

Queensland



TRANSPORT LEGISLATION AMENDMENT ACT 1997

Act No. 66 of 1997

Queensland



**TRANSPORT LEGISLATION
AMENDMENT ACT 1997**

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Queensland



Transport Legislation Amendment Act 1997

Act No. 66 of 1997

**An Act to amend Acts administered by the Minister for Transport
and Main Roads**

[Assented to 1 December 1997]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Transport Legislation Amendment Act 1997*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF TOW TRUCK ACT 1973

Act amended in pt 2

3. This part amends the *Tow Truck Act 1973*.

Amendment of s 4 (Interpretation)

4.(1) Section 4, heading—

omit, insert—

‘Definitions’.

(2) Section 4(1)—

insert—

‘**“incident”** means a collision or impact, however caused—

- (a) that happens on a road and results in damage to a motor vehicle;
or

- (b) that happens off a road and results in damage to a motor vehicle, if immediately before the collision or impact the motor vehicle was travelling on the road.

“seized”, for a motor vehicle, means seized by a police officer under the *Traffic Act 1949*, section 44(1)(c) or (d), from a road that is an off-street regulated parking area for which there is an arrangement mentioned in section 44BB(1) of that Act.’.

- (3) Section 4(1), definition **“tow truck”**, paragraph (b), after ‘damaged’—

insert—

‘or seized’.

- (4) Before section 4(1A)—

insert—

‘Further provision for definition “motor vehicle”’.

- (5) Before section 4(2)—

insert—

‘Members of firm or partnership’.

- (6) Sections 4(1A) and (2)—

renumber as sections 4A and 4B.

Amendment of s 5 (Requirement as to licence for tow truck)

5. Section 5, from ‘Subject’ to ‘shall’—

omit, insert—

‘A person must’.

Amendment of s 12 (Conditions of licence)

- 6.(1) Section 12(2)(e), after ‘damaged’—

insert—

‘or seized’.

(2) Section 12(2)(g), after ‘damaged’—

insert—

‘or seized’.

(3) Section 12(2)(h), after ‘damaged’—

insert—

‘or seized’.

(4) Section 12(2)(i), from ‘motor’ to ‘incident’—

omit, insert—

‘or seized motor vehicle from the scene of an incident or seizure’.

(5) Section 12(2)(k), after ‘damaged’—

insert—

‘or seized’.

(6) Section 12(2)(l), from ‘or towing’ to ‘incident unless’—

omit, insert—

‘or seizure, or towing a damaged or seized motor vehicle from the scene of an incident or seizure, unless’.

(7) Section 12(2)(m), ‘authority for’ to ‘damaged’—

omit, insert—

‘or seizure authority for the towing of a damaged or seized’.

(8) Section 12(2)(o), after ‘damaged’—

insert—

‘or seized’.

(9) Section 12(2)(o), after ‘incident’—

insert—

‘or seizure’.

(10) Section 12(2)(p), after ‘damaged’—

insert—

‘or seized’.

(11) Section 12(2)(q), ‘about’—
omit, insert—
‘in connection with the use of’.

Replacement of s 13 (Requirement as to certificates)

7. Section 13—
omit, insert—

‘Required certificates etc.

13. A person must not—

- (a) operate a tow truck unless the person is the holder of—
 - (i) a driver’s certificate; or
 - (ii) a permit under section 19 authorising the person to operate a tow truck; or
- (b) be employed on or in connection with the use of a tow truck at or near the scene of an incident or seizure of a motor vehicle unless the person is the holder of—
 - (i) a driver’s certificate; or
 - (ii) an assistant’s certificate; or
 - (iii) a permit under section 19; or
- (c) travel in a tow truck going to the scene of an incident or seizure of a motor vehicle unless the person—
 - (i) is the holder of—
 - (A) a driver’s certificate; or
 - (B) an assistant’s certificate; or
 - (C) a permit under section 19; or
 - (ii) is the owner of the motor vehicle or the owner’s agent; or
 - (iii) was the driver of, or a passenger in, the vehicle.’.

Amendment of s 15 (Form and authority of driver's or assistant's certificate)

8. Section 15(c), 'about'—

omit, insert—

'in connection with'.

Amendment of s 19 (Permit for applicant for driver's or assistant's certificate)

9. Section 19(1), 'about'—

omit, insert—

'in connection with the use of'.

Amendment of s 23 (Consideration for obtaining certain information or work)

10.(1) Section 23(1)(a), from 'as to' to 'road; or'—

omit, insert—

'about—

(i) the occurrence of an incident or seizure; or

(ii) the presence of—

(A) a damaged motor vehicle on a road; or

(B) a seized motor vehicle on a road that is an off-street regulated parking area for which there is an arrangement mentioned in the *Traffic Act 1949*, section 44BB(1); or'.

(2) Section 23(2), after 'vehicle'—

insert—

'or the towing or storage of a seized motor vehicle'.

Amendment of s 24 (False statements and representations, and coercion)

11. Section 24(d), after ‘damaged’—

insert—

‘or seized’.

Amendment of s 40 (Offences generally and penalty)

12. Section 40(3), ‘\$500’—

omit, insert—

‘40 penalty units’.

Amendment of s 43 (Regulation making power)

13.(1) Section 43(2)(g), ‘about’—

omit, insert—

‘in connection with the use of’.

(2) Section 43(2)(p), after ‘towing’—

insert—

‘seized motor vehicles, or towing’.

(3) Section 43(2)(u), ‘4’—

omit, insert—

‘20’.

PART 3—AMENDMENT OF TRAFFIC ACT 1949**Act amended in pt 3**

14. This part amends the *Traffic Act 1949*.

Amendment of s 5 (Local laws etc.)**15.** Section 5(3)(a)—*omit, insert—*

‘(a) the regulation of—

- (i) the driving, leading, standing or wheeling of vehicles or animals on a footway, water-channel or gutter; and
- (ii) the driving or leading of animals to cross a road; and
- (iii) the seizure, removal, detention and disposal of a vehicle or animal mentioned in subparagraph (i) or (ii) found in circumstances constituting an offence against a local law;’.

Amendment of s 9 (Definitions)**16.(1)** Section 9, definitions **“sidecar”**, **“specially constructed vehicle”**, **“tractor”** or **“traction engine”**, **“trolleybus”** and **“trolley vehicle”**—*omit.***(2)** Section 9—*insert—*‘**“agricultural implement”** means an implement, other than a tractor, with or without motive power, that is—

- (a) designed principally for use in primary production; and
- (b) used solely for the purpose of primary production.

“appropriately qualified”, in relation to exercising a power or performing a function, includes having the qualifications, experience or standing to exercise the power or perform the function.**“approved form”**, see section 69.¹**“incapacitated person”** for the user of a wheelchair, means a person with a current medical certificate from a doctor stating the person’s state of health requires the person to use a wheelchair.**“power-assisted bicycle”** means a bicycle to which a power source is¹ Section 69 (Approval of forms)

attached.

“power-assisted cycle” means a power-assisted bicycle or power-assisted tricycle.

“power-assisted tricycle” means a tricycle to which a power source is attached.

“power source”, for a power-assisted cycle, means 1 or more auxiliary propulsion motors that—

- (a) have a combined maximum power output of 200 W or less; and
- (b) operate through—
 - (i) contact with a wheel of the cycle; or
 - (ii) being attached to the cycle’s drive chain.

“propellant” means a machine (other than a lever, wheel and axle, pulley, screw, wedge or inclined plane) capable of propelling a bicycle, tricycle, power-assisted cycle, toy vehicle or wheelchair, but does not include a power source.

“sidecar” means an attachment to a side of a motorcycle or velocipede that—

- (a) carries passengers or goods; and
- (b) has a wheel separate and distinct from the wheels of the motorcycle or velocipede; and
- (c) when attached to the motorcycle or velocipede, is taken to form part of the motorcycle or velocipede.

“specially constructed vehicle” means a motor vehicle, other than a motor cycle or tractor, that—

- (a) is not constructed to carry passengers or a load, except items used in performing the vehicle’s function; and
- (b) is not principally constructed on a motor truck chassis.

Examples—

Agricultural implements, forklifts, road rollers, straddle trucks and traction engines.

“toy vehicle” means a vehicle (other than a bicycle, tricycle, power-assisted cycle or wheelchair) that is—

(a) ordinarily used for sport or recreation; and

(b) designed to be propelled by human power.

“tractor” means a motor vehicle built for a purpose other than to carry passengers or a load, except fuel or water for its own use.

“wheelchair” means a chair on wheels designed and intended for the movement of an incapacitated person from a place to another place.’.

(3) Section 9, definition **“indication”**, example—

omit.

(4) Section 9, definition **“moped”**, paragraph (d)—

omit, insert—

‘(d) is not a power-assisted cycle.’.

