

Queensland



# **MOTOR VEHICLES SAFETY ACT 1980**

**Reprinted as in force on 10 November 1994  
(includes amendments up to Act No. 43 of 1994)**

**Reprint No. 1**

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the Office of the Queensland Parliamentary Counsel  
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# Information about this reprint

This Act is reprinted as at 10 November 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

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

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- update references (Pt 4, Div 3)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- use gender neutral office names (s 25)
- use different spelling consistent with current legislative drafting practice (s 26(2))
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use conjunctives and disjunctives consistent with current legislative drafting practice (s 28)
- use expressions consistent with current legislative drafting practice (s 29)
- reorder definitions consistent with current legislative drafting practice (s 30)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (ss 36 and 39)
- omit the enacting words (s 42A)
- number and renumber provisions and references (s 43)
- correct minor errors (s 44).

**Also see Endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in the reprint, including—**
  - **Table of changed names and titles**
  - **Table of obsolete and redundant provisions**
  - **Table of corrected minor errors**
  - **Table of renumbered provisions.**

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# MOTOR VEHICLES SAFETY ACT 1980

[as amended by all amendments that commenced on or before 10 November 1994<sup>2</sup>]

**An Act to provide for matters in relation to the safety of motor vehicles, and for related purposes**

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Motor Vehicles Safety Act 1980*<sup>3-9</sup>.

### Commencement of Act

2. This Act shall come into operation on a date to be fixed by proclamation.

### Application of Act

5.(1) Subject to subsection (3) and section 30, this Act applies to the inspection of all motor vehicles.

- (2) This Act binds the Crown.

(3) This Act applies to a motor vehicle associated with, or engaged in or about, a mine to which an Act prescribed by regulation applies only if the vehicle is used above ground or in a place where open-cut mining is carried on.

### Meaning of Terms

6. In this Act—

“**accredited officer**” means a person holding office as an accredited officer

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because of an appointment under section 9.

**“address”** means current place of residence.

**“approved examiner”** means—

- (a) a Part 4 examiner; or
- (b) a Part 5 examiner.

**“approved form”** means a form approved by the chief executive under section 50A.

**“approved inspection station”** or **“AIS”** means—

- (a) a Part 4 approved inspection station; or
- (b) a Part 5 approved inspection station.

**“authorised officer”** means a person holding office as an authorised officer because of an appointment under section 31D.

**“category A vehicle”** means a motor vehicle prescribed by regulation as a category A vehicle.

**“category B vehicle”** means a motor vehicle prescribed by regulation as a category B vehicle.

**“certificate of modification”** means a certificate of modification issued, or deemed to be issued, and in relation to any time in question, in force or deemed to be in force under this Act.

**“certificate of roadworthiness”** means a certificate, in the approved form, given—

- (a) by a Part 5 examiner at a Part 5 AIS; or
- (b) by the chief executive;

in relation to the roadworthiness of a motor vehicle.

**“chief executive”** means the chief executive of the department.

**“disposal”** includes a delivery of possession pursuant to a gift, sale, barter, exchange, transfer, lease or hire, or to a letting under a hire purchase agreement or to an agreement for sale or to an agreement that confers a contractual licence to use a motor vehicle but does not include—

- (a) a delivery of possession to a bailee for the purpose of alteration, repair, renovation, garaging or other similar purpose that does not

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involve the use of the motor vehicle for the bailee's benefit;

- (b) a delivery of possession to a person by reason of the person being entitled to the motor vehicle as beneficiary in the estate of the last preceding owner of the vehicle;
- (c) a passing of possession from one body corporate to another body corporate by reason that—
  - (i) the name of the former body corporate has been duly changed according to law to the name of the latter body corporate; or
  - (ii) the latter body corporate is a reconstruction of the former body corporate or is the result of an amalgamation of the former body corporate and 1 or more other bodies corporate, in any case duly effected accordingly to law; or
  - (iii) the latter body corporate is a holding company or a subsidiary company of the former body corporate;
- (d) a passing of possession occasioned only by the admission or retirement of 1 or more persons, into or from a partnership, being a partnership defined by the *Partnership Act 1891*;
- (e) a passing of possession (other than a passing of possession of a commercial motor vehicle) by a person to his or her spouse.

**“driver”** of a motor vehicle includes the person in command or control of the vehicle (or who appears to be in command or control of it).

