, in particular, the circumstances in which, and the reasons for which, they can be cancelled or suspended or conditions imposed on them; and
- (d) requiring the keeping of a register of licences; and
- (e) providing for the circumstances in which details of the register's contents can be given to someone; and
- (f) the granting of exemptions from conditions of licences; and
- (g) requiring that—

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- (i) drivers of heavy vehicles take rest periods and be in a fit state of health and wellbeing to drive heavy vehicles safely; and
- (ii) employers, consignors and other persons ensure that the drivers comply with a regulation under this paragraph.

(2) In this section—

“**approval**” includes accreditation.

Restriction on releasing information from register of licences

79.(1) The chief executive may only release information from the register of licences about a person’s personal particulars or driving history to—

- (a) the person; or
- (b) the commissioner; or
- (c) a person who keeps a register of licences under a corresponding law; or
- (d) with the person’s written consent—someone else.

(2) Before releasing information under subsection (1)(c), the chief executive must be satisfied the release of information from the register kept under the corresponding law is adequately regulated.

CHAPTER 5A—USING VEHICLES IN PUBLIC PLACES

Regulating vehicles etc. in public places

79M.(1) A regulation may—

- (a) prescribe rules about the operation of vehicles and their use in a public place, including, for example, rules about—
 - (i) driver behaviour; and

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- (ii) loading, unloading and securing loads; and
 - (iii) keeping and producing records; and
 - (iv) vehicle mass and dimension; and
 - (v) defective vehicles and ways of managing them; and
 - (vi) the environmental impact of vehicle use; and
 - (vii) rules for using public places for vehicles, drivers, cyclists, pedestrians and animals; and
 - (viii) removing vehicles from a public place if they pose a risk to safety or impede the use of the public place; and
 - (ix) the recovery of removed vehicles by their owners, and fees for removing and storing the vehicles; and
- (b) prescribe vehicle standards with which vehicles must comply to use a public place; and
 - (c) prescribe ways of identifying vehicles; and
 - (d) require the keeping of a register of the vehicles identified in those ways; and
 - (e) provide for the circumstances in which details of the register's contents can be given to someone.

(2) To remove doubt, it is declared that a combined register may be kept for section 77 and this section.

(3) A regulation may authorise a local government to—

- (a) declare, by gazette notice—
 - (i) a place not to be a public place; or
 - (ii) reasonable conditions, consistent with the objectives of this Act, for using a vehicle in a public place; or
- (b) by a local law, consistent with the objectives of this Act, regulate (including by permit) access of vehicles that must be registered under this Act, to a public place in its area.

CHAPTER 6—MISCELLANEOUS

Court orders for payment

80.(1) In this section—

“**convicts**” a person includes finds a person guilty, and accepts a plea of guilty from a person, whether or not a conviction is recorded.

(2) If—

- (a) a court convicts a person of an offence against a transport Act; and
- (b) the person owes fees in relation to the offence;

the court may, in addition to or instead of imposing a penalty, order the person to pay an amount of not more than double the amount of the fees.

(3) If—

- (a) a court convicts a person of an offence against a transport Act; and
- (b) in committing the offence, the person caused damage to road transport infrastructure, including, for example, accelerated wear of road pavements or structures through overloading;

the court may, in addition to imposing a penalty, order the person to pay an amount of not more than the cost of the damage.

Special provision for serving documents

81.(1) A document about a vehicle may be given to the vehicle’s owner under a transport Act by securely fixing the document to a part of the vehicle in a way that a driver of the vehicle is likely to notice the document.

(2) This section does not affect—

- (a) the operation of another law that permits service of a document other than as provided in this section;¹¹ or

¹¹ See for example *Acts Interpretation Act 1954*, part 10 (Service of documents).

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- (b) the power of a court or tribunal to authorise service of a document other than as provided in this section.

Official traffic sign approvals

82.(1) In this section—

“**MUTCD**” means the Manual of Uniform Traffic Control Devices issued by the chief executive.

“**official traffic sign**” means a sign, marking, light or device placed or erected to regulate, warn or guide traffic.

(2) The chief executive may approve the design of, and a method, standard or procedure about, an official traffic sign.

(3) The approved design, method, standard or procedure must be contained in the MUTCD or an approved notice.

(4) The MUTCD or approval notice must be available for purchase or inspection by the public at the department’s head office or the other offices of the department that the chief executive directs.

Protection from liability

83.(1) In this section—

“**official**” means—

- (a) the Minister; and
- (b) the chief executive; and
- (c) the commissioner; and
- (d) an authorised officer; and
- (e) an accredited person; and
- (f) a person acting under the direction of an authorised officer; and
- (g) an employee of the department of the police service; and
- (h) the chief executive officer, or an officer or employee, of a local government.

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(2) An official is not civilly liable for an act done, or omission made, honestly and without negligence under a transport Act.

(3) If subsection (2) prevents civil liability attaching to an official, the liability attaches instead to—

- (a) for a person mentioned in subsection (1)(a) to (g)—the State; or
- (b) for a person mentioned in subsection (1)(h)—the local government.

Effect of failure to comply with ch 2

84.(1) It is Parliament’s intention that chapter 2¹² be complied with.

(2) However—

- (a) chapter 2 is directory only and does not create rights or impose legally enforceable obligations on the State, Minister, chief executive or anyone else; and
- (b) failure to comply with chapter 2 does not affect the validity of anything done or not done under this Act.

(3) In addition, a decision made, or appearing to be made, under chapter 2—

- (a) is final and conclusive; and
- (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* (whether by the Supreme Court, another court, a tribunal or another entity); and
- (c) is not subject to a writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

(4) In this section—

“**decision**” includes—

- (a) conduct engaged in to make a decision; and

¹² Chapter 2 (Responsibilities for road use management strategies and programs)

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- (b) conduct related to making a decision; and
- (c) failure to make a decision.

Approval of forms

84A. The chief executive may approve forms for use under this Act.

Regulations

85.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made prescribing offences for a contravention of a regulation and fixing a maximum penalty of not more than 80 penalty units for a contravention.

(3) A regulation may—

- (a) prescribe fees payable for a transport Act; or
- (b) allow the chief executive to refund fees completely or partly or provide concessions; or
- (c) prescribe circumstances in which roads may be closed; or
- (d) prescribe offences for misuse of roads; or
- (e) provide for review of and appeals against decisions made under the regulation; or
- (f) require the collection, keeping or production of records; or
- (g) establish requirements for the certification of instruments (within the meaning of section 61¹³); or
- (h) exempt a person or vehicle from a provision of this Act.

Example of subsection (3)(d)—

Offences for throwing rocks or other things onto roads.

(4) If the Commonwealth has enacted a law for the scheme to create uniform or consistent national road transport legislation envisaged by the agreements scheduled to the *National Road Transport Commission Act*

¹³ Section 61 (Instruments)

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1991 (Cwlth), a regulation may enact provisions for the State that are the same as, or substantially similar to, the law.

- (5) For the provisions mentioned in subsection (4), a regulation may—
- (a) confer powers on the chief executive, the commissioner, an authorised officer or an accredited person; or
 - (b) make transitional provisions.

CHAPTER 7—TRANSITIONAL PROVISIONS, AMENDMENTS AND REPEALS

Reference provisions operate only after repeal of relevant Act

85A. To remove any doubt, it is declared that sections 86 to 91 apply to an Act mentioned in them only after the Act is, or the relevant provisions of the Act are, repealed.

Example—

A reference to the *Carriage of Dangerous Goods by Road Act 1984* or a provision of that Act is not taken to be a reference to this Act until the repeal of the *Carriage of Dangerous Goods by Road Act 1984* or the provision of that Act.

Carriage of Dangerous Goods by Road Act 1984 references

86. A reference to the *Carriage of Dangerous Goods by Road Act 1984* may, if the context permits, be taken to be a reference to this Act.