(5) Section 9, definition **“motor vehicle”**, ‘trolley vehicle,’—

omit.

(6) Section 9, definition **“owner”**, ‘and section 45A(2)’—

omit.

(7) Section 9, definition **“vehicle”**, ‘tram or a train’—

omit, insert—

‘train, tram or wheelchair’.

Amendment of s 10 (Authorised officers)

17. Section 10(1), ‘an officer of the public service’—

omit, insert—

‘an appropriately qualified public service employee or local government employee’.

Replacement of s 11 (Superintendents)

18. Section 11—

omit, insert—

‘Superintendents

‘**11.(1)** The chief executive is a superintendent of traffic and may also appoint an appropriately qualified public service employee or local government employee to be a superintendent of traffic.

‘**(2)** The commissioner is a superintendent of traffic and may also appoint a police officer or an appropriately qualified officer of the public service to be a superintendent of traffic.’.

Amendment of s 16A (Provisions with respect to breath tests and laboratory tests)

19.(1) Section 16A(1), definition “**breath analysing instrument**”, paragraph (b)—

omit, insert—

‘(b) approved under a regulation.’.

(2) Section 16A(1), definition “**breath test**”, from ‘using—’ to ‘regulation’—

omit, insert—

‘using a device approved under a regulation’.

(3) Section 16A—

insert—

‘**(1A)** If a person is required under this section to provide a specimen of breath for a breath test or analysis or a specimen of blood for a laboratory test, the person is taken not to have provided the specimen unless it—

- (a) is sufficient to enable the test or the analysis to be carried out; and
- (b) is provided in a way that enables the objective of the test or analysis to be satisfactorily achieved.’.

(4) Section 16A(2), ‘request’—

omit, insert—

‘require’.

(5) Section 16A(2A), ‘request’—

omit, insert—

‘require’.

(6) Section 16A—

insert—

‘**(2B)** Subsection (2C) applies if—

- (a) a police officer requires a person to provide a specimen of breath for a breath test by the person under subsection (2) or (2A); and
- (b) the person—
 - (i) is taken not to have provided the specimen of breath under subsection (1A); or
 - (ii) provides the specimen of breath; but—
 - (A) the device used for the test is or becomes defective precluding its satisfactory operation; or
 - (B) for any reason it is not possible to use or continue using the device to conduct the breath test; or
 - (C) for any other reason it is not possible to complete the breath test.

‘**(2C)** Under subsection (2) or (2A), the police officer may require the person to provide as many specimens of breath as the officer considers reasonably necessary to carry out the breath test.’.

(7) Section 16A(3), ‘may request’—

omit, insert—

‘may require’.

(8) Section 16A(3), ‘the request’—

omit, insert—

‘the requirement’.

(9) Section 16A(4), ‘A request’—

omit, insert—

‘A requirement’.

(10) Section 16A(4), ‘such a request’—

omit, insert—

‘the requirement’.

(11) Section 16A(5), ‘requested’—

omit, insert—

‘required’.

(12) Section 16A(5A), ‘requested’—

omit, insert—

‘required’.

(13) Section 16A(5A)(a), ‘elects not’—

omit, insert—

‘fails’.

(14) Section 16A(5A)(b), ‘request’—

omit, insert—

‘requirement’.

(15) Section 16A(5B)(a)—

omit, insert—

‘(a) immediately after the requirement is made, the person produces to the police officer a certificate in the approved form from a doctor stating that—

(i) because of a stated illness or disability, the person is incapable of providing a specimen of breath; or

(ii) the provision of the specimen could adversely affect the person’s health; or’.

(16) Section 16A(6)(b), ‘requested’—

omit, insert—

‘required’.

(17) Section 16A(6)(b)(i), ‘elects not’—

omit, insert—

‘fails’.

(18) Section 16A(6)(b)(ii), ‘request’—

omit, insert—

‘requirement’.

(19) Section 16A(6), after paragraph (b)—

insert—

‘(ba) a police officer reasonably suspects that a person who produces a certificate under subsection (5B)(a) is, because of the external signs exhibited by the person, affected by liquor or a drug;’.

(20) Section 16A(8C), ‘request’—

omit, insert—

‘require’.

(21) Section 16A(8D), ‘request’—

omit, insert—

‘require’.

(22) Section 16A(8E), from ‘a writing’ to ‘health’—

omit, insert—

‘a doctor’s certificate mentioned in subsection (5B)(a)’.

(23) Section 16A(8J), paragraphs (b) and (c)—

omit, insert—

‘(b) who requires the person to provide the specimen of breath for a breath test or analysis.’.

(24) Section 16A(8L)—

omit, insert—

‘**(8L)** Subsection (8M) applies if—

- (a) a person has been required to provide, under subsection (8) or (8C), a specimen of the person’s breath for analysis by a breath analysing instrument or a specimen of the person’s blood for a laboratory test and—

- (b) the person—
- (i) is taken under subsection (1A) not to have provided the specimen of breath or a specimen of blood; or
 - (ii) provides a specimen of breath for analysis by a breath analysing instrument; but—
 - (A) the breath analysing instrument is or becomes defective precluding its satisfactory operation to analyse the breath specimen; or
 - (B) for any reason it is not possible to use or continue using the breath analysing instrument for the purpose of analysing the breath specimen; or
 - (C) the breath analysing instrument indicates to the authorised police officer operating the instrument that alcohol or some other substance is present in the mouth of the person supplying the breath specimen; or
 - (D) for any other reason it is not possible to complete the analysis.

‘**(8M)** Under subsection (8) or (8C), the police officer is authorised to require the person to provide as many specimens of breath or blood as the officer considers reasonably necessary to carry out the analysis or test.’

(25) Section 16A(15), ‘, and such other particulars as may be prescribed’—

omit.

(26) Section 16A(15A)—

omit.

(27) Section 16A(15B)(f)—

omit.

(28) Section 16A(15C)—

omit.

(29) Section 16A(16C)(d)—

omit.

(30) Section 16A(16D)—

omit.

(31) Section 16A(22), ‘Where’—

omit, insert—

‘Subsection (22AA) applies if’.

(32) Section 16A(22)—

insert—

‘(ba) a person has been arrested for an offence under section 16(1) but has not been required by a police officer to provide a specimen of breath for analysis or a specimen of blood for a laboratory test under subsection (8) or (8C)—

- (i) because the person is violent; or
- (ii) because of the external signs exhibited by the person, the police officer reasonably believes the person is so affected by alcohol or a drug as to be unable to provide the specimen; or
- (iii) because of the remoteness of the area—
 - (A) a breath analysing instrument is not available to analyse a specimen of the person’s breath; or
 - (B) a doctor is not available to take a specimen of blood from the person for a laboratory test; or’.

(33) Section 16A(22)(e), ‘subsections (9) to (9B)’—

omit, insert—

‘this section’.

(34) Section 16A(22), from ‘then by virtue’ to ‘be.’—

omit, insert—

‘**(22AA)** The person’s driver’s licence is suspended for 24 hours from when—

- (a) the analysis mentioned in subsection (22)(a) was made; or
- (b) the requirement mentioned in subsection (22)(b), (c)(ii) or (d)

was made; or

- (c) the arrest mentioned in subsection (22)(ba) was made; or
- (d) the breath test of the specimen of the person's breath mentioned in subsection (22)(c)(i) was carried out; or
- (e) the certificate in writing mentioned in subsection (22)(e) was given.'.

Replacement of s 16C (Offenders may be ordered to attend training programs or driving courses)

20. Section 16C—

omit, insert—

'Offenders may be ordered to attend training programs

'16C.(1) This section applies if a person (the **"offender"**) is convicted before a court at a place prescribed under a regulation of an offence under section 16.

'(2) Whether or not any other order is made against the offender, the court may order the offender to attend and complete a training program while the offender is disqualified from holding or obtaining a driver's licence.

'(3) The training program is to be—

- (a) approved by the chief executive; and
- (b) conducted by a person prescribed under a regulation.

'(4) A written notice of the day, time and place of the program that the offender is to attend, is to be given to the offender by a person prescribed under a regulation.'.

Amendment of s 20A (Issue of provisional licence to disqualified person)

21.(1) Section 20A(2A), 'prescribed'—

omit, insert—

'approved'.

(2) Section 20A—

insert—

‘(3A) To remove doubt, it is declared that if a court makes an order under subsection (1) directing that a person be issued with a provisional licence, the person—

- (a) is disqualified from holding or obtaining a driver’s licence, other than the provisional licence; and
- (b) may not drive a motor vehicle during the period of the disqualification unless the person applies for and obtains the provisional licence the court ordered be issued.’.

Amendment of s 20B (Variation of conditions)

22. Section 20B(2), ‘prescribed’—

omit, insert—

‘approved’.

Amendment of s 37 (Diversion of traffic)

23. Section 37(3)—

omit, insert—

‘(3) The application must be in writing and accompanied by the fee prescribed under a regulation.’.