**“gross vehicle mass”** means the mass of a motor vehicle that is the maximum laden mass recommended by the vehicle manufacturer at which that motor vehicle, or a motor vehicle of the same make or class or series, or a similar class or series, should be operated.

**“holder of an approval”** means—

- (a) in the case of an approval of premises—the proprietor of the premises; or
- (b) in any other case—the person to whom the approval relates.

**“identity card”** means—

- (a) in relation to an inspector, or accredited officer, who is not a police officer—an identity card issued to the inspector or

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accredited officer under section 10; or

- (b) in relation to an inspector, or accredited officer, who is a police officer—an identity card that identifies the person as a police officer and was issued to the person by the Commissioner of the Police Service.

**“inspector”** means a person holding office as an inspector because of an appointment under section 7 or because of section 8.

**“licensed motor dealer”** means a motor dealer licensed as such under the *Auctioneers and Agents Act 1971*.

**“motor mechanic”** means any person who works at testing, examining, adjusting or repairing motor vehicles or internal combustion engines.

**“motor vehicle”** means any vehicle propelled or designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, or any other mechanical power, and includes an omnibus, a motor car, motor truck, motor utility truck, motor cycle, fire engine, trailer and the engine of any motor vehicle, but does not include a recreation vehicle as defined in the *Motor Vehicles Control Act 1975* or any steam locomotive, steam traction engine, diesel locomotive, diesel traction engine, straddle truck, mobile crane, mobile dump truck, tractor, or any machinery designed for cutting grass or foliage or harvesting and used for no other purpose or any engine of a motor vehicle used for a purpose other than that of propelling a vehicle.

**“motor vehicle safety and performance requirements”** means the requirements of the *State Transport Act 1960*, *Traffic Act 1949*, *Transport Infrastructure (Roads) Act 1991* or *Transport Operations (Passenger Transport) Act 1994* about the construction, equipment and performance of motor vehicles.

**“owner”** includes—

- (a) in respect of any motor vehicle—a joint owner or a part owner of the vehicle; and
- (b) in respect of a motor vehicle registered under a registration law—every person registered as the owner; and
- (c) in respect of a motor vehicle the subject of a hiring agreement or a hire-purchase agreement—the person who has the use of the vehicle as hirer under the agreement; and

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- (d) in respect of a motor vehicle that is in the custody of a licensed motor dealer for the purpose of its disposal, or in the custody of an agent of a licensed motor dealer for the purpose of its disposal the licensed motor dealer and, where the business of such dealer is conducted by a firm—each member of that firm; and
- (e) in respect of any motor vehicle—any person who has control, charge or management of the vehicle.

**“Part 4 approved inspection station”** or **“Part 4 AIS”** means a place that is approved under this Act for inspection of motor vehicles for the purposes of Part 4.

**“Part 4 examiner”** means a person who is approved as a Part 4 examiner under section 39A.

**“Part 5 approved inspection station”** or **“Part 5 AIS”** means a place that is approved under this Act for the inspection of second-hand motor vehicles for the purposes of Part 5.

**“Part 5 examiner”** means a person who is approved as a Part 5 examiner under section 39A.

**“proprietor”** means, in respect of an approved inspection station, the person who is occupier of the premises approved as the inspection station and who carries on the business conducted therein.

**“registration law”** means—

- (a) the *Transport Infrastructure (Roads) Act 1991* or a corresponding Act of another State or a Territory; or
- (b) an Act of a State or Territory for which an Act mentioned in paragraph (a) was substituted.

**“road”** includes any road, street, highway, alley, avenue, lane, thoroughfare, track, carriageway, footway or subway, whether surveyed or unsurveyed (and all bridges, viaducts, culverts, grids, approaches, crossings and other things appurtenant thereto) open to or used by the public or to which the public have or are permitted to have access, whether on payment of a fee or otherwise.

**“second-hand motor vehicle”** means a motor vehicle that has been used or reconstructed.

**“tare”** means the unladen mass of a motor vehicle.

**“trailer”** means any vehicle without motive power attached or designed for attachment to a motor vehicle or tractor, but does not include a mobile air compressor, mobile welder, mobile concrete mixer, or other mobile equipment of a like nature or a caravan or boat trailer.