Main Roads Act 1920 references

87. A reference to the *Main Roads Act 1920* may, other than in relation to transport infrastructure or another matter dealt with under the *Transport Infrastructure Act 1994*, taken to be a reference to this Act.

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Motor Vehicles Control Act 1975 references

88. A reference to the *Motor Vehicles Control Act 1975* may, if the context permits, be taken to be a reference to this Act.

Motor Vehicles Safety Act 1980 references

89. A reference to the *Motor Vehicles Safety Act 1980* may, if the context permits, be taken to be a reference to this Act.

State Transport Act 1960 references

90. A reference to the *State Transport Act 1960* may, other than a reference (whether express or implied) to a provision of that Act repealed by the *Transport Operations (Passenger Transport) Act 1994* and if the context otherwise permits, be taken to be a reference to this Act.

Transport Infrastructure (Roads) Act 1991 references

91. A reference to the *Transport Infrastructure (Roads) Act 1991* may, other than in relation to transport infrastructure or another matter dealt with under the *Transport Infrastructure Act 1994*, taken to be a reference to this Act.

Transitional provisions for Motor Vehicle Driving Instruction School Act 1969

92B.(1) A person licensed as a driving instructor under the *Motor Vehicle Driving Instruction School Act 1969* immediately before the commencement is taken to have provisional approval as a driver trainer under this Act.

(2) The approval is, to the greatest practicable extent, subject to the same conditions that applied to the licence immediately before the commencement.

(3) However, the approval—

(a) does not authorise a matter that cannot be authorised under an

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approval granted under this Act; and

- (b) may be renewed once only.

Repeal of Acts

93.(1) An Act mentioned in schedule 2, part 1 is repealed on a day to be fixed by proclamation.

(2) A proclamation under subsection (1) may fix—

- (a) a single day or time for the repeal of an Act; or
- (b) different days or times for the repeal of different provisions of an Act; or
- (c) a day or time for the repeal of only some provisions of an Act.

(3) If an Act, or provision of an Act, mentioned in schedule 2 has not been repealed within 3 years of the commencement of this section, it is repealed by this subsection on the next day.

(4) A regulation may provide that subordinate legislation, or a provision of subordinate legislation, made under an Act or provision of an Act mentioned in schedule 2 continues to have effect under this Act (with all necessary changes and any changes prescribed under a regulation) for a specified period of not longer than 1 year.

(5) Subsection (4) applies despite the repeal of the Act or provision.

(6) This section expires 4 years after it commences or, if an earlier date is prescribed under a regulation, on that date.

Repeal of Motor Vehicle Driving Instruction School Act 1969

93A.(1) The *Motor Vehicle Driving Instruction School Act 1969* is repealed.

(2) This section expires 1 year after it commences.

SCHEDULE 1

DISQUALIFYING OFFENCES—PROVISIONS OF THE CRIMINAL CODE

dictionary, definition “disqualifying offence”, paragraph (a)

PART 1—EXISTING PROVISIONS

1. Chapter 9 (Unlawful assemblies—breaches of the peace)
2. Chapter 16 (Offences relating to the administration of justice)
3. Chapter 20 (Miscellaneous offences against public authority)
4. Chapter 22 (Offences against morality)
5. Chapter 28 (Homicide—Suicide—Concealment of birth)
6. Chapter 29 (Offences endangering life or health)
7. Chapter 30 (Assaults)
8. Chapter 32 (Assaults on females—abduction)
9. Chapter 33 (Offences against liberty)
10. Section 363 (Child-stealing)
11. Chapter 36 (Stealing)
12. Chapter 37 (Offences analogous to stealing)
13. Chapter 38 (Stealing with violence—extortion by threats)
14. Chapter 39 (Burglary—Housebreaking—And like offences)
15. Chapter 40 (Other fraudulent practices)
16. Chapter 41 (Receiving property stolen or fraudulently obtained and like offences)

SCHEDULE 1 (continued)

17. Chapter 42 (Frauds by trustees and officers of companies and corporations—false accounting)
18. Chapter 42A (Secret commissions)
19. Chapter 46 (Offences)
20. Chapter 49 (Punishment of forgery and like offences)
21. Chapter 52 (Personation)
22. Chapter 56 (Conspiracy)

**PART 2—PROVISIONS REPEALED BY CRIMINAL
LAW AMENDMENT ACT 1997**

1. Section 343A (Assaults occasioning bodily harm)
2. Section 344 (Aggravated assaults)

SCHEDULE 2

REPEALED ACTS

section 93

PART 1—PRINCIPAL ACTS

Carriage of Dangerous Goods by Road Act 1984 No. 73

Motor Vehicles Control Act 1975 No. 39

Motor Vehicles Safety Act 1980 No. 3

State Transport Act 1960 9 Eliz 2 No. 48

Transport Infrastructure (Roads) Act 1991 No. 29

SCHEDULE 2A

REVIEWABLE DECISIONS

section 65

Section	Description of decision	Court
15	Alternative ways of complying with Act	Magistrates
16	Approving alternative compliance schemes operating interstate	Magistrates
19	Amending suspending or cancelling approvals	Magistrates
43	Forfeiture of seized things	Magistrates

SCHEDULE 3

DICTIONARY

section 5

“accredited person” means a person who holds an appointment as an accredited person under section 21.¹⁴

“alternative compliance scheme” see section 15.

“approval” for chapter 3, part 1A, see section 17A.

“approved form” see section 84A.

“authorised officer” means a person who holds an appointment as an authorised officer under section 20.¹⁵

“breath analysing instrument” means an instrument of a type prescribed under a regulation for verifying, by analysis of a specimen of a person’s breath, what concentration of alcohol is present in the person’s blood.

“commissioner” means the commissioner of the police service.

“compliance plate” means a plate authorised to be placed on a vehicle, or taken to have been placed on a motor vehicle, under the *Motor Vehicle Standards Act 1989* (Cwlth).

“convicted” includes being found guilty, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

“corresponding law”, to a transport Act or a provision of a transport Act, means a law of the Commonwealth or another State that provides for the same matter as—

(a) for a transport Act—the Act or a provision of the Act; or

¹⁴ Section 21 (Appointment of accredited persons)

¹⁵ Section 20 (Appointment of authorised officers)

SCHEDULE 3 (continued)

(b) for a provision of a transport Act—the provision.

“disqualifying offence” means—

- (a) an offence against a provision of the Criminal Code mentioned in schedule 1, part 1 or the repealed provisions of the Criminal Code mentioned in schedule 1, part 2; or
- (b) an offence against the *Drugs Misuse Act 1986* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or
- (c) an offence against the *Weapons Act 1990* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or
- (d) an offence committed outside Queensland that would be a disqualifying offence if committed in Queensland.

“executive officer”, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director, or the person’s position is given the name of executive officer.

“deal with” includes sell, dispose of and destroy.

“fee” includes a tax.

“for sale” for a vehicle, means—

- (a) offered or available for exchange or sale; or
- (b) displayed or exhibited for exchange or sale.

Examples of paragraph (b)—

A sign stating any of the following is attached to, or placed near, the vehicle—

- \$5 000 ono ph 1234 5678
- For sale phone 1234 5678
- Buy me—\$7 000 call at 123 City St.

“government entity” means a government department or an agency, authority, commission, corporation, instrumentality, office or other

SCHEDULE 3 (continued)

entity, established under an Act for a public or official purpose and includes part of a government entity.

“grievous bodily harm” means—

- (a) the loss of a distinct part or an organ of the body; or
- (b) serious disfigurement; or
- (c) any bodily injury of such a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health;

whether or not treatment is or could have been available.