Amendment of s 44 (Removal of things from roads)

24.(1) Section 44(5)(c)(iv), from ‘, on’ to ‘charge’—

omit, insert—

‘to the applicant’.

(2) Section 44—

insert—

‘(6A) Subsection (6B) applies if a police officer seizes a vehicle under subsection (1)(c) or (d) from a road that is an off-street regulated parking

area for which there is an arrangement mentioned in section 44BB(1).

‘(6B) The police officer may only cause the vehicle to be removed and detained at a place for safe keeping by a tow truck that is licensed under the *Tow Truck Act 1973* and operated by a person holding a driver’s certificate under that Act.’.

Amendment of s 44B (Parking regulation involves installing official traffic signs)

25. Section 44B(4)(a)—

insert—

‘(iii) the types of vehicle a person may park; and’.

Insertion of new s 44BB

26. After section 44BA—

insert—

‘Things agreements must provide for

‘44BB.(1) This section applies if a local government and a person (an “occupier”) who owns or has an interest in land, have an arrangement under section 44BA(5) for the local government to control the land as an off-street regulated parking area.

‘(2) An agreement to give effect to the arrangement for the area must provide for the matters prescribed under a regulation.’.

Amendment of s 44D (Paid parking offences)

27. Section 44D(3)(b)—

omit, insert—

‘(b) an infringement notice, under the *Justices Act 1886*, part 4A² for the offence is attached to the vehicle; and’.

² Part 4A (Infringement notices)

Omission of ss 44F–44I

28. Sections 44F to 44I—

omit.

Omission of s 45A (Traffic offences in respect of which offender may elect to pay penalty)

29. Section 45A—

omit.

Replacement of s 48 (Records)

30. Section 48—

omit, insert—

‘Records

‘48.(1) A responsible person who issues an instrument under this Act must keep a record of the particulars of the instrument at—

- (a) if the instrument is issued by the chief executive—an office of the department decided by the chief executive; or
- (b) otherwise—an office of the Queensland Police Service decided by the commissioner.

‘(2) However, a record of particulars of a person’s driver’s licence must—

- (a) be kept at an office of the department decided by the chief executive; and
- (b) include the person’s traffic history.

‘(3) The person who has custody of the record is—

- (a) for a record mentioned in subsection (1)—the person in charge of the office where the record is kept; or
- (b) for a record mentioned in subsection (2)—the chief executive.

‘(4) An extract from or copy of any entry of any particulars of the record that is, or purports to be, certified by the person who has custody of the

record as being an extract from or copy of the record, is for a court and all other purposes, evidence of the particulars contained in the record, without requiring the production of the record.

‘(5) In this section—

“**instrument**” means an appointment, approval, authorisation, cancellation, demand, determination, direction, licence, notification, order, suspension or surrender.

“**issues**” includes gives or makes.

“**responsible person**” means—

- (a) the chief executive; or
- (b) the commissioner; or
- (c) a superintendent.’.

Amendment of s 49 (Facilitation of proof)

31.(1) Section 49(1)(a), from ‘or that’ to ‘48(2)’—

omit.

(2) Section 49(1)(b), ‘officer ordinarily’—

omit, insert—

‘person’.

(3) Section 49(1)(f)—

omit, insert—

‘(f) a document purporting to be a copy of a licence and certified as a true copy by the person having custody of the record relating to the licence is evidence of the licence; or

‘(fa) particulars of a conviction, disqualification, suspension or cancellation stated on a licence, or on a document purporting to be a copy of a licence certified in the way stated in paragraph (f), is evidence that—

- (i) the holder of the licence, or the holder of the licence of which the document purports to be a copy, was convicted or disqualified; or

(ii) the licence was suspended or cancelled; or’.

(4) Section 49(1), after paragraph (g)—

insert—

‘(ga) a certificate purporting to be signed by the chief executive stating a person’s traffic history at a stated date is evidence of the matters stated in it; or’.

(5) Section 49(1)(k), ‘officer ordinarily’—

omit, insert—

‘person’.

Amendment of s 57 (Appeals with respect to issue of licences etc.)

32.(1) Section 57(2)(a), ‘where’—

omit, insert—

‘if’.

(2) Section 57(2)(b)—

omit, insert—

‘(b) if the order was made by a Magistrates Court—

- (i) if the person resides in Queensland—the Magistrates Court exercising jurisdiction at the place where the person resides; or
- (ii) if the person resides elsewhere—the Magistrates Court, central division of the Brisbane district;’.

Amendment of s 58 (Occupiers of garages etc. to keep register of repairs)

33. Section 58(1), ‘the prescribed form’—

omit, insert—

‘writing’.

Replacement of s 60 (Unlawful interference with vehicles and mechanism thereof etc.)

34. Section 60—

omit, insert—

‘Unlawfully interfering with, or detaining, vehicles etc.

‘60.(1) A person must not, without the owners consent—

- (a) drive or otherwise use a vehicle on a road; or
- (b) wilfully interfere with—
 - (i) any mechanism or other part of, or equipment attached to, a vehicle or tram on a road or elsewhere; or
 - (ii) the harness or other equipment attached to an animal on a road; or
- (c) detain a vehicle parked or standing on a road or elsewhere by—
 - (i) attaching an immobilising device to the vehicle; or
 - (ii) placing an immobilising device near the vehicle.

Example of paragraph (c)(ii)—

By locking in an upright position, a moveable steel post (commonly called a “parking sentinel”) that is secured to the ground at the entrance of a parking space where the vehicle is parked or standing.

Maximum penalty—40 penalty units or 6 months imprisonment.

‘(2) Subsection (1) does not apply to a police officer exercising the officer’s powers or performing the officer’s functions, or a person acting under a lawful direction of a police officer.

‘(3) Subsection (1)(c) does not apply to the sheriff or another person authorised by law to execute a warrant of execution against the vehicle.

‘(4) This section does not limit the exercise of a power over a vehicle that a person may have as the holder of a security interest in the vehicle.

‘(5) The common law remedy of distress damage feasant in relation to trespass on land by a vehicle is abolished to the extent that it is inconsistent with subsection (1)(c).

‘(6) However, subsection (5) does not limit a right a person may have to

remove, or cause to be removed, from land a vehicle parked or left standing on the land.

‘(7) Subsection (6) does not apply to a person who has detained a vehicle in contravention of subsection (1)(c).

‘(8) In this section—

“**detain**” includes immobilise.

“**immobilising device**”, for a vehicle, means—

- (a) wheel clamps; or
- (b) another device that effectively detains the vehicle.

“**interfere with**” includes damage, destroy and remove.

“**owner**” of a vehicle includes a person in lawful possession of the vehicle.

“**security interest**” see the *Motor Vehicles Securities Act 1986*, section 5(1).³.

Insertion of new s 69

35. After section 68—

insert—

‘Approval of forms

‘69. The chief executive may approve forms for use under this Act.’.

The *Motor Vehicles Securities Act 1986*, section 5 states—

“**security interest**” means an interest in a motor vehicle by way of security for or in respect of a liability, whether present, contingent or future created or otherwise arising in or under or in connection with a bill of sale, mortgage, charge, lien, hire-purchase agreement, lease or instrument having a like effect to any of them and includes the interest of—

- (a) an owner within the meaning of the *Hire-purchase Act 1959* in respect of the liability of the hirer within the meaning of that Act;
- (b) a lessor in respect of the liability of a lessee.

Insertion of new pt 9

36. After section 70—

insert—

‘PART 9—TRANSITIONAL**‘Transitionally approved forms**

‘71.(1) This section applies if—

- (a) immediately before its commencement, there was a prescribed form for a matter; and
- (b) on the commencement—
 - (i) there is to be an approved form for the matter; or
 - (ii) a form may be approved for the matter until there is an approved form for the matter.

‘(2) The form that was the prescribed form for the matter immediately before the commencement is taken to be the approved form for the matter until there is an approved form for the matter or until this section expires, whichever happens first.

‘(3) This section expires 6 months after it commences.

‘Agreements for detaining vehicles

‘72.(1) An agreement, whether entered into before or after the commencement of the *Transport Legislation Amendment Act 1997*, section 34,⁴ is of no legal effect to the extent to which it authorises, or purports to authorise, a person to—

- (a) do an act in contravention of section 60; or
- (b) remove a vehicle detained in contravention of section 60 from any land.

‘(2) A party to an agreement that is of no legal effect wholly or partly

⁴ Section 34 (Replacement of section 60 (Unlawful interference with vehicles and mechanisms thereof etc.))

because of subsection (1)—

- (a) is not entitled to recover any money for providing services under the agreement from—
 - (i) the owner or occupier of the land to which the agreement relates or purports to relate; or
 - (ii) any other person; and
- (b) must repay to the person from whom it was received—
 - (i) any money received before the commencement of this section, for services that were to be provided after the commencement; and
 - (ii) any money received after the commencement of this section for the services.