**“Tribunal”** means the Appeals Tribunal established under section 42F.

## **PART 2—ADMINISTRATION**

### **Appointment of inspectors**

**7.(1)** The chief executive may appoint an officer or employee of the department as an inspector.

**(2)** The chief executive may appoint a person to be an inspector only if—

- (a)** in the chief executive’s opinion, the person has the necessary expertise or experience to be an inspector; or
- (b)** the person has satisfactorily completed a course of training approved by the chief executive.

**(3)** An inspector whose appointment is limited in its application may exercise a power under this Act only if the exercise of the power is permitted by the appointment.

### **Role of police officers**

**8.** A police officer is, without further appointment, an inspector.

### **Accredited officers**

**9.(1)** The chief executive may appoint an officer or employee of a unit of the public sector as an accredited officer.

**(2)** The chief executive may appoint a person to be an accredited officer only if—

- (a)** in the chief executive’s opinion, the person has the necessary expertise or experience to be an accredited officer; or

- (b) the person has satisfactorily completed a course of training approved by the chief executive.

(3) An accredited officer whose appointment is limited in its application may exercise a power under this Act only if the exercise of the power is permitted by the appointment.

### **Identity cards for inspectors and accredited officers**

**10.(1)** The chief executive must issue an identity card to each inspector and accredited officer (other than a police officer).

(2) The identity card must—

- (a) contain a photograph of the inspector or accredited officer; and
- (b) be in the approved form; and
- (c) be signed by the inspector or accredited officer.

(3) A person (other than a police officer) who ceases to be an inspector or accredited officer must return the person's identity card to the chief executive as soon as practicable after ceasing to be an inspector or accredited officer.

Maximum penalty—10 penalty units.

(4) Subsection (3) does not apply to a person if the person has a reasonable excuse for not complying with it.

### **Proof of authority by inspectors and accredited officers**

**11.(1)** This section applies to—

- (a) an inspector (other than a police officer) who is not wearing a uniform approved by the chief executive; and
- (b) an accredited officer (other than a police officer) who is not wearing a uniform approved by the chief executive; and
- (c) a police officer who is not wearing a police uniform.

(2) An inspector or accredited officer may exercise a power in relation to a person only if the inspector or officer first produces his or her identity card for inspection by the person.

(3) If, for any reason, it is not practicable to comply with subsection (2) before exercising the power, the inspector or accredited officer must comply with the subsection at the first reasonable opportunity.

### **Delegation by chief executive**

12. The chief executive may delegate the chief executive's powers under this Act to an officer of the public service employed in the department.

### **Reports to be made**

13.(1) An accredited officer who makes an inspection or examination for the purposes of Part 4 must provide the chief executive with a written report about the inspection or examination.

(2) A copy of the report must be kept in a way approved by the chief executive.

### **Inspection of reports**

14. A person who pays the fee prescribed by regulation and satisfies the chief executive that—

- (a) the person is the owner, or prospective buyer, of a motor vehicle that has been the subject of a report under section 13; or
- (b) the solicitor of a person mentioned in paragraph (a);

is entitled to be given a copy of the report.

### **Protection from liability**

15.(1) An inspector or accredited officer does not incur civil liability for an act or omission done honestly and without negligence under, or for the purposes of, this Act.

(2) A liability that, apart from subsection (1), would attach to the inspector or officer attaches instead to the State.



**Inspectors and accredited officers to give notice of damage**

**15A.(1)** An inspector or accredited officer who, in the exercise of a power under Part 2A, damages anything must immediately give written notice of the particulars of the damage.

(2) The notice must be given to the person who appears to the inspector or officer to be the owner of the thing.

(3) If, for any reason, it is not practicable to comply with subsection (2), the inspector or officer must—

- (a) leave the notice on the thing that is damaged; and
- (b) ensure that it is left—
  - (i) in a reasonably secure way; and
  - (ii) in a conspicuous position.

**Compensation**

**15B.(1)** A person may claim compensation from the State if the person incurs any loss or expense—

- (a) because of the exercise or purported exercise of a power under Part 2A; or
- (b) in complying with a requirement made of the person under Part 2A.

(2) A payment for compensation may be claimed and ordered—

- (a) in a proceeding brought in a court of competent jurisdiction for the recovery of compensation; or
- (b) during a proceeding for an offence against this Act brought against the person against whom the claim is made.

(3) A court may order the payment of compensation for the loss or expense only if it is just to make the order in the circumstances of the particular case.

(4) This section does not apply to the exercise of a power (including the making of a requirement) to which section 18B(3)(a) applies.