“GVM” (gross vehicle mass) means the maximum loaded mass of a vehicle—

- (a) stated on the vehicle’s compliance plate; or
- (b) stated in a way prescribed under a regulation.

“heavy vehicle” means—

- (a) a vehicle with a GVM of more than 4.5 t; or
- (b) a public passenger vehicle; or
- (c) another vehicle providing services on a road for which a licence is required under a transport Act; or
- (d) a vehicle transporting dangerous goods—
 - (i) for reward; or
 - (ii) if the amount of dangerous goods is greater than the amount prescribed under a regulation; or
- (e) a vehicle used for driver training for reward.

“holder” for chapter 3, part 1A, means the holder of an approval.

“in” a place or vehicle includes on the place or vehicle.

“interstate scheme” see section 16.

SCHEDULE 3 (continued)

“licence” means a licence, permit or certificate under a transport Act, and includes—

- (a) a renewal of the licence, permit or certificate; and
- (b) an endorsement on the licence, permit or certificate.

“motor vehicle” means a vehicle propelled by a motor that forms part of the vehicle, and includes a trailer attached to the vehicle.

“MUTCD” see section 82(1).

“number plate” means a plate or other device designed to be attached to a vehicle to identify the vehicle.

“occupier” of a place includes a person who reasonably appears to be the occupier, or in charge, of the place.

“official traffic sign” see section 82(1).

“on” a place includes within, under and over the place.

“operator” see section 15(2).

“owner” includes—

- (a) for a seized thing—the person from whom the thing was seized unless the chief executive or commissioner is aware of the actual owner; or
- (b) for a vehicle—
 - (i) each person who is the owner, joint owner or part owner of the vehicle; or
 - (ii) a person who has the use and control of the vehicle under a hiring agreement, hire purchase agreement or leasing arrangement; and
 - (iii) the person in whose name the vehicle is registered under a transport Act or a corresponding law;

but does not include the driver of a vehicle when the driver has been provided as part of a hiring agreement for the vehicle.

“performance standard” see section 15.

SCHEDULE 3 (continued)

“person in control” of a vehicle includes—

- (a) the driver of the vehicle; or
- (b) the person who reasonably appears to be the driver; or
- (c) the person who appears to be, claims to be or acts as if he or she is in control of a vehicle.

“place” includes land, premises and water, but does not include a vehicle.

“prevent” includes minimise and remove.

“private vehicle” means a vehicle other than a heavy vehicle.

“public passenger vehicle” has the same meaning as in the *Transport Operations (Passenger Transport) Act 1994*.

“public place” means a place—

- (a) of public resort open to or used by the public as of right; or
- (b) for the time being—
 - (i) used for a public purpose; or
 - (ii) open to access by the public; whether on payment or otherwise; or
- (c) open to access by the public by the express or tacit consent or sufferance of the owner of that place, whether the place is or is not always open to the public;

but does not include—

- (d) a track that at the material time is being used as a course for racing or testing motor vehicles and from which other traffic is excluded during that use; or
- (e) a road; or
- (f) a place declared under a regulation not to be a public place.

“reasonably believe” means believe on reasonable grounds.

“registered” means registered in a register of vehicles kept by the chief executive under a transport Act.

SCHEDULE 3 (continued)

“reviewed decision” see section 65.

“road” has the meaning given by the *Transport Infrastructure Act 1994*, chapter 5 (Road transport infrastructure).

“trailer” means a vehicle that is built to be towed, or is towed, by a motor vehicle, but does not include a motor vehicle being towed.

“transport”, in relation to dangerous goods, includes—

- (a) the packing, loading and unloading of the goods, and transferring them to or from a vehicle, for their transport; and
- (b) the marking of packages and unit loads containing dangerous goods;
- (c) the placarding of containers and vehicles in which dangerous goods are transported; and
- (d) anything else incidental to their transport.

“transport Act” means—

- (a) this Act; or
- (b) another Act, or a provision of another Act, administered by the Minister that is prescribed under a regulation; or
- (c) the *Motor Accident Insurance Act 1994* for the following provisions of this Act—
 - section 31 (Power to stop private vehicles)
 - section 32 (Power to stop heavy vehicles)
 - section 47 (Power to set up checkpoints)
 - section 48 (Power to require name and address)
 - section 49 (Power to require documents to be produced)
 - a provision of this Act that is prescribed under a regulation.

“transport coordination plan” means the transport coordination plan developed under the *Transport Planning and Coordination Act 1994*.

SCHEDULE 3 (continued)

“unsafe”, for a thing, means the thing is likely to cause loss of life, bodily injury or damage to property if used in a normal way.

“vehicle” includes any type of transport that moves on wheels and a hovercraft but does not include a train or tram.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 31 July 1998. Future amendments of the Transport Operations (Road Use Management) Act 1995 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

*Transport Operations (Road Use Management)
Act 1995*

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 32 of 1995	7 July 1995
2	to Act No. 58 of 1995	24 January 1996
2A	to Act No. 62 of 1996	21 March 1997
2B	to Act No. 9 of 1997	18 July 1997
3	to Act No. 66 of 1997	6 March 1998

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	2

6 List of legislation

Transport Operations (Road Use Management) Act 1995 No. 9

date of assent 5 April 1995

ss 1–2, s 92 sch 1 commenced on date of assent

s 93(7) commenced 12 May 1995 (1995 SL No. 124)

remaining provisions commenced 1 July 1995 (1995 SL No. 206)

as amended by—

Transport Infrastructure Amendment (Rail) Act 1995 No. 32 ss 1–2, 23 sch

date of assent 14 June 1995

commenced on date of assent (see s 2(1))

Transport Planning and Coordination Amendment Act 1995 No. 48 pts 1, 5

date of assent 22 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 15 December 1995 (1995 SL No. 365)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 2

date of assent 28 November 1995

s 4 sch 2 amdt 2 commenced 5 April 1995

remaining provisions commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Motor Accident Insurance Legislation Amendment Act 1996 No. 53 pts 1, 3

date of assent 20 November 1996

pt 1 commenced on date of assent

remaining provisions commenced 6 December 1996 (1996 SL No. 362)

Transport Legislation Amendment Act 1996 No. 62 pts 1, 4

date of assent 9 December 1996

pt 1 commenced on date of assent

s 18 commenced 2 July 1998 (see s 2(1) and 1995 No. 9 s 93 sch 2 pt 1)

remaining provisions commenced 1 May 1997 (1997 SL No. 23)

Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9

ss 1–2(1), pts 1, 25

date of assent 15 May 1997

commenced on date of assent

Transport Legislation Amendment Act 1997 No. 66 pts 1, 8

date of assent 1 December 1997

ss 1–2 commenced on date of assent

ss 109–112, 125–128, 129 (so far as it relates to the insertion of ch 5A), 130, 134, 136(1), (2) (other than for the insertion of the definitions “dangerous goods”, “dangerous situation”, “dangerous situation notice” and “remedial action notice”), (3) commenced 12 December 1997 (1997 SL No. 439)

s 135 commenced 19 December 1997 (1997 SL No. 484)
 ss 132 (so far as it inserts s 92B) and 133 commenced 1 January 1998 (1998
 SL No. 484)
 remaining provisions not yet proclaimed into force

7 List of annotations

Commencement

s 2 om R2 (see RA s 37)