‘(3) If a party does not repay money required by subsection (2)(b) to be repaid, the person entitled to be repaid may recover the money from the party as a debt.’.

PART 4—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994

Act amended in pt 4

37. This part amends the *Transport Infrastructure Act 1994*.

Amendment of s 75 (Scope of chapter)

38. Section 75(2)(c)—

omit, insert—

‘(c) an amusement railway; or’.

Amendment of s 84 (Granting accreditation)

39.(1) Section 84(6)(c)(iii) and (iv)—

omit, insert—

‘(iii) the applicant may—

- (A) under section 196—ask for the decision to be reviewed and appeal against the reviewed decision; and
- (B) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.’.

(2) Section 84(7)(c) and (d)—

omit, insert—

‘(c) the applicant may—

- (i) under section 196—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.’.

Amendment of s 88 (Amending accreditation conditions on application)

40. Section 88(5)(c) and (d)—

omit, insert—

‘(c) the applicant may—

- (i) under section 196—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.’.

Amendment of s 89 (Amending accreditation conditions without application)

41. Section 89(5)(c) and (d)—

omit, insert—

‘(c) the person may—

- (i) under section 196—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.’.

Amendment of s 90 (Suspending or cancelling accreditation)

42.(1) Section 90(5)(b) and (c)—

omit, insert—

‘(b) the person may—

- (i) under section 196—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.’.

(2) Section 90(7)(b) and (c)—

omit, insert—

‘(b) the person may—

- (i) under section 196—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.’.

Amendment of s 91 (Immediate suspension of accreditation)**43.** Section 91(3)(b) and (c)—*omit, insert—*

‘(b) the person may—

- (i) under section 196—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.’.

Replacement of s 131 (Lease of land to railway managers)**44.** Section 131—*omit, insert—***‘Lease of land to railway managers**‘**131.(1)** This section applies if—

- (a) the State acquires land (the “**acquired land**”) for use by a railway manager as part of a rail transport corridor; or
- (b) the chief executive decides that land (also “**acquired land**”) leased to the State under section 215 should be used by a railway manager as part of a rail transport corridor.

‘**(2)** If the acquired land mentioned in subsection (1)(a) becomes unallocated State land, the Governor in Council must lease it to the State under the *Land Act 1994*, section 17.⁵

‘**(3)** The lease is in perpetuity and, if demanded, for a rent of \$1 per year.

‘**(4)** The State must lease acquired land mentioned in subsection (1)(a) or (b) to the manager—

- (a) if the manager agrees to meet the full costs of the acquisition—on terms that—

⁵ Section 17 (Granting land to the state)

- (i) the lease is for a maximum term of 100 years and, if demanded, for a rent of \$1 per year; and
 - (ii) the manager has an option to take up a further lease on the same terms for a maximum further period prescribed under a regulation, of 100 years; or
- (b) otherwise—on terms agreed between the parties.

‘(5) The *Land Act 1994*, section 336(2)(a)⁶ does not apply to a document of amendment of a sublease to a railway manager under subsection (4).

‘(6) Before the acquired land is leased to the railway manager, all necessary approvals for the construction of a railway must be obtained.

‘(7) If the manager attaches any rail transport infrastructure or any other works or structures to the acquired land, they remain the manager’s property until the manager disposes of them.

‘(8) In this section—

“**acquires**” includes acquires by—

- (a) gift; and
- (b) surrender of a lease previously granted to a railway manager; and
- (c) exchange; and
- (d) purchase.’.

Amendment of s 134 (Existing rail transport infrastructure on land)

45.(1) Section 134(2)(b), ‘Queensland Rail’—

omit, insert—

‘the railway manager’.

(2) Section 134(2)(b)(iii), after ‘operate’—

insert—

‘, or authorise a railway operator to operate,’.

⁶ Section 336 (Amending a sublease)

Amendment of s 140 (Maintaining roads crossing railways)

46. Section 140(2)—

omit, insert—

‘(2) If a railway is built by way of a bridge or other structure over or under a road, the authority that maintained the road before the railway was built must continue to maintain the road under or over the bridge or structure.’.

Replacement of s 142 (Extending roads etc. through or over railway land)

47. Section 142—

omit, insert—

‘Extending roads through or over rail corridor land

‘142.(1) The chief executive may allow a local government to construct, maintain and operate a road on rail corridor land by way of—

- (a) a bridge or other structure over a railway; or
- (b) a bridge or other structure that allows the road to pass under the railway; or
- (c) a level crossing.

‘(2) The permission may be subject to conditions.

‘(3) Before deciding a request for the permission, the chief executive must consult with the railway manager for the land.

‘(4) The railway manager may continue to use the land, and the airspace above the land, other than any land and airspace excluded by a condition of the permission.

‘(5) The chief executive and the railway manager and their agents or employees, do not have any duty or liability for the road or its use or operation.

‘(6) Once the road is used, it is taken to be—

- (a) a road under the relevant local government’s control; and
- (b) a road under any Act about the use of vehicles on a road.

‘(7) Unless the chief executive and the local government otherwise agree—

- (a) the local government is responsible for maintaining the road and the bridge or level crossing; and
- (b) if the road stops being used—the local government is responsible for the cost of taking the bridge or level crossing away and of restoring the railway.

‘(8) The State is taken not to be in breach of any of its obligations in a sublease of the rail corridor land between the State and the railway manager by—

- (a) giving the permission; or
- (b) anything done by the local government under the permission.’.

Amendment of s 144 (Interfering with railway)

48. Section 144(1)—

omit, insert—

‘**144.(1)** A person must not interfere with a railway unless—

- (a) the person has the railway’s manager written approval; or
- (b) the interference is authorised—
 - (i) under a permission under section 142; or
 - (ii) under another provision of this Act.

Maximum penalty—160 penalty units.’.

Amendment of s 151 (Non-accredited railways)

49. Section 151(8), ‘Minister’s’—

omit, insert—

‘chief executive’s’.

Amendment of s 191 (Disposal of fees, penalties etc.)

50. Section 191—

insert—

‘**(1A)** Under subsection (1), a penalty received or recovered in the operation of a GOC for an infringement notice offence under the *Justices Act 1886*, part 4A⁷ concerning vehicle parking is to be paid to the GOC.’

Replacement of ss 196–198

51. Sections 196 to 198—

omit, insert—

‘Review of and appeals against decisions

‘**196.(1)** A person whose interests are affected by a decision (the “**original decision**”) described in schedule 2 may ask the chief executive 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 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 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 2.

⁷ Part 4A (Infringement notices)

‘(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).’.

Amendment of s 214 (Existing rail corridor land)

52. Section 214—

insert—

‘(7A) The *Land Act 1994*, section 336(2)(a)⁸ does not apply to a document of amendment of the sublease.’.

Amendment of sch 1 (Subject matter for regulations)

53. Schedule 1, item 13, ‘owner’—

omit, insert—

‘manager’.

Amendment of sch 3 (Dictionary)

54.(1) Schedule 3—

insert—

‘**“amusement railway”** means a railway that—

- (a) is operated solely within an amusement or theme park—

⁸ Section 336 (Amending a sublease)

- (i) that is registered as an amusement device under the *Workplace Health and Safety Act 1995*; and
 - (ii) that does not operate on, or across, a road; or
- (b) operates on a track with a gauge of less than 600 mm on a place other than a road.

“rail corridor land” means existing rail corridor land or new rail corridor land.

“reviewed decision” see section 196.

“train” means a conveyance or group of connected conveyances that travels on a rail or rails of a railway or sugar tramway.’.

(2) Schedule 3, definition **“rolling stock”**, after ‘vehicle’—
insert—

‘, including a train,’.

PART 5—AMENDMENT OF TRANSPORT OPERATIONS (MARINE POLLUTION) ACT 1995

Act amended in pt 5

55. This part amends the *Transport Operations (Marine Pollution) Act 1995*.

Omission of pt 15, div 3 (Miscellaneous)

56. Part 15, division 3—
omit.

PART 6—AMENDMENT OF TRANSPORT OPERATIONS (MARINE SAFETY) ACT 1994

Act amended in pt 6

57. This part amends the *Transport Operations (Marine Safety) Act 1994*.

Amendment of s 110 (Composition)

58. Section 110(1), ‘5’—
omit, insert—
‘6’.

Insertion of new s 113A

59. After section 113—
insert—

‘Voting

‘**113A.(1)** At board meetings, all questions are to be decided by a majority of votes of the members present.

‘**(2)** If a member abstains from voting, the member is taken to vote for the negative.

‘**(3)** The chairperson or member presiding at a meeting is to have a vote, and in the event of an equality of votes, a second or casting vote.’.