## **PART 2A—POWERS OF INSPECTORS**

### *Division 1—General powers of inspectors*

#### **Application of Division**

**15C.** The powers conferred by this Division are in addition to powers conferred by any other Division.

#### **Powers of inspectors etc.**

**16.(1)** Any inspector or any other person authorised by the chief executive may at any time—

- (a) enter any place where there is or where he or she has reason to believe there is any motor vehicle;
- (b) inspect and examine any motor vehicle found upon such entry;
- (c) call to his or her aid—
  - (i) any police officer where he or she has reasonable cause to apprehend any obstruction in the exercise of his or her powers or in the execution of his or her duties;
  - (ii) any person he or she may think competent to assist in such inspection and examination;
- (d) make such examination or inquiry as may be necessary to ascertain—
  - (i) whether the provisions of this Act have been or are being complied with in respect of any motor vehicle;
  - (ii) the owner of the vehicle;
  - (iii) the names of persons in any way employed in connection with the vehicle;
- (e) question, with respect to matters under this Act, the occupier of any place, the owner of any motor vehicle, every person whom he or she finds in any place, and every person who has been within the preceding 6 months employed in any place to ascertain

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whether this Act has been or is being complied with, and require any such person to answer the questions put and to sign a declaration of the truth of his or her answer;

- (f) require the production of any certificate or copy of any certificate of roadworthiness or inspection report, any certificate of registration, certificate of inspection, competency, approval, or examiner's licence, and of any book, notice, record, list, or writing which by this Act is required to be kept or exhibited, and inspect, examine, and—
  - (i) take copies of or extracts from the same; or
  - (ii) where the provisions of this Act operate so as to prevent the removal of a certificate or copy of any such certificate, report, licence, notice, record, list or writing from a book—take possession of that book; and
- (g) exercise such other powers and authorities as may be prescribed.

(2) Before an inspector or any person authorised by the chief executive enters any part of premises, which part is used as a dwelling, he or she shall, save where he or she has the permission of the occupier of that part to enter, obtain from a justice a warrant to enter.

(3) A justice who is satisfied upon the complaint of an inspector or any person authorised by the chief executive that there is reasonable cause to suspect—

- (a) that in any place there is a motor vehicle to which the provisions of this Act apply;
- (b) that in respect of that motor vehicle an offence against this Act has been committed, is being committed or is likely to be committed;

may issue a warrant directed to the inspector or person to enter the place specified in the warrant for the purpose of exercising the powers conferred on him or her by this Act.

(4) A warrant issued under subsection (3) shall, for a period of 1 month from its issue, be authority—

- (a) to the person to whom it is directed and to all persons acting in aid of the person to enter the place specified in the warrant; and
- (b) to the person to whom it is directed to exercise in respect of the

place specified in the warrant all the powers conferred on the person by this Act.

(5) For the purposes of subsection (2), the curtilage of any premises shall not be taken to be a part used as a dwelling of those premises.

### **Assistance to inspectors etc.**

**17.(1)** The occupier of any place wherein or whereon there is a motor vehicle shall furnish to an inspector or any person authorised by the chief executive all reasonable assistance, and all such information that the occupier is able to furnish as is required of the occupier by the inspector or person, in respect of the exercise of powers and the discharge of duties under this Act in relation to that place.

Maximum penalty—20 penalty units.

(2) The owner of a motor vehicle shall furnish to an inspector or any person authorised by the chief executive all reasonable assistance, and all such information that the owner is able to furnish as is required of the owner by the inspector or person, in respect of the exercise of powers and the discharge of duties under this Act in relation to that vehicle.

Maximum penalty—20 penalty units.

### **Obstructing an inspector etc.**

**18.(1)** A person shall not—

- (a) assault, resist, or obstruct an inspector in the exercise of the inspector's powers or in the discharge of the inspector's duties under this Act, or attempt so to do; or
- (b) fail to answer any question put to the person in pursuance of this Act by an inspector or give any false or misleading answer to any such question; or
- (c) fail to comply with the lawful requisition or any part of the lawful requisition of an inspector; or
- (d) when required by or under this Act to furnish any assistance or to furnish any information to an inspector—fail to furnish that assistance or information, as the case may be, or, in the latter case,

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- furnish false or misleading information; or
- (e) fail, without reasonable excuse the proof whereof shall lie upon the person, to produce any certificate or copy of any certificate of roadworthiness or inspection report, any certificate of registration, certificate of inspection, competency, approval or examiner's licence, and of any book, notice, record, list, document or writing which the person is required under this Act by an inspector to produce, or fail to allow an inspector to take a copy of or extract from any such certificate, book, notice, record, list, document, or writing; or
  - (f) directly or indirectly prevent any person from appearing before or being questioned by an inspector, or attempt so to do; or
  - (g) use any threat or any abusive or insulting language to any inspector or to an employee with respect to any inspection or examination or questioning.