Objectives

s 3 amd 1997 No. 66 s 110

Contents of strategies

s 8 amd 1995 No. 48 s 15

CHAPTER 3—ROAD USER PERFORMANCE AND COMPLIANCE PART 1A—APPROVALS

pt hdg ins 1997 No. 66 s 111

Definition

s 17A ins 1997 No. 66 s 111

Granting, renewing or refusing approval

s 17B ins 1997 No. 66 s 111

Grounds for amending suspending or cancelling approvals

s 18 sub 1997 No. 66 s 111

Procedure for amending, suspending or cancelling approvals

s 19 amd 1997 No. 66 s 112

Entry to places

s 26 amd 1997 No. 66 s 113

Power to require vehicles to be moved

s 33 amd 1997 No. 66 s 114

Power to inspect vehicles

s 34 amd 1997 No. 66 s 115

Power to enter vehicles etc. other than for vehicle inspection

s 35 amd 1997 No. 66 s 116

Power to prohibit use of vehicles

s 37 amd 1997 No. 66 s 117

Forfeiture of seized things

s 43 amd 1997 No. 66 s 118

PART 3—POWERS OF AUTHORISED OFFICERS

Division 3A—Additional seizure powers for certain vehicles for sale

div hdg ins 1997 No. 66 s 119

Seizing certain vehicles for sales 46A ins 1997 No. 66 s 119**Power to require information**s 50 amd 1997 No. 66 s 120**Division 5—Remedial action notices**div hdg ins 1997 No. 66 s 121**Power to give remedial action notices**s 50A ins 1997 No. 66 s 121**PART 4A—ADDITIONAL POWERS OF AUTHORISED OFFICERS TO PREVENT DANGEROUS SITUATION**pt hdg ins 1997 No. 66 s 122**Application**s 51A ins 1997 No. 66 s 122**Additional power to require information or produce document**s 51B ins 1997 No. 66 s 122**Self incrimination no excuse**s 51C ins 1997 No. 66 s 122**Power to give directions in dangerous situations**s 51D ins 1997 No. 66 s 122**Preventing injury and damage—taking direct action**s 51E ins 1997 No. 66 s 122**False, misleading or incomplete documents**s 53 amd 1995 No. 57 s 4 sch 2; 1997 No. 66 s 123**Liability for offences**s 57 sub 1997 No. 66 s 124**Responsibility for acts or omissions of representatives**s 57A ins 1997 No. 66 s 124**Further liability provisions for extended liability offences**s 57B ins 1997 No. 66 s 124**CHAPTER 4—REVIEW OF AND APPEALS AGAINST DECISIONS****PART 1—REVIEW OF DECISIONS**pt hdg om 1997 No. 66 s 125**Review of and appeals against decisions**s 65 sub 1997 No. 66 s 125**Applying for review**s 66 om 1997 No. 66 s 125**Stay of operation of decision**s 67 om 1997 No. 66 s 125

Reference to review panel

s 68 om 1997 No. 66 s 125

Review panels

s 69 om 1997 No. 66 s 125

Consideration of application by review panel

s 70 om 1997 No. 66 s 125

Decision on reconsideration

s 71 om 1997 No. 66 s 125

PART 2—APPEALS

pt hdg om 1997 No. 66 s 125

Who may appeal

s 72 om 1997 No. 66 s 125

Appealing

s 73 om 1997 No. 66 s 125

Vehicle operations and road rules

s 75 amd 1997 No. 66 s 125

Vehicle standards

s 76 sub 1997 No. 66 s 127

Nomination of responsible operator

s 77A ins 1996 No. 62 s 18

Regulations about driver management

s 78 amd 1997 No. 66 s 128

PART 5—TRANSPORTING DANGEROUS GOODS BY ROAD

pt hdg ins 1997 No. 66 s 129

Application of part

s 79A ins 1997 No. 66 s 129

Regulations about dangerous goods

79B ins 1997 No. 66 s 129

Exemptions

s 79C ins 1997 No. 66 s 129

Failure to hold licence etc.

s 79D ins 1997 No. 66 s 129

Goods too dangerous to be transported

s 79E ins 1997 No. 66 s 129

Duties when transporting dangerous goods

s 79F ins 1997 No. 66 s 129

Additional evidentiary aids for transporting dangerous goods

s 79G ins 1997 No. 66 s 129

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Recovery of costs from convicted person

s 79H ins 1997 No. 66 s 129

Recovery of costs of government action

s 79I ins 1997 No. 66 s 129

Prohibition from involvement in the transport of dangerous goods by road

s 79J ins 1997 No. 66 s 129

Forfeiting dangerous goods

s 79K ins 1997 No. 66 s 129

Helping in emergencies or accidents

s 79L ins 1997 No. 66 s 129

CHAPTER 5A—USING VEHICLES IN PUBLIC PLACES

ch hdg ins 1997 No. 66 s 129

Regulating vehicles etc. in public places

s 79M ins 1997 No. 66 s 129

Approval of forms

s 84A ins 1997 No. 66 s 130

Regulations

s 85 amd 1997 No. 66 s 131

Reference provisions operate only after repeal of relevant Act

s 85A ins 1995 No. 58 s 4 sch 1

Carriage of Dangerous Goods by Road Act 1984 references

s 86 amd 1995 No. 58 s 4 sch 1

Main Roads Act 1920 references

s 87 amd 1995 No. 58 s 4 sch 1

Motor Vehicles Control Act 1975 references

s 88 amd 1995 No. 58 s 4 sch 1

Motor Vehicles Safety Act 1980 references

s 89 amd 1995 No. 58 s 4 sch 1

State Transport Act 1960 references

s 90 amd 1995 No. 58 s 4 sch 1

Transport Infrastructure (Roads) Act 1991 references

s 91 amd 1995 No. 58 s 4 sch 1

Amendment of Acts

s 92 om R1 (see RA s 40)

Transitional provisions for Motor Vehicles Control Act 1975 about local laws

s 92 ins 1997 No. 66 s 132
exp 1 year after it commences (see s 92(2))
AIA s 20A applies (see s 92(3))

*Transport Operations (Road Use Management)
Act 1995*

Transitional provisions for repealed Acts

s 92A ins 1997 No. 66 s 132
exp 1 July 2003 (see s 92A(6))

Transitional provisions for Motor Vehicle Driving Instruction School Act 1969

s 92B ins 1997 No. 66 s 132

Repeal of Acts

s 93 amd R1 (see RA s 40); 1997 No. 9 s 93(2)
exp 1 July 1999 or an earlier date prescribed by regulation (see s 93(6))

Repeal of Motor Vehicle Driving Instruction School Act 1969

s 93A ins 1997 No. 66 s 133
exp 1 January 1999 (see s 93A(2))

Declaration about Act's assent

s 94 ins 1995 No. 32 s 23 sch
exp 14 June 1994 (see s 94(4))
AIA s 20A applies (see s 94(3) as ins 1995 No. 32 s 23 sch)

SCHEDULE 1—AMENDMENT OF ACTS

amd 1995 No. 9 s 94 (as ins 1995 No. 32 s 23 sch)
om R1 (see RA s 40)

**SCHEDULE 1—DISQUALIFYING OFFENCES—PROVISIONS OF THE
CRIMINAL CODE**

ins 1997 No. 66 s 134

SCHEDULE 2—REPEALED ACTS

amd R1 (see RA s 40); 1995 No. 9 s 93(7); 1995 No. 57 s 4 sch 2

SCHEDULE 2A—REVIEWABLE DECISIONS

ins 1997 No. 66 s 135

SCHEDULE 3—DICTIONARY

def “**approval**” ins 1997 No. 66 s 136(2)
def “**approved form**” sub 1997 No. 66 s 136(1)–(2)
def “**convicted**” ins 1997 No. 66 s 136(2)
def “**dangerous goods**” ins 1997 No. 66 s 136(2)
def “**dangerous situation**” ins 1997 No. 66 s 136(2)
def “**dangerous situation notice**” ins 1997 No. 66 s 136(2)
def “**disqualifying offence**” ins 1997 No. 66 s 136(2)
def “**executive officer**” ins 1997 No. 66 s 136(2)
def “**for sale**” ins 1997 No. 66 s 136(2)
def “**government entity**” ins 1997 No. 66 s 136(2)
def “**grievous bodily harm**” ins 1997 No. 66 s 136(2)
def “**GVM**” amd 1995 No. 48 s 16
def “**heavy vehicle**” sub 1997 No. 66 s 136(1)–(2)
def “**holder**” ins 1997 No. 66 s 136(2)
def “**owner**” amd 1997 No. 66 s 136(3)
def “**prevent**” ins 1997 No. 66 s 136(2)
def “**public place**” ins 1997 No. 66 s 136(2)

def “**remedial action notice**” *ins* 1997 No. 66 s 136(2)

def “**reviewed decision**” *ins* 1997 No. 66 s 136(2)

def “**transport**” *ins* 1997 No. 66 s 136(2)

def “**transport Act**” *amd* 1996 No. 53 s 12

8 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992 s 5(c)).