Amendment of s 115 (Disclosure of interests)

60. Section 115(4), after ‘Minister’—
insert—
‘or chief executive’.

Amendment of s 203 (Appeals)

61.(1) Section 203(1)—

insert—

‘(da)the approval of the design of a ship or part of a ship;’.

(2) Section 203(6), from ‘sections’ to ‘apply’—

omit, insert—

‘sections 34(1), (5) and (6) and 36 to 36D, apply’.

**PART 7—AMENDMENT OF TRANSPORT
OPERATIONS (PASSENGER TRANSPORT) ACT 1994****Act amended in pt 7**

62. This part amends the *Transport Operations (Passenger Transport) Act 1994*.

Replacement of ss 12 and 13

63. Sections 12 and 13—

omit, insert—

‘What is operator accreditation

‘12.(1) “Operator accreditation” is a qualification an operator of a public passenger service must attain and maintain to provide the service.

‘(2) However, subsection (1) does not apply to the operator of any of the following public passenger services—

- (a) a service provided by a railway operator;
- (b) an air service;
- (c) a service prescribed under a regulation as a service to which this section does not apply.’.

Replacement of ss 24 and 25

64. Sections 24 and 25—

omit, insert—

‘What is driver authorisation

‘24.(1) “Driver authorisation” is a qualification a driver of a vehicle providing a public passenger service must attain and maintain to operate the vehicle while providing the service.

‘(2) However, subsection (1) does not apply to the driver of a vehicle providing any of the following public passenger services—

- (a) a service provided by a railway operator;
- (b) an air service;
- (c) a service prescribed under a regulation as a service to which this section does not apply.’.

Amendment of s 37 (Purpose of service contracts)

65. Section 37, ‘accredited’—

omit.

Insertion of new ss 38A and 38B

66. After section 38—

insert—

‘What are temporary service contracts

‘38A.(1) A **“temporary service contract”** is a service contract, that despite section 44(1), is for a term less than 2 years.

‘(2) To remove doubt, it is declared that a contract under section 44(2) for a term less than 2 years is not a temporary service contract.

‘Chief executive may enter into service contracts

‘38B.(1) The chief executive may, for the State, enter into a service contract.

‘(2) The chief executive may only enter a temporary service contract if satisfied the contract is necessary to—

- (a) ensure the continuity of a public passenger service; or
- (b) establish a public passenger service.’.

Amendment of s 40 (Service contracts to include minimum service levels)

67. Section 40(1), ‘operator’—

omit, insert—

‘holder’.

Amendment of s 41 (Other matters to be included in service contracts)

68. Section 41(1)(f) to (k), ‘operator’—

omit, insert—

‘holder’.

Amendment of s 43 (Obligation to hold service contracts)

69.(1) Section 43, ‘type’—

omit, insert—

‘kind’.

(2) Section 43(b), ‘an’—

omit, insert—

‘a written’.

(3) Section 43, penalty, paragraph (a), ‘an operator’—

omit, insert—

‘a holder of a service contract’.

Amendment of s 44 (Term of service contracts)

70.(1) Section 44(2)—

omit, insert—

‘(2) However, the chief executive may, when entering into a service contract for a service contract area or route that does not provide for the exclusive right to operate a public passenger service for the area or route, enter into the contract for a shorter term to ensure that the contract expires on the same day as all other current service contracts of the same kind for the area or route.’.

(2) Section 44(3)—

omit, insert—

‘(3) Subsection (1) is also subject to the following sections—

- (a) section 47;
- (b) section 53.’.

Amendment of s 46 (Review of operator’s performance)

71.(1) Section 46, heading ‘operator’s’—

omit, insert—

‘holder’s’.

(2) Section 46(1), (7) and (8), ‘operator’s’—

omit, insert—

‘holder’s’.

(3) Section 46(2), after ‘service contract’—

insert—

‘, other than a contract under section 44(2) with a term of less than 2 years or a temporary service contract,’.

(4) Section 46(4), (6), (7), (8)(a) and (b) and (9), ‘operator’—

omit, insert—

‘holder’.

(5) Section 46(5), ‘operators’—
omit, insert—
‘holders’.

Amendment of s 47 (Breach of service contracts)

72.(1) Section 47(1), ‘an operator’—
omit, insert—
‘a holder’.

(2) Section 47(1), ‘the operator’—
omit, insert—
‘the holder’.

(3) Section 47(1), ‘operator’s’—
omit, insert—
‘holder’s’.

(4) Section 47(2), ‘person’—
omit, insert—
‘holder’.

Amendment of s 48 (Transfer or surrender of service contracts)

73. Section 48(a), ‘operator’s’—
omit, insert—
‘holder’s’.

Amendment of s 50 (Commercial and government funded service contracts)

74. Section 50(2) and (3), ‘operator’—
omit, insert—
‘holder’.

Amendment of s 51 (Conditions of funding)

75.(1) Section 51(1), ‘an operator’—

omit, insert—

‘a holder’.

(2) Section 51, ‘the operator’—

omit, insert—

‘the holder’.

Amendment of s 52 (Approval of basis for funding or other financial assistance by State)

76. Section 52(3)(a), ‘operator’—

omit, insert—

‘holder’.

Amendment of s 55 (Entering into a service contract for a scheduled service—no existing operators)

77.(1) Section 55, heading, after ‘**scheduled**’—

insert—

‘passenger’.

(2) Section 55(b)—

omit, insert—

‘(b) no-one has an entitlement under section 56(1) for the area or route;’.

(3) Section 55, ‘submissions’—

omit, insert—

‘offers’.

Replacement of s 56 (Entitlement of existing operators)

78. Section 56—

omit, insert—

‘Entitlement of existing operators

‘56.(1) This section applies if—

- (a) the chief executive proposes to enter into a service contract (a **“new contract”**) under section 38B for an area or route declared under section 42; and
- (b) there is an operator (an **“existing operator”**) who already provides a scheduled passenger service of the same kind for the area or route as the service that is to be provided under the new contract; and
- (c) there is no holder of an existing service contract who must be invited to offer for the contract under section 62(1A).

‘(2) The existing operator is entitled to the first opportunity, exercised in the way set out in section 57, to offer for the new contract.

‘(3) This section does not apply to—

- (a) a service contract holder operating under a service contract for the area or route—
 - (i) that states that section 62 does not apply to it; or
 - (ii) if the chief executive has—
 - (A) issued a notice under sections 46(9) or 62A to the holder; or
 - (B) issued a notice to the holder suspending or cancelling the holder’s service contract under section 47(1); or
 - (C) has received notice from the holder that the holder intends to surrender the holder’s service contract; or
- (b) a person providing a service, of the kind that is required to be provided under the service contract, under a written agreement with the holder.’.

Replacement of s 57 (Entering into a service contract for a scheduled service—single existing operator)

79. Section 57—

omit, insert—

‘Entering into a service contract for a scheduled passenger service

‘57.(1) This section applies if an existing operator has an entitlement under section 56 in relation to a new contract.

‘(2) The chief executive must, by written notice, invite the operator to offer, whether by tender or in another way, for a service contract to provide the public passenger service for the area or route under the new contract.

‘(3) However, the chief executive must, by public notice, invite offers from the public, whether by tender or in another way, for the service contract if—

- (a) no offer is made to the invitation within 60 days after it is made, or any extended time under subsection (4); or
- (b) an offer does not meet, or substantially meet, the requirements of section 59.

‘(4) The chief executive may by written notice to the existing operator, within the 60 days, extend that time, once only, by a maximum of 60 days.’.

Omission of s 58 (Entering into a service contract for a scheduled service—multiple existing operators)

80. Section 58—

omit.

Replacement of s 59 (Matters to be considered)

81. Section 59—

omit, insert—

‘Matters to be considered

‘59.(1) The chief executive—

- (a) is not obliged to accept any offer for a service contract; and
- (b) may only accept an offer for a service contract if the chief executive considers the offer to be acceptable for the contract.

‘(2) In deciding if an offer for a service contract is acceptable, the chief executive must have regard to—

- (a) the needs of the community for whose benefit the service is to be provided; and
- (b) the ability of each offerer to meet the minimum service levels and other standards of performance specified in the offer; and
- (c) the cost of providing the service; and
- (d) the need for sustainability and continuity of services; and
- (e) any matters prescribed under a regulation.

‘(3) In deciding between 2 or more acceptable offers, the chief executive must select the offer the chief executive considers to be the best having regard to the matters mentioned in subsection (2)(a) to (e).

‘(4) In this section—

“**offer for a service contract**”, includes an offer to amend a service contract under section 60(3).’.

Amendment of s 60 (Amendments of service contracts)

82. Section 60(2)—

omit, insert—

‘(2) Before making a decision under this section, the chief executive must—

- (a) give written notice of the chief executive’s intended action to—
 - (i) the holder of the service contract; and
 - (ii) any other operator providing a public passenger service of that kind within the proposed amended area or route; and
- (b) allow the holder and any other operator a reasonable opportunity to make written representation to the chief executive, about the intended action within 28 days.