Maximum penalty—20 penalty units.

(2) No person shall be required under this section or under section 16 or 17 to answer any question, or give any information or evidence, or to sign any declaration tending to criminate himself or herself.

(3) In this section—

**“inspector”** includes an accredited officer and any person acting under lawful authority under or pursuant to this Act.

*Division 2—Power to stop vehicles at checkpoint or otherwise*

**Approval of random inspection program**

**18A.(1)** The chief executive may approve a program under which inspectors may set up checkpoints to inspect motor vehicles to ensure the compliance of the vehicles with applicable motor vehicle safety and performance requirements.

(2) A checkpoint may be on a road or elsewhere.

**Power to stop motor vehicles at checkpoints**

**18B.(1)** This section applies if an inspector has set up a checkpoint.

(2) An inspector at the checkpoint may require the driver of a motor vehicle to stop the vehicle at the checkpoint.

(3) The inspector may require the driver to stop the vehicle only if—

- (a) the vehicle is a type of vehicle that the inspector is stopping at the checkpoint by reference to objective criteria that are part of a program approved under section 18A; or
- (b) the inspector suspects on reasonable grounds that the vehicle does not comply in every respect with applicable motor vehicle safety and performance requirements.

**Power to stop motor vehicles other than at checkpoints**

**18C.(1)** An inspector may require the driver of a motor vehicle to stop the vehicle other than at a checkpoint.

(2) The inspector may require the driver to stop the vehicle only if the inspector suspects on reasonable grounds that the vehicle does not comply in every respect with applicable motor vehicle safety and performance requirements.

**Way in which driver is to be required to stop**

**18D.** An inspector may require the driver of a motor vehicle to stop the vehicle by indicating the requirement to the driver in a way prescribed by regulation.

**Failure to obey requirement to stop**

**18E.(1)** The driver of a motor vehicle must not, without reasonable excuse, fail to comply with a requirement to stop the vehicle made under—

- (a) section 18B (Power to stop motor vehicles at checkpoints); or
- (b) section 18C (Power to stop motor vehicles other than at checkpoints).

Maximum penalty—20 penalty units.

(2) It is a reasonable excuse if—

- (a) to obey the requirement immediately would have endangered the person or another person; and
- (b) the person stops the vehicle as soon as it is practicable to stop it.

### **Police officer may arrest if certain requirements disobeyed**

**18F.(1)** This section applies if a police officer—

- (a) finds a person committing an offence against section 18E; or
- (b) finds a person who the officer believes on reasonable grounds has committed an offence against section 18E.

(2) The police officer may arrest the person if the officer believes on reasonable grounds that proceedings by way of complaint and summons against the person would be ineffective.

### ***Division 3—Powers after vehicle is stopped***

#### **Application of Division**

**18G.** The powers under this Division may be exercised only after a motor vehicle is stopped under section 18B or 18C.

#### **General powers after vehicle is stopped**

**18H.(1)** After the motor vehicle is stopped, an inspector may examine or inspect it with any reasonable assistance.

(2) For the purposes of the examination or inspection, an inspector may—

- (a) unlock, unfasten or open a closed door on, or a component of, the vehicle or remove a removable cover on it; and
- (b) enter the vehicle; and
- (c) inspect a thing (other than a document or personal possession) in or on the vehicle that the inspector believes, on reasonable grounds, may relate to the vehicle's use or condition; and

(d) move the vehicle.

(3) The inspector may require the driver of the vehicle to give the reasonable assistance that is necessary to enable the examination or inspection to be carried out.

(4) Without limiting subsection (3), the inspector may require the driver of the vehicle to give reasonable assistance—

(a) by moving the vehicle to a reasonable place specified by the inspector (but the place must not be more than 1 km from where the vehicle was stopped); and

(b) by remaining in control of the vehicle at the place for a reasonable period.