Transport Legislation Amendment Act 1997 No. 66 pt 8 read as follows—

Amendment of s 26 (Entry to places)

113. Section 26(1)—

insert—

- ‘(d) for a place other than in a dwelling house—
 - (i) the officer reasonably believes—
 - (A) a vehicle is for sale in the place; and
 - (B) the place is open for entry to anyone interested in purchasing the vehicle; and
 - (ii) the entry is made between sunrise and sunset; or
- (e) the officer reasonably believes a dangerous situation exists in the place and it is necessary for the officer to enter it to take action under section 51E to prevent the danger.’.

Amendment of s 33 (Power to require vehicles to be moved)

114. Section 33—

insert—

‘**(3A)** Despite subsection (3), a stated reasonable place for a heavy vehicle may be any place along the vehicle’s route to its destination or within 25 km of the route.’.

Amendment of s 34 (Power to inspect vehicles)

115. Section 34(1)—

omit, insert—

‘34.(1) This section applies to a motor vehicle that—

- (a) is stationary on a road; or
- (b) has been stopped under section 31 or 32; or
- (c) is in a place an authorised officer has entered under section 26.’.

Amendment of s 35 (Power to enter vehicles etc. other than for vehicle inspection)

116. Section 35(1)—

omit, insert—

‘35.(1) This section applies to an authorised officer who reasonably believes—

- (a) a vehicle in a place the officer has entered under section 26 is used, or is being used, to transport dangerous goods; or
- (b) a heavy vehicle is being, or has just been, used to transport dangerous goods; or
- (c) a vehicle is being, or has just been, used to commit an offence against a transport Act; or
- (d) a vehicle, or a thing in the vehicle, may provide evidence of an offence against a transport Act that is being, or has just been, committed; or
- (e) the driver of a heavy vehicle is required under a regulation to keep a document relating to driving hours.’.

Amendment of s 37 (Power to prohibit use of vehicles)

117. Section 37(1), after ‘road’—

insert—

‘or public place’.

Amendment of s 43 (Forfeiture of seized things)

118. Section 43(4)(b) to (d)—

omit, insert—

‘(b) the owner may—

- (i) under section 65—ask for the decision to be reviewed and appeal against the reviewed decision; and
- (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.’.

Insertion of new ch 3, pt 3, div 3A

119. After section 46—

insert—

‘Division 3A—Additional seizure powers for certain vehicles for sale

‘Seizing certain vehicles for sale

‘46A.(1) This section applies if—

- (a) an authorised officer reasonably believes a vehicle is for sale on a place that is not—
 - (i) the premises of a person licensed to conduct the business of a motor dealer under the *Auctioneers and Agents Act 1971*; or
 - (ii) a private dwelling or its curtilage; and
- (b) a document specified under a regulation for the vehicle is—

- (i) not displayed on the vehicle in the way required under the regulation; or
- (ii) if a document is displayed on the vehicle as required under the regulation and the authorised officer has inspected the vehicle under section 34—in the reasonable opinion of the officer, false or misleading in a material particular; and
- (c) the authorised officer reasonably believes an offence that may be constituted by anything mentioned in paragraph (b) involving the vehicle has been committed; and
- (d) the authorised officer, after making reasonable inquiries—
 - (i) can not find the person (the **“seller”**) selling the vehicle, whether as owner or otherwise; or
 - (ii) if the seller is found, reasonably believes a name or address given by the seller is false; and
- (e) while making the inquiries, the authorised officer warned any person to whom the officer has made an inquiry about the vehicle that it may be seized if the authorised officer—
 - (i) can not find the seller; or
 - (ii) reasonably believes the things mentioned in paragraph (d)(ii).

‘(2) The authorised officer may seize the vehicle and move it from the place where it was seized.

‘(3) A person may reclaim the vehicle by—

- (a) satisfying an authorised officer the person claiming the vehicle is the owner; and
- (b) paying the reasonable costs of seizing, moving and storing the vehicle and the seizure notice under subsection (4).

‘(4) The chief executive must, as soon as possible after a vehicle is seized under this section, give notice (a **“seizure notice”**) of its seizure in a newspaper circulating in the locality where the vehicle was seized.

‘(5) The seizure notice must state the following—

- (a) a description of the vehicle and any registration number displayed

on it;

- (b) where and when it was seized;
- (c) a statement to the effect of subsection (3).

‘(6) If the vehicle is not reclaimed within 1 month after the seizure notice is published, the chief executive may sell the vehicle by public auction.

‘(7) The proceeds of the sale of the vehicle must be applied as follows—

- (a) firstly, in payment of the expenses of the sale;
- (b) secondly in payment of the costs of seizing, moving and storing the vehicle and the seizure notice;
- (c) thirdly, in payment of the balance to the owner, or if the owner cannot be found, into the consolidated fund.

‘(8) An authorised officer is taken to have made reasonable inquiries to find a person mentioned in subsection (1)(d) if the officer has not been able to find the person after making reasonable inquiries—

- (a) at an address indicated on or near the vehicle not more than 10 km from the vehicle; or
- (b) by making a telephone call to a phone number displayed on or near the vehicle.

‘(9) Sections 42 and 45 apply to a vehicle seized under this section with all necessary changes.’.

Amendment of s 50 (Power to require information)

120. Section 50(1), definition “**information offence**”, paragraph (a)—
omit, insert—

- ‘(a) involves—
 - (i) a heavy vehicle; or
 - (ii) a contravention of a regulation made under section 76; and’.

Insertion of new ch 3, pt 3, div 5

121. After section 50—

insert—

‘Division 5—Remedial action notices

‘Power to give remedial action notices

‘50A.(1) This section applies if an authorised officer reasonably believes a person—

- (a) has contravened a provision of this Act about the transport of dangerous goods in circumstances that indicate that it is likely the contravention will be repeated; or
- (b) is contravening a provision of this Act about the transport of dangerous goods.

‘(2) The authorised officer may give the person a written notice (a **“remedial action notice”**) requiring the person to remedy the cause of the contravention.

‘(3) The notice must state the following—

- (a) the provision the officer reasonably believes the person has contravened or is contravening;
- (b) the grounds for the belief;
- (c) that the person must remedy the contravention within a stated reasonable time.

‘(4) The notice may also state the steps the authorised officer reasonably believes are necessary to remedy the contravention, or avoid further contravention, of the provision.

‘(5) If the notice relates to a vehicle, it may be given by securely attaching it to the vehicle in a conspicuous position.

‘(6) The person must comply with the notice.

Maximum penalty—the maximum penalty for the contravention of the provision about which the notice is given.

‘(7) A person must not remove a remedial action notice from a vehicle before the steps stated in the notice are taken.

Maximum penalty—135 penalty units.

‘(8) However, the person to whom the notice is given does not contravene subsection (7) if the person removes the notice from the vehicle and immediately reads it and reattaches it to the vehicle.’.

Insertion of new ch 3, pt 4A

122. After section 51—

insert—

‘PART 4A—ADDITIONAL POWERS OF AUTHORISED OFFICERS TO PREVENT DANGEROUS SITUATION

‘Application

‘**51A.** This part applies only if an authorised officer reasonably believes a dangerous situation exists.