‘(3) If, after considering all written representations made within the stated time, the chief executive intends proceeding with the proposed amendment in the way stated in the notice, or in another way having regard to the representations, the chief executive must, by written notice, give the holder the first opportunity to offer to provide the service in the amended area or route.

‘(4) However, the chief executive must, by public notice, invite offers from the public, whether by tender or in another way, for the service contract if—

- (a) no offer is made within 60 days of the notice under subsection (3) being given; or
- (b) an offer is not acceptable or, despite section 59, not substantially acceptable under section 59(2).’.

Amendment of s 61 (Compensation)

83.(1) Section 61(1)—

omit, insert—

‘**61.(1)** This section applies if—

- (a) an existing operator is not awarded a service contract for the area or route, or part of the area or route, for which the operator was providing services; or
- (b) a decision is made under section 60, and an existing service contract holder—
 - (i) does not offer to provide the service for the amended area or route; or
 - (ii) is not awarded an amendment of the holder’s service contract to provide the service for the amended area or route.

‘**(1A)** The chief executive may require the holder of the new or amended service contract, as a condition of it, to pay compensation to the existing operator or service contract holder.’.

‘**(2)** Section 61(2), ‘subsection (1)’—

omit, insert—

‘subsection (1A)’.

‘(3) Section 61(3). ‘the operators’—

omit, insert—

‘the holder of the new or amended service contract and the existing operator or service contract holder’.

Amendment of s 62 (Offer of new service contract)

84.(1) Section 62(1)—

omit, insert—

‘**62.(1)** This section applies if the chief executive—

- (a) decides a service contract holder’s performance under a service contract (the “**existing contract**”) has been satisfactory; and
- (b) proposes to offer a new service contract for the same kind of service provided under the existing contract, at the end of its term, for the same, or substantially the same, service contract area or route.

‘**(1A)** The chief executive must, by written notice, invite the holder to offer, whether by tender or in another way, for the new service contract.’.

(2) Section 62(2), ‘operator’—

omit, insert—

‘holder’.

(3) Section 62(2)(c)—

omit, insert—

- ‘(c) fails to make an offer that is acceptable or, despite section 59, is substantially acceptable.’.

(4) Section 62(3), ‘an operator under’—

omit, insert—

‘the holder of’.

Insertion of new pt 2, s 62A

85. After section 62—

insert—

‘Notice to be given

‘62A. If the chief executive decides, for section 62, a service contract holder’s performance under a service contract has not been satisfactory, the chief executive must give the holder written notice of the decision and the reasons for it.’.

Insertion of new ch 6, pt 2, div 3

86. After section 62A—

insert—

‘Division 3—Entering into temporary service contracts to ensure continuity of existing service

‘Temporary service contracts to ensure continuity of service

‘62B.(1) This section applies if the chief executive intends to enter into a temporary service contract to ensure the continuity of a service provided under an existing service contract.

‘(2) The chief executive may—

- (a) invite offers from the public or other operators in whatever way the chief executive considers appropriate; and
- (b) decide the period within which offers must be made.

‘(3) Section 62 does not apply to the temporary service contract unless—

- (a) the temporary service contract provides for the service under the contract to start immediately after the end of the term of the existing service contract; and
- (b) the holder of the temporary service contract was the holder of the existing service contract; and
- (c) section 62 applied to the existing service contract.’.

Amendment of s 67 (Amendments of taxi service contracts)

87. Section 67(2), ‘operator’—

omit, insert—

‘holder’.

Amendment of s 73 (Term of taxi service licences)

88.(1) Section 73(2), ‘However, it may’—

omit, insert—

‘It must’.

(2) Section 73(3), ‘The’—

omit, insert—

‘However, the’.

Amendment of s 74 (Conditions of taxi service licences)

89.(1) Section 74(2)(d)—

omit, insert—

‘(d) subject to section 74B—

(i) state the vehicle to be used under the licence; and

(ii) require the operator to display a registration plate on the vehicle distinguishing it as a taxi.’.

(2) Section 74(4), ‘holder’—

omit, insert—

‘operator’.

(3) Section 74(4), penalty, ‘for subsection (4)’—

omit.

(4) Section 74—

insert—

‘(5) The operator of a taxi service must ensure that a written notice stating the following is kept inside the taxi used to provide the service and is readily available to the driver—

- (a) the area, stated in the taxi service licence for the taxi, in which the taxi may be operated;
- (b) any other restrictions to which the licence is subject.

Maximum penalty—40 penalty units.

‘(6) The driver of the taxi must not operate it—

- (a) in a taxi service area in which it is not licensed to operate; or
- (b) in a way that contravenes a restriction to which the licence is subject.

Maximum penalty—40 penalty units.’.

Insertion of new s 74B

90. After section 74A—

insert—

‘Substitute taxi

‘74B. A regulation may—

- (a) allow a vehicle, other than the vehicle stated in a taxi service licence, to be used under the licence in stated circumstances and on stated conditions; and
- (b) exempt an operator of a taxi service from complying with a condition of the taxi service licence under section 74(2)(d)(ii).’.

Amendment of s 86 (Term of limousine service licence)

91.(1) Section 86(2), ‘However, it may’—

omit, insert—

‘It must’.

(2) Section 86(3), ‘The’—

omit, insert—

‘However, the’.

Amendment of s 87 (Conditions of limousine service licences)

92.(1) Section 87(2)(d)—

omit, insert—

‘(d) subject to section 87A—

(i) state the vehicle to be used in the licence; and

(ii) require the operator to display a registration plate on the vehicle distinguishing it as a limousine.’.

(2) Section 87(4), ‘holder’—

omit, insert—

‘operator’.

(3) Section 87(4), penalty, ‘for subsection (4)’—

omit.

(4) Section 87—

insert—

‘(5) The operator of a limousine service must ensure that a written notice stating the following is kept inside the limousine used to provide the service and is readily available to the driver—

(a) the area stated in the limousine service licence for the limousine in which the limousine may be operated;

(b) any other restrictions to which the licence is subject.

Maximum penalty—40 penalty units.

‘(6) The driver of the limousine must not operate it—

(a) in a limousine service area in which it is not licensed to operate;
or

- (b) in a way that contravenes a restriction to which the licence is subject.

Maximum penalty—40 penalty units.’.

Insertion of new s 87A

93. After section 87—

insert—

‘Substitute limousine

‘87A. A regulation may—

- (a) allow a vehicle, other than the vehicle stated in a limousine service licence, to be used under the licence in stated circumstances and on stated conditions; and
- (b) exempt an operator of a limousine service from complying with a condition of the limousine service licence under section 87(2)(d)(ii).’.

Replacement of ch 10 (Review of and appeals against decisions)

94. Chapter 10—

omit, insert—

‘CHAPTER 10—REVIEW OF AND APPEALS AGAINST DECISIONS

‘Review of and appeals against decisions

‘102.(1) A person whose interests are affected by a decision (the **“original decision”**) stated in schedule 2 may ask the chief executive 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 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 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 2.

‘(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 (3).’.

Amendment of s 111 (Appointment of authorised persons etc.)

95.(1) Section 111(1)—

omit, insert—

‘**111.(1)** Every police officer is an authorised person.

‘(1A) The chief executive may appoint any of the following persons to be an authorised person—

- (a) a public service employee;
- (b) another person prescribed under a regulation.’.

(2) Section 111(2), ‘(other than a police officer)’—

omit.

(3) Section 111(3), ‘an authorised person’s powers’—

omit, insert—

‘the powers of an authorised person (other than a police officer)’.

Replacement of s 113 (Production or display of authorised person’s identity card)

96. Section 113—

omit, insert—

‘Production or display of authorised person’s identity card

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

‘(2) An authorised person may exercise a power in relation to someone else only if—

(a) the person—

(i) for a police officer who is not in uniform—first produces the person’s police identity card for the other person’s inspection; or

(ii) for any other authorised person—first produces the person’s identity card for the other person’s inspection; or

(b) the authorised person has the person’s identity card displayed so that it is clearly visible to the other person.

‘(3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the authorised person must produce the identity card for the other person’s inspection as soon as it is practicable.’.

Amendment of s 116 (Appointment of authorised persons for railways)

97.(1) Section 116(2)—

omit, insert—

‘(2) The chief executive may appoint any of the following to be an authorised person for the railway—

- (a) an employee of the railway manager or operator;
- (b) a person prescribed under a regulation;
- (c) if the chief executive intends to require the authorised person to investigate a matter under the *Transport Infrastructure Act 1994*, section 103(2)⁹ about the railway—
 - (i) an employee of the railway manager or operator; or
 - (ii) any other person.’.