(5) If the inspector believes, on reasonable grounds, that—

(a) a document in or on the vehicle may relate to the use or condition of the vehicle; and

(b) it is necessary for the inspector to inspect the document in order to decide whether the Act is being complied with;

the inspector may require the driver of the vehicle to produce the document to the inspector for inspection.

### **Failure to give assistance**

**18I.(1)** A person who is required under section 18H (General powers after vehicle is stopped) to give reasonable assistance to an inspector must comply with the requirement.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply if a person has a reasonable excuse for not complying with the requirement.

(3) If the assistance that is required to be given by the person is to answer a question, it is a reasonable excuse to fail to answer the question if complying with the requirement might tend to incriminate the person.

### **Failure to produce document**

**18J.(1)** A person who is required under section 18H(5) (General powers



after vehicle is stopped) to produce a document to an inspector for inspection must comply with the requirement.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply if a person has a reasonable excuse for not complying with the requirement.

(3) It is a reasonable excuse for the person to fail to produce the document if complying with the requirement to produce might tend to incriminate the person.

(4) If—

- (a) an inspector requires a person to produce a document under section 18H(5) on the basis of a reasonable belief about a document; and
- (b) the document does not in fact relate to the use or condition of the vehicle;

the person does not commit an offence against this section by failing to comply with the requirement.

### **Power to require name and address for specified cause**

**18K.(1)** This section applies if an inspector—

- (a) finds a person committing an offence against this Act; or
- (b) finds a person who the inspector has reasonable grounds for suspecting has committed an offence against this Act.

(2) The inspector may—

- (a) require the person to state the person's name and address; and
- (b) if the inspector believes on reasonable grounds that the name or address given by the person is false—require evidence of its correctness.

(3) If the inspector makes a requirement under subsection (2), the inspector must warn the person that it is an offence against this Act to fail to comply with the requirement without reasonable cause.

**Failure to provide name and address**

**18L.(1)** A person who is required under section 18K to state the person's name or address must not, without reasonable excuse, fail to comply with the requirement.

Maximum penalty—10 penalty units.

**(2)** A person who is required under section 18K to give evidence of the correctness of a name or address must not without reasonable excuse, fail to give the evidence.

Maximum penalty—10 penalty units.

**(3)** If—

- (a) an inspector makes a requirement of a person under section 18K on a suspicion of the person having committed an offence; and
- (b) the person is not proved to have committed the offence;

the person does not commit an offence against this section by failing to comply with the requirement.

**(4)** A person must not state a false name or address, or give false evidence of a name or address, to an inspector.

Maximum penalty—20 penalty units.

**Police officer may arrest for failure to provide identification**

**18M.** A police officer may arrest a person if the officer believes on reasonable grounds that—

- (a) the person has committed an offence against section 18L; and
- (b) proceedings by way of complaint and summons against the person would be ineffective.

**Power to require answers to questions for limited purposes**

**18N.(1)** If an inspector believes on reasonable grounds that a person may be able to provide information relevant to the enforcement of this Act, the inspector may require the person to answer a question in relation to any of the following matters—

- (a) the history of the ownership of the motor vehicle;
- (b) if the vehicle does not comply in every respect with the applicable motor vehicle safety and performance requirements—
  - (i) any certificate of roadworthiness issued in relation to the vehicle; and
  - (ii) any modifications to the vehicle.

(2) If the inspector makes a requirement under subsection (1), the inspector must warn the person that it is an offence against this Act to fail to comply with the requirement without reasonable excuse.

### **Failure to answer question**

**180.(1)** A person who is required under section 18N to answer a question must not, without reasonable excuse—

- (a) fail to comply with the requirement; or
- (b) give false or misleading information to an inspector (whether or not the person is required to give the information).

Maximum penalty—20 penalty units.

(2) It is a reasonable excuse for a person to fail to answer a question if answering the question might tend to incriminate the person.

(3) If—

- (a) an inspector requires a person to answer a question under section 18N on the basis of a reasonable belief about information; and
- (b) the information is not in fact relevant to the enforcement of this Act;

the person does not commit an offence against this section by failing to comply with the requirement.

## **PART 3—GENERAL INSPECTION PROVISIONS**

### **Inspection of motor vehicles**

**19.** Upon inspecting any motor vehicle an inspector or accredited officer shall in every case determine whether the vehicle—

- (a) is faulty or defective in any particular, or so dangerous as to be likely to cause loss of life or bodily injury to any person; and
- (b) complies in every respect with applicable motor vehicle safety and performance requirements.