‘Additional power to require information or produce document

‘**51B.(1)** This section applies if the authorised officer reasonably believes a person may be able to give information or produce a document that will help to prevent the dangerous situation.

‘(2) The officer may require the person to give the information or produce the document.

‘(3) The person must give the information or produce the document unless the person has a reasonable excuse.

Maximum penalty—

- (a) if the contravention results in death or grievous bodily harm to a person—270 penalty units; or
- (b) otherwise—135 penalty units.

‘Self incrimination no excuse

‘51C.(1) The fact that giving the information or providing the document might tend to incriminate the person is not a reasonable excuse for section 51B(3).

‘(2) However, the information or document is not admissible in evidence against the person, other than a corporation, in criminal proceedings apart from proceedings for an offence against sections 52 or 53.

‘Power to give directions in dangerous situations

‘51D.(1) This section applies if the authorised officer reasonably believes a person is in a position to take steps to prevent the dangerous situation.

‘(2) The authorised officer may give the person a written notice (a **“dangerous situation notice”**) requiring the person to take the steps reasonably necessary to prevent the dangerous situation.

‘(3) The notice must state the following—

- (a) the situation the authorised officer believes is causing the danger;
- (b) the grounds for the belief;
- (c) the steps the person must take to prevent the danger;
- (d) that the person must take the steps within a stated reasonable time.

‘(4) If the notice relates to a vehicle, it may be given by securely attaching it to the vehicle in a conspicuous position.

‘(5) The person must comply with the notice.

Maximum penalty—

- (a) if the contravention results in death or grievous bodily harm to a person—270 penalty units; or
- (b) otherwise—135 penalty units.

‘(6) A person must not remove a dangerous situation notice from a vehicle before the steps stated in the notice are taken.

Maximum penalty—135 penalty units.

‘(7) However, the person to whom the notice is given does not contravene subsection (6) if the person removes the notice from the vehicle and immediately reads it and reattaches it to the vehicle.

‘Preventing injury and damage—taking direct action

‘51E.(1) This section applies if the authorised officer reasonably believes—

- (a) a person given a remedial action notice under section 50A or dangerous situation notice has not complied with the notice; or
- (b) having regard to the nature of the dangerous situation, action under a remedial action or dangerous situation notice is inappropriate to prevent the danger.

‘(2) The authorised officer may take, or cause to be taken, the action the officer reasonably believes is necessary to prevent the danger.

‘(3) The action an authorised officer may take includes asking someone the officer reasonably believes has appropriate knowledge and experience to help the officer prevent the danger.

‘(4) If the person agrees to help, the person is taken to have the powers of an authorised officer to the extent reasonably necessary for the person to help prevent the danger.’.

Amendment of s 53 (False, misleading or incomplete documents)

123. Section 53(4), ‘subsection (1)’—

omit, insert—

‘subsection (2)’.

Replacement of s 57 (Liability for offences)

124. Section 57—

omit, insert—

‘Executive officers must ensure corporation complies with transport Act

‘57.(1) The executive officers of a corporation must ensure the corporation complies with a transport Act.

‘(2) If a corporation commits an offence against a provision of a transport Act, each of the corporation’s executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the maximum penalty for the contravention of the provision by an individual.

‘(3) Evidence that a corporation has been convicted of an offence against a provision of a transport Act is evidence each of the corporation’s executive officers committed the offence of failing to ensure the corporation complies with the provision.

‘(4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the corporation’s conduct in relation to the offence—that the officer exercised reasonable diligence and took reasonable steps to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the corporation’s conduct in relation to the offence.

‘Responsibility for acts or omissions of representatives

‘57A.(1) This section applies in a proceeding for an offence against a transport Act.

‘(2) If it is relevant to prove a person’s state of mind about a particular act or omission, it is enough to show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative’s actual or apparent authority; and
- (b) the representative had the state of mind.

‘(3) An act for a person done, or omitted to be done, by a representative

of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person unless the person proves—

- (a) if the person was in a position to influence the representative's conduct in relation to the act or omission—the person exercised reasonable diligence and took reasonable steps to prevent the act or omission; or
- (b) the person was not in a position to influence the representative's conduct in relation to the act or omission.

'(4) In this section—

“representative” means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

'Further liability provisions for extended liability offences

'57B.(1) This section only applies—

- (a) for an extended liability offence; and
- (b) to an influencing person.

'(2) If the driver, or other person in control, of a heavy vehicle commits an extended liability offence, an influencing person is also taken to have committed the offence unless the influencing person proves—

- (a) if the influencing person was in a position to influence the conduct of the driver or other person in relation to the act or omission—the influencing person exercised reasonable diligence and took reasonable steps to prevent the act or omission; or
- (b) the influencing person was not in a position to influence the conduct of the driver or other person in relation to the act or omission.

'(3) In this section—

“extended liability offence” means an offence against a transport Act

that—

- (a) involves a heavy vehicle; and
- (b) is declared under a regulation to be an extended liability offence.

“influencing person” means the following persons—

- (a) the owner of the vehicle;
- (b) if someone else controls or directly influences the loading or operation of the vehicle—the other person.’

Insertion of new ch 5, pt 5 and ch 5A

129. After section 79—

insert—

‘PART 5—TRANSPORTING DANGEROUS GOODS BY ROAD

‘Application of part

‘79A.(1) This part—

- (a) applies only in relation to the transport of dangerous goods by road; and
- (b) is in addition to and does not limit any other provision of this Act or any other Act.

‘(2) However, this part does not apply to—

- (a) the transport of radioactive substances under the *Radioactive Substances Act 1958*; or
- (b) the transport of explosives under the *Explosives Act 1952*; or
- (c) the transfer, under the *Gas Act 1965*, of gas (within the meaning of that Act) to or from a road tank vehicle or bulk container; or
- (d) the transport by vehicle of packages of liquefied petroleum gas if the total capacity of the packages is not more than 1 000 L and—
 - (i) no other dangerous goods are being transported by the

vehicle at the same time; or

- (ii) the packages are being transported by—
 - (A) a primary producer, or a person employed by a primary producer, for use by the primary producer; or
 - (B) a tradesperson, or a person employed by a tradesperson, for use by the tradesperson.

‘Regulations about dangerous goods

‘79B.(1) A regulation may prescribe rules about the transport of dangerous goods, including for example, rules about the following—

- (a) types and categories of dangerous goods and ways of deciding types and categories of dangerous goods;
- (b) deciding which goods are—
 - (i) dangerous; or
 - (ii) are dangerous goods of a particular type; or
 - (iii) are too dangerous to be transported; or
 - (iv) are too dangerous to be transported in bulk;
- (c) the analysis and testing of dangerous goods;
- (d) goods too dangerous to be transported or too dangerous to be transported in bulk;
- (e) the marking of packages and unit loads containing dangerous goods for transport by road and the placarding of containers and vehicles in which dangerous goods are transported by road;
- (f) containers and packaging used in transporting dangerous goods by road;
- (g) the manufacture of vehicles and containers for use in transporting dangerous goods by road;
- (h) voluntary accreditation schemes, including privileges to be accorded or sanctions to be imposed under the schemes and the cancellation or suspension of the schemes;

- (i) the loading of dangerous goods for, and the unloading of dangerous goods after, their transport by road;
- (j) deciding routes along which, the areas in which and the times during which dangerous goods may or may not be transported by road;
- (k) procedures for transporting dangerous goods by road, including, but not limited to—
 - (i) the quantities and circumstances in which dangerous goods, may be transported; and
 - (ii) safety procedures and equipment;
- (l) the licensing of—
 - (i) vehicles and drivers for transporting dangerous goods by road; and
 - (ii) persons responsible for transporting dangerous goods by road or particular aspects of that transport;
- (m) the mandatory accreditation of persons involved in transporting dangerous goods by road or particular aspects of that transport;
- (n) the approval of—
 - (i) packages, containers, equipment and other items used in relation to transporting dangerous goods by road; and
 - (ii) facilities for, and methods of, testing or using—
 - (A) packages, containers, equipment and other items used; and
 - (B) processes carried out;in relation to transporting dangerous goods by road;
- (o) documents required to be prepared or kept by persons involved in transporting dangerous goods by road and the approval of alternative documentation;
- (p) public liability insurance that must be taken out by persons involved in transporting dangerous goods by road;
- (q) obligations arising, and procedures to be followed, in the event of

a dangerous situation in relation to transporting dangerous goods by road;

- (r) the training and qualifications required of persons involved in, and the approval of training courses and qualifications relating to involvement in, transporting dangerous goods by road.