Amendment of s 117 (Identity cards)

98.(1) Section 117(2)—

omit, insert—

‘(2) A railway manager or operator must give an identity card to each person appointed as an authorised person for the railway under section 116(2)(a) or (b).

‘(2A) The chief executive must give an identity card to each person appointed as an authorised person for the railway under section 116(2)(c).’.

(2) Section 117(4), before ‘railway manager’—

insert—

‘chief executive,’.

Amendment of s 124 (General powers in relation to places and vehicles)

99.(1) Section 124(1)(d), ‘of vehicle’—

omit, insert—

‘or vehicle’.

⁹ Section 103 (Investigations by authorised person)

(2) Section 124—

insert—

‘(1A) It is unnecessary for an authorised person who may enter or board a vehicle under this chapter, to enter or board the vehicle to make a requirement under subsection (1)(g) of the person in control of the vehicle (the “**driver**”) if the authorised person is physically able to make the requirement of the driver without entering or boarding the vehicle.’.

Insertion of new s 124A

100. After section 124—

insert—

‘Power to require limousines to be moved

‘**124A.(1)** This section applies if an authorised person reasonably believes a limousine is plying or standing for hire in a place other than a place where it is authorised under this Act to ply or stand for hire.

‘(2) The authorised person may require the person in control (the “**controller**”) of the limousine to move the limousine to a place where it may lawfully ply or stand for hire.

‘(3) When making the requirement, the authorised person must warn the controller it is an offence to fail to move the limousine as required unless the controller has a reasonable excuse.

‘(4) The controller must comply with the requirement unless the controller has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(5) This section does not limit any other power the authorised person may exercise in relation to the limousine or its controller under this Act.’.

Amendment of s 125 (Power to seize evidence)

101. Section 125(2), after ‘offence’—

insert—

‘against’.

Amendment of s 128 (Power to require information from certain persons)

102.(1) Section 128—

insert—

‘**(2A)** Also, the authorised person may, by written notice, require the person to attend the office of the authorised person at a stated reasonable time to give the information.’.

(2) Section 128(3)—

omit, insert—

‘**(3)** When making a requirement under subsection (2) or (2A), the authorised person must warn the person it is an offence to fail to give the information or attend at the time and place stated in the notice unless the person has a reasonable excuse.’.

(3) Section 128(4), ‘the requirement’—

omit, insert—

‘a requirement under subsection (2) or (2A)’.

Insertion of new s 143A

103. Chapter 11, part 7—

insert—

‘Evidence of concession entitlement

‘**143A.(1)** A person who buys a concession ticket must carry evidence of the person’s entitlement to the concession when—

- (a) buying the ticket; or
- (b) travelling on the journey for which the ticket is issued.

‘**(2)** An authorised person for a railway may require someone who has bought a concession ticket to produce evidence of the person’s entitlement to the concession.’

‘(3) A person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.’

Insertion of new s 143B

104. Chapter 12—

insert—

‘Approval of basis for funding for transport function

‘**143B.(1)** The chief executive may enter into an agreement providing for help from the State for a transport function only if the Minister has approved the basis on which the help is to be provided.

‘(2) In considering whether to give an approval under subsection (1), the Minister must have regard to the principle that help from the State for a transport function should be provided principally for—

- (a) public passenger services that the government requires to be provided and that would not be provided, or provided at the same level, without help from the State; or
- (b) facilities for public passenger services that the government requires to be provided and that would not be provided, or provided at the same level, without help from the State; or
- (c) vehicles that the government requires to be used on public passenger services and that would not be provided, or provided at the same level, without help from the State.

‘(3) Each annual report of the department must include—

- (a) details of help provided by the State to a person who receives help during the year to which the report relates; and
- (b) reasons for the help.

‘(4) In this section—

“**help**” includes funding and financial or other assistance.

“**transport function**” means a function under this Act or that is necessary or incidental to achieving the objectives of this Act but does not include—

- (a) funding or other financial assistance under section 52; or
- (b) arrangements under section 144; or
- (c) financial arrangements under sections 172C to 172F.’.

Amendment of s 148 (Inquiries about person’s suitability to hold accreditation or authorisation)

105. Section 148(1)(a), after ‘operator accreditation’—
insert—
‘or driver authorisation’.

Amendment of s 161 (Arrangements for school transport—fixed term contracts)

106. Section 161(4), ‘Section 62(1)’—
omit, insert—
‘Section 62’.

Amendment of sch 2 (Appeals against administrative decisions)

107.(1) Schedule 2, heading—
omit, insert—

‘REVIEWABLE DECISIONS’.

(2) Schedule 2, ‘sections 104 and 109’—
omit, insert—
‘section 102’.

Amendment of sch 3 (Dictionary)

108.(1) Schedule 3, definitions “long distance scheduled passenger service”, “obstruct”, “road”, “taxi service” and “tourist service”—
omit.

(2) Schedule 3—

insert—

‘ **“accommodation house”** means a place providing lodging or food and lodging to the public.

“accommodation transfer service” means a public passenger service—

- (a) that—
 - (i) is provided for travellers arriving in or departing from an area; and
 - (ii) operates between an airport, ferry terminal, intercity bus terminal or railway terminal and an accommodation house in the area; and
- (b) that requires journeys on the service to be pre-booked and travel documentation for them to be issued before the travellers arrive in the area.

“established route”, for a scheduled passenger service, includes reasonable deviations from the route that do not substantially affect the service’s regular timetable.

“excluded public passenger service” means any of the following—

- (a) a charter bus service;
- (b) a community transport service;
- (c) a courtesy transport service;
- (d) a limousine service;
- (e) a long distance scheduled passenger service;
- (f) a scheduled passenger service;
- (g) a tourist service.

“free of charge”, for a courtesy transport service, includes without any of the following—

- (a) any payment or other consideration for the service;
- (b) requiring or asking for a levy, donation or other monetary contribution for the service, for example, the purchase of a ticket in a raffle;

- (c) displaying a receptacle, whether on the vehicle used to provide the service or elsewhere, in such a way as to suggest that a donation is expected or required to travel on the vehicle.

“holder”, for a service contract, means the operator—

- (a) with whom the chief executive has entered the contract under section 38B; or
- (b) to whom the contract has been transferred under section 48(a).

“individual fares”, for a charter bus service, include—

- (a) payment for a thing if the payment entitles the person making it to travel on the bus; and
- (b) a charge for the charter that is calculated on a per person basis.

“insult” includes abuse.

“long distance scheduled passenger service” means a road based scheduled passenger service in which passengers are carried on an established route—

- (a) for an average distance of at least 40 km; or
- (b) between non-adjointing service contract areas or routes.

“obstruct” includes abuse, hinder, insult, resist, threaten or attempt to obstruct.

“railway”, for chapter 11, includes car parks and bus stations under a railway manager’s control.

“road” means—

- (a) an area of land dedicated to public use as a road; or
- (b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or
- (c) a bridge, culvert, ferry, ford, tunnel or viaduct; or
- (d) a pedestrian or bicycle path; or
- (e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d).

“**taxi service**” means a public passenger service, other than an excluded public passenger service, provided by a motor vehicle under which the vehicle—

- (a) is able, when not hired, to be hailed for hire by members of the public; or
- (b) provides a demand responsive service under which members of the public are able to hire the vehicle through electronic communication; or
- (c) plies or stand for hire on a road.

“**temporary service contract**” see section 38A.

“**tourist service**” means a pre-booked public passenger service operated in accordance with a publicly available itinerary to—

- (a) a common scenic or tourist attraction; or
- (b) if the service is not wholly within a service contract area or route— a major sporting or cultural event.

“**tourist transfer service**” means a public passenger service—

- (a) that operates between—
 - (i) an accommodation house or a place prescribed under a regulation; and
 - (ii) a tourist attraction or tourist service; and
- (b) where journeys on the service are pre-booked before the time of travel.’.

(3) Schedule 3, definition “**authorised driver**”, ‘accreditation’—

omit, insert—

‘authorisation’.

(4) Schedule 3, definitions “**community transport service**” and “**courtesy transport service**”, ‘passenger transport’—

omit, insert—

‘public passenger’.

(5) Schedule 3, definition “**courtesy transport service**”, ‘vehicle of’—
omit, insert—

‘vehicle owned or leased by’.

(6) Schedule 3, definition “**scheduled passenger service**”, all words after ‘include’—

omit, insert—

‘the following—

- (a) an accommodation transfer service;
- (b) a long distance scheduled passenger service;
- (c) a tourist service;
- (d) a tourist transfer service.’.

(7) Schedule 3, definition “**school service**”, after ‘children’—

insert—

‘to and from school (other than for school excursions) on days that schools are open for instruction’.