### **Procedure by inspectors and accredited officers following inspection**

**20.(1)** Where an inspector or accredited officer is of the opinion that a motor vehicle or any part thereof or anything attached thereto—

- (a) is—
  - (i) faulty or defective in respect of its safe use; or
  - (ii) so dangerous as to be likely to cause loss of life or bodily injury to any person;
- (b) does not comply in every respect with applicable motor vehicle safety and performance requirements;

the inspector or accredited officer may give to the owner of that vehicle (or, where the owner is a licensed motor dealer or a member of a firm that carries on the business of a licensed motor dealer, to any agent of the owner) a notice in writing to that effect and such notice may require the owner—

- (c) to cease using the vehicle forthwith, or after a date specified in the notice until such replacements, repairs or alterations as are specified in the notice have been carried out;
- (d) to carry out such replacements, repairs or alterations to the vehicle within the time specified in the notice and to produce the vehicle for further inspection at a time and place specified in the notice;
- (e) to produce and surrender to the inspector or officer any part of the vehicle, or anything attached to the vehicle, that appears to the

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inspector or officer to be faulty, defective or dangerous or that does not comply with applicable motor vehicle safety and performance requirements.

(2) A notice under subsection (1) may also require the owner of the motor vehicle to refrain from hiring or otherwise disposing of or parting with possession of the vehicle until the requirements of the inspector or accredited officer as specified in the notice have been complied with.

(2A) If the owner hires, disposes of or parts with possession of the vehicle in contravention of subsection (2) the owner commits an offence against this Act.

Maximum penalty—15 penalty units.

(3) A person to whom a notice has been given under subsection (1) shall comply in every respect with the requirements of the notice.

Maximum penalty—15 penalty units.

(4) An inspector or accredited officer who is satisfied that sufficient cause exists may from time to time in writing extend a time appointed in a notice given under subsection (1) or a time to which it has previously been extended.

(5) Subsection (3) does not apply to an owner specified in subsection (1) or (2) if the owner disposes of the vehicle in question—

- (a) if such owner is not a licensed motor dealer—
  - (i) for the purpose of wrecking, renovation, repair or alteration of the vehicle, providing within 7 days after disposal the owner cancels the registration thereof; or
  - (ii) to a licensed motor dealer; or
- (b) if such owner is a licensed motor dealer—for the purpose of wrecking, providing within 7 days after disposal the owner cancels the registration thereof; and

in each case the owner notifies the chief executive, within 7 days after such disposal, of the fact of the disposal and the name and address of the person to whom it was disposed.

(6) An agent of a licensed motor dealer who knows that a notice has been given in relation to a motor vehicle and who disposes, for a purpose other

than wrecking, of the motor vehicle before the repairs specified in the notice have been effected to the vehicle commits an offence against this Act.

### **Production of motor vehicle on demand**

**21.(1)** The chief executive or an inspector or accredited officer may, by written notice given to the owner of a motor vehicle (whether or not it is a vehicle to which this Act applies), require the owner to produce the vehicle for inspection on a day, and at a time and place, specified in the notice.

**(2)** An owner of a motor vehicle to whom a notice is given under subsection (1)—

- (a) shall produce the vehicle for inspection as required by the notice;
- (b) shall not hinder or interfere in the inspection of the vehicle by an inspector or accredited officer.

Maximum penalty—15 penalty units.

### **Alteration to and modification of motor vehicles**

**22.(1)** An owner shall not use or allow or permit to be used on a road a motor vehicle that has been altered or modified from the manufacturer's specifications, unless that alteration or modification has been approved by the chief executive.

Maximum penalty—15 penalty units.

**(2)** An owner shall not, in respect of a motor vehicle for which approval has been granted pursuant to subsection (1), further alter or modify the vehicle from the manufacturer's specifications unless the further alteration or modification has been approved pursuant to subsection (1).

Maximum penalty—15 penalty units.

**(3)** On giving approval pursuant to subsection (1) or (2) the chief executive may, in respect of that approval, issue a certificate of modification in the approved form and require a prescribed modification plate to be affixed to the vehicle.

**(4)** Where a prescribed modification plate is required to be affixed pursuant to subsection (3), the owner in question shall—

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- (a) cause the plate to