‘(2) A regulation may allow something in subsection (1)(b) or (j) to be determined by the chief executive.

‘Exemptions

‘79C.(1) A person may apply to the chief executive for an exemption from complying with a provision of a regulation about transporting particular dangerous goods by road.

‘(2) The chief executive may exempt the person from complying with the provision if satisfied that—

- (a) it is not reasonably practicable for the person to comply with the provision; and
- (b) granting the exemption—
 - (i) would not be likely to create a risk of a dangerous situation greater than that which would be the case if the person was required to comply; and
 - (ii) would not cause unnecessary administrative or enforcement difficulties, particularly about maintaining national uniformity of road transport laws.

‘(3) If an exemption is given on conditions, the exemption operates only if the conditions are complied with.

‘(4) The chief executive must, as soon as is practicable after giving an exemption, give notice of it in the gazette.

‘(5) The notice must state the following—

- (a) the person to whom the exemption applies;
- (b) the provisions of the regulation from which the person is exempt;
- (c) the dangerous goods to which the exemption applies;

- (d) the time for which the exemption applies;
- (e) the conditions to which the exemption is subject;
- (f) the geographical area for which the exemption applies.

‘(6) *The Statutory Instruments Act 1992*, sections 24 to 26 apply to an exemption as if it were a statutory instrument.

‘(7) A regulation may regulate the giving of an exemption under this section.

‘Failure to hold licence etc.

‘**79D.(1)** A person must not drive a vehicle transporting dangerous goods by road if—

- (a) a regulation requires the vehicle to be licensed to transport the goods; and
- (b) the vehicle is not licensed under the regulation.

Maximum penalty—135 penalty units.

‘(2) A person must not drive a vehicle transporting dangerous goods by road if—

- (a) a regulation requires the person to be licensed to drive the vehicle; and
- (b) the person is not licensed under the regulation.

Maximum penalty—135 penalty units.

‘(3) A person must not employ, engage or permit another person to drive a vehicle transporting dangerous goods by road if—

- (a) a regulation requires the other person to be licensed to drive the vehicle; and
- (b) the other person is not licensed under the regulation.

Maximum penalty—665 penalty units.

‘(4) A person must not employ, engage or permit another person to drive a vehicle transporting dangerous goods by road if—

- (a) a regulation requires the vehicle to be licensed to transport the

goods; and

- (b) the vehicle is not licensed under the regulation.

Maximum penalty—665 penalty units.

‘(5) A person who is required under a regulation to be accredited to be involved in transporting dangerous goods by road or a particular aspect of that transport must not be involved unless the person is accredited as required.

Maximum penalty—665 penalty units.

‘Goods too dangerous to be transported

‘79E. A person must not transport by road goods prescribed under a regulation as being too dangerous to transport by road.

Maximum penalty—665 penalty units.

‘Duties when transporting dangerous goods

‘79F.(1) A person involved in transporting dangerous goods by road must ensure, as far as is practicable, that the goods are transported safely.

‘(2) If a person involved in transporting dangerous goods by road contravenes this Act in circumstances where the person knew, or ought reasonably to have known, that the contravention would be likely to endanger the safety of another person or of property or the environment, the person commits an offence.

Maximum penalty—665 penalty units.

‘(3) This section is in addition to and does not limit any other provision of this Act.

‘Additional evidentiary aids for transporting dangerous goods

‘79G.(1) This section applies if, in a prosecution for a contravention of this Act—

- (a) an authorised officer gives evidence the officer believes any of the following matters—

- (i) that dangerous goods stated in shipping documents carried in a vehicle, are being carried in the vehicle;
 - (ii) that particular goods are dangerous goods or dangerous goods of a particular type;
 - (iii) if markings on a substance or container indicate that the substance is, or the container contains particular dangerous goods—that the substance is or the container contains the dangerous goods indicated;
 - (iv) if markings on a vehicle or equipment indicate the vehicle or equipment is being used to transport dangerous goods—that the vehicle or equipment is being used to transport the dangerous goods indicated;
 - (v) if markings on a substance, container or the container's contents indicate, the substance, container or contents have an indicated attribute—that the substance, container or contents have the indicated attribute;
 - (vi) if markings on a vehicle or container indicate the vehicle's load is, or the container's contents are, an indicated quantity of dangerous goods—that the vehicle was loaded with, or the container contained, the quantity of dangerous goods indicated; and
- (b) the court considers the belief to be reasonable; and
 - (c) there is no evidence to the contrary.

'(2) The court must accept the matter as proved.

'(3) In this section—

“attribute” means—

- (a) capacity; or
- (b) character; or
- (c) date of manufacture; or
- (d) origin; or
- (e) ownership; or

- (f) specification; or
- (g) tare weight.

“markings” include placards.

“on” includes attached to.

‘Recovery of costs from convicted person

‘79H.(1) A court convicting a person of an offence against this Act about the transport of dangerous goods by road may order the person to pay to a government entity or the State costs reasonably incurred by the entity or the State in prosecuting the offence, including the cost of testing, transporting, storing and disposing of dangerous goods and other evidence.

‘(2) An amount ordered to be paid under subsection (1) is a debt owing to the entity or the State.

‘(3) Subsection (1) is in addition to any other order the court may make.

‘Recovery of costs of government action

‘79I.(1) This section applies if any of the following events happens in relation to the transport of dangerous goods by road—

- (a) a dangerous situation;
- (b) an incident—
 - (i) wholly or partly constituted by or arising from—
 - (A) the escape of dangerous goods; or
 - (B) an explosion or fire involving dangerous goods; or
 - (ii) involving the risk of the escape of dangerous goods or an explosion or fire involving dangerous goods.

‘(2) If a government entity incurs costs because of the event, the entity may recover the costs reasonably incurred in dealing with the event as a debt owing to the entity or the State.

‘(3) The costs are recoverable jointly and severally from the following—

- (a) the person who owned the dangerous goods when the event

happened;

- (b) the person who had possession or control of the dangerous goods when the event happened;
- (c) the person who caused the event;
- (d) the person responsible (other than as an employee, agent or subcontractor of someone else) for the transport of the dangerous goods by road.

‘(4) However, costs are not recoverable from a person who—

- (a) is mentioned in section 79L; or
- (b) establishes that—
 - (i) the event was primarily caused by someone else; or
 - (ii) the person could not, exercising reasonable care, have prevented the event; or
 - (iii) the event was not attributable to the person or to an employee, agent or subcontractor of the person.

‘(5) This section does not limit the powers a government entity has apart from this Act.

‘Prohibition from involvement in the transport of dangerous goods by road

‘79J.(1) This section applies if a person is convicted of an offence against this Act relating to the transport of dangerous goods by road.

(2) The court before which the person is convicted may, after having regard to the following matters, order that the person be prohibited for a stated period from involvement in the transport of dangerous goods by road—

- (a) the person’s record in the transport of dangerous goods by road;
- (b) the person’s prior convictions relating to dangerous goods;
- (c) the circumstances surrounding the commission of the offence;
- (d) any other matters the court considers appropriate.

‘(3) A person must not contravene an order made under subsection (2).

Maximum penalty—665 penalty units or 2 years imprisonment.

‘(4) Subsection (2) does not limit any other penalty the court may impose for the offence.

‘(5) In this section—

“**involvement**”, in the transport of dangerous goods by road, includes the following—

- (a) importing, or arranging for the importation of dangerous goods;
- (b) marking packages and unit loads containing dangerous goods for transport by road, and placarding containers and vehicles in which dangerous goods are transported by road;
- (c) consigning dangerous goods for transport by road;
- (d) loading dangerous goods onto a vehicle or into a container that is to be put on a vehicle for transport by road or unloading dangerous goods that have been transported by road;
- (e) undertaking or being responsible for, other than as an employee or sub-contractor, the transport of dangerous goods by road;
- (f) driving a vehicle carrying dangerous goods by road;
- (g) being a consignee of dangerous goods transported by road;
- (h) being involved as a director, secretary or manager of a corporation or other person who takes part in the management of a corporation that takes part in something mentioned in paragraphs (a) to (g).

‘**Forfeiting dangerous goods**

‘**79K.(1)** If a person is convicted of an offence against this Act relating to the transport of dangerous goods by road, the court before which the person is convicted may, whether or not it makes any other order on conviction, order that the goods or anything used to commit the offence be forfeited to the State.

‘(2) Goods or a thing that are forfeited may be destroyed or otherwise dealt with as directed by the chief executive.

‘Helping in emergencies or accidents

‘79L.(1) This section applies if a person, other than an official mentioned in section 83—

- (a) helps, or attempts to help, in a dangerous situation; and
- (b) the help, or attempt to help, is given—
 - (i) honestly and without negligence; and
 - (ii) without any fee, charge or other reward.

‘(2) The person does not incur civil liability for helping or attempting to help.

‘(3) However, this section does not apply to a person whose act or omission wholly or partly caused the dangerous situation.’.

Amendment of s 85 (Regulations)

131. Section 85(3)(e)—

omit.

Insertion of new ss 92–92B

132. After section 91—

insert—

‘Transitional provisions for Motor Vehicles Control Act 1975 about local laws

‘92.(1) A local law made under the *Motor Vehicles Control Act 1975*, section 35, and in force immediately before the commencement remains in force, subject to amendment or repeal by a local law under section 79M, for this Act is to be read with the changes necessary to make it consistent with this Act and adapt its operation to this Act.

‘(2) This section expires 1 year after its commencement.

‘(3) The *Acts Interpretation Act 1954*, section 20A applies to this section.

‘**Transitional provisions for repealed Acts**

‘**92A.(1)** This section applies if, immediately before the commencement, a matter was authorised by an approval under a repealed Act.

‘(2) The grantee or holder of the approval is taken to be the holder of an approval under this Act that authorises, to the greatest practicable extent, the same matter.

‘(3) The approval—

- (a) is, to the greatest practicable extent, subject to the same conditions that applied to the matter immediately before the commencement; and
- (b) despite paragraph (a), expires at the earlier of—
 - (i) when it would otherwise expire; or
 - (ii) for an approval under the *Carriage of Dangerous Goods by Road Act 1984*—1 July 1999; or
 - (iii) for an approval under the *Motor Vehicles Safety Act 1980*—a day, not before 1 July 2000, prescribed under a regulation; or
 - (iv) otherwise—1 July 2003.

‘(4) However, the approval does not authorise a matter that can not be authorised under an approval granted under this Act.

‘(5) Despite subsection (3)(b), an approval—

- (a) under the *Carriage of Dangerous Goods by Road Act 1984*, other than an approval under section 6 or 24 of that Act; or
- (b) under the *Motor Vehicles Safety Act 1980*, section 22;

in force immediately before the commencement continues in force, subject to this Act, as if it were an approval under this Act.

‘(6) This section expires on 1 July 2003.

‘(7) In this section—

“**approval**” includes authorisation, certificate, consent, declaration, exemption, licence, permit or registration but does not include the approval of a person as an inspector under a repealed Act.

“**repealed Act**” means an Act repealed by section 93.’.

Amendment of sch 3 (Dictionary)

136.(2) Schedule 3—

insert—

‘ “**approval**” for chapter 3, part 1A, see section 17A.

“**approved form**” see section 84A.

“**convicted**” includes being found guilty, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

“**dangerous goods**” means goods prescribed under a regulation to be dangerous goods.

“**dangerous situation**” means a situation involving the transport of dangerous goods by road that is causing or is likely to cause imminent risk of death or injury to a person, or harm to the environment or to property.

“**dangerous situation notice**” see section 51D.

“**disqualifying offence**” means—

- (a) *an offence against a provision of the Criminal Code mentioned in schedule 1, part 1 or the repealed provisions of the Criminal Code mentioned in schedule 1, part 2; or*
- (b) *an offence against the Drugs Misuse Act 1986 punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or*
- (c) *an offence against the Weapons Act 1990 punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or*
- (d) *an offence committed outside Queensland that would be a*

disqualifying offence if committed in Queensland.

“executive officer”, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director, or the person’s position is given the name of executive officer.

“for sale” for a vehicle, means—

- (a) offered or available for exchange or sale; or
- (b) displayed or exhibited for exchange or sale.

Examples of paragraph (b)—

A sign stating any of the following is attached to, or placed near, the vehicle—

- \$5 000 ono ph 1234 5678
- For sale phone 1234 5678
- Buy me—\$7 000 call at 123 City St.

“government entity” means a government department or an agency, authority, commission, corporation, instrumentality, office or other entity, established under an Act for a public or official purpose and includes part of a government entity.

“grievous bodily harm” means—

- (a) the loss of a distinct part or an organ of the body; or
- (b) serious disfigurement; or
- (c) any bodily injury of such a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health;

whether or not treatment is or could have been available.

“heavy vehicle” means—

- (a) a vehicle with a GVM of more than 4.5 t; or
- (b) a public passenger vehicle; or
- (c) another vehicle providing services on a road for which a licence is required under a transport Act; or

- (d) *a vehicle transporting dangerous goods—*
 - (i) *for reward; or*
 - (ii) *if the amount of dangerous goods is greater than the amount prescribed under a regulation; or*
- (e) *a vehicle used for driver training for reward.*

“holder” for chapter 3, part 1A, means the holder of an approval.

“prevent” includes minimise and remove.

“public place” means a place—

- (a) *of public resort open to or used by the public as of right; or*
- (b) *for the time being—*
 - (i) *used for a public purpose; or*
 - (ii) *open to access by the public;*
whether on payment or otherwise; or
- (c) *open to access by the public by the express or tacit consent or sufferance of the owner of that place, whether the place is or is not always open to the public;*

but does not include—

- (d) *a track that at the material time is being used as a course for racing or testing motor vehicles and from which other traffic is excluded during that use; or*
- (e) *a road; or*
- (f) *a place declared under a regulation not to be a public place.*

“remedial action notice” see section 50A.

“reviewed decision” see section 65.

“transport”, in relation to dangerous goods, includes—

- (a) *the packing, loading and unloading of the goods, and transferring them to or from a vehicle, for their transport; and*
- (b) *the marking of packages and unit loads containing dangerous goods;*

- (c) *the placarding of containers and vehicles in which dangerous goods are transported; and*
- (d) *anything else incidental to their transport.’*¹⁶

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¹⁶ Section 136(2) has commenced other than for the insertion of the definitions “**dangerous goods**”, “**dangerous situation**”, “**dangerous situation notice**” and “**remedial action notice**”. Italics denotes definitions which have commenced.