PART 8—AMENDMENT OF TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995

Act amended in pt 8

109. This part amends the *Transport Operations (Road Use Management) Act 1994*.

Amendment of s 3 (Objectives)

110.(1) Section 3(1)—

insert—

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

(2) Section 3(2)(a), (b), (e) and (f), ‘other’—
omit.

Insertion of new ch 3, pt 1A

111. Section 18—
omit, insert—

‘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;
- (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.’.

Amendment of s 19 (Procedure for amending, suspending or cancelling approvals)

112.(1) Section 19(1), from ‘If the chief executive’ to ‘written notice’—
omit, insert—

‘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’.

(2) Section 19(1)(f), (3), (6), (8)(b) and (9), ‘operator’—
omit, insert—
‘holder’.

(3) Section 19(4)(b) to (d)—
omit, insert—

‘(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.’.

(4) Section 19(7)(b) to (d)—
omit, insert—

(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) Section 19(8)(a)(ii), ‘operator’s’—
omit, insert—
‘holder’s’.

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.’.

Replacement of ch 4 (Review of and appeals against decisions)

125. Chapter 4—

omit, insert—

‘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 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).’.

Amendment of s 75 (Vehicle operations and road rules)

126. After section 75(g)—

insert—

‘(ga)traffic density, routes and load restrictions for vehicles with a GVM of more than 4.5 t; and’.

Replacement of s 76 (Vehicle standards)

127. Section 76—

omit, insert—

‘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.’.

Amendment of s 78 (Regulations about driver management)

128.(1) Section 78, after paragraph (a)—

insert—

- ‘(aa)the training of drivers; and
- (ab) the approval of driver trainers and driver trainer competency assessors; and’.

(2) Section 78, after paragraph (f)—

insert—

- ‘(g) requiring that—
 - (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.’.

(3) Section 78—

insert—

‘(2) In this section—

“approval” includes accreditation.’.

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.

‘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
 - (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.’.

Insertion of new s 84A

130. After section 84—

insert—

‘Approval of forms

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

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.

‘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 approval granted under this Act; and

(b) may be renewed once only.’.

Insertion of new s 93A

133. After section 93—

insert—

‘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.’.

Insertion of new sch 1

134. After section 93A—

insert—

‘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)
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)’.

Insertion of new sch 2A

135. After schedule 2—

insert—

‘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’. |

Amendment of sch 3 (Dictionary)

136.(1) Schedule 3, definitions “**approved form**” and “**heavy vehicle**”—

omit.

(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.’.

(3) Schedule 3, definition **“owner”** paragraph (b), ‘and’—

omit, insert—

‘or’.

PART 9—AMENDMENT OF TRANSPORT PLANNING AND COORDINATION ACT 1994

Act amended in pt 9

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

Replacement of pt 5 (Appeals)

138. Part 5—

omit, insert—

‘PART 5—REVIEW OF AND APPEALS AGAINST DECISIONS

‘Division 1—General

‘What part applies to

‘29.(1) This part applies if a transport Act states that this part applies to—

- (a) a review of a decision (the **“original decision”**) under the transport Act; and
- (b) an appeal to a court stated in the transport Act (the **“appeal court”**) against a reviewed decision.

‘(2) However this part does not apply to a review of an appeal against a decision mentioned in the *Transport Operations (Marine Safety) Act 1994*, section 203¹⁰ except to the extent stated in that section.

‘Definitions

‘30. In this part—

“appeal court” see section 29(1).

“chief executive” means, if the original decision is made by the commissioner of the police service under the *Transport Operations (Road Use Management) Act 1995*, section 43—the commissioner.

“original decision” see section 29(1).

“reviewed decision” see section 34.

‘Division 2—Review of original decisions

‘Applying for review

‘31.(1) A person may apply for a review of an original decision only

¹⁰ Section 203 (Appeals)

within 28 days after notice of the original decision was given to the person under the transport Act.

‘(2) However, if—

- (a) the notice did not state the reasons for the original decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1);

the person may apply within 28 days after the person is given the statement of the reasons.

‘(3) In addition, the chief executive may extend the period for applying.

‘(4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

‘Stay of operation of original decision

‘32.(1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the appeal court.

‘(2) The appeal court may stay the original decision to secure the effectiveness of the review and any later appeal to the court.

‘(3) In setting the time for hearing the application, the appeal court must allow at least 3 business days between the day the application is filed with it and the hearing day.

‘(4) The chief executive is a party to the application.

‘(5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the appeal court with it on the chief executive at least 2 business days before the hearing.

‘(6) The stay—

- (a) may be given on conditions the appeal court considers appropriate; and
- (b) operates for the period specified by the appeal court; and
- (c) may be revoked or amended by the appeal court.

‘(7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period

the appeal court allows the applicant to enable the applicant to appeal against the decision.

‘(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

‘Review panels

‘33.(1) The chief executive may establish review panels for this part.

‘(2) Subject to subsection (5), a review panel consists of persons nominated by the chief executive.

‘(3) A member of a review panel may be paid the fees and allowances decided by the Governor in Council.

‘(4) The chief executive may refer an application for a review of an original decision to a review panel for advice.

‘(5) The person who made the original decision can not be a member of a review panel reviewing the decision.

‘Decision on review

‘34.(1) A decision on an application for review of an original decision must be made within 28 days after the application is made.

‘(2) If the chief executive was not the original decision maker, the chief executive, in reviewing the decision, has the same powers as the original decision maker.

‘(3) If within the 28 days, the chief executive confirms or amends the original decision or substitutes another decision, the chief executive must give the applicant written notice (the “**decision notice**”) of the confirmed, amended or substituted decision (the “**reviewed decision**”).

‘(4) The decision notice must state—

- (a) the reasons for the reviewed decision; and
- (b) that the applicant may, within 28 days, appeal against the reviewed decision to the appeal court.

‘(5) However, if a decision is not made on the application within the 28 days, the chief executive is taken to have made a decision (also the

“**reviewed decision**”) at the end of the 28 days confirming the original decision and the reasons given for it.

‘(6) In appealing to the appeal court, the decision subject to appeal is the reviewed decision and not the original decision.

‘Division 3—Appeals against reviewed decisions

‘Time for making appeals

‘**35.(1)** A person may appeal against a reviewed decision only within—

- (a) if a decision notice is given to the person—28 days after the notice was given to the person ; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

‘(2) However, if—

- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

‘(3) Also, the appeal court may extend the period for appealing.

‘Starting appeals

‘**36.(1)** An appeal must be started by—

- (a) filing a written notice of appeal with the appeal court; and
- (b) serving a copy of the notice on the chief executive.

‘(2) An appeal to a Magistrates Court or District Court may be made to the Magistrates Court or District Court nearest the place where the applicant resides or carries on business.

‘Stay of operation of reviewed decision

‘**36A.(1)** If a person appeals against a reviewed decision to the appeal court, the person may immediately apply to the appeal court for a stay of the decision.

‘(2) The appeal court may stay the reviewed decision to secure the effectiveness of the appeal.

‘(3) In setting the time for hearing the stay application, the appeal court must allow at least 3 business days between the day the application is filed with it and the hearing day.

‘(4) The chief executive is a party to the application.

‘(5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the appeal court with it on the chief executive at least 2 business days before the hearing.

‘(6) The stay—

- (a) may be given on conditions that the appeal court considers appropriate; and
- (b) operates for the period specified by the appeal court, but not extending past the time when the court decides the appeal; and
- (c) may be revoked or amended by the appeal court.

‘(7) Apart from a stay of the operation of a decision, an appeal does not affect the operation or carrying out of the decision.

‘Powers of appeal court on appeal

‘**36B.(1)** In deciding an appeal against a reviewed decision, the appeal court—

- (a) has the same powers as the person who made the original decision; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice; and
- (d) may hear the appeal in court or in chambers.

‘(2) An appeal is by way of rehearing.

‘(3) The appeal court may—

- (a) confirm the reviewed decision; or
- (b) set aside the reviewed decision and substitute another decision that it considers appropriate; or
- (c) set aside the reviewed decision and return the issue to the person who made the original decision with the directions that it considers appropriate.

‘Effect of decision of appeal court on appeal

‘36C. If the appeal court substitutes another decision for the reviewed decision, the substituted decision is, for the relevant provision of the transport Act, taken to be that of the person who made the original decision.

‘Assessors

‘36D. If the judge hearing an appeal in a District Court is of the opinion that the appeal against a reviewed decision involves a question of special knowledge and skill, the judge may appoint 1 or more assessors to help the judge in deciding the appeal.’.

Insertion of new s 36E

139. Part 6—

insert—

‘Advisory committees

‘36E.(1) The Minister may establish as many advisory committees as the Minister considers appropriate for the administration of a transport Act.

‘(2) An advisory committee has the functions the Minister decides.

‘(3) A member of an advisory committee may be paid the fees and allowances decided by the Governor in Council.’.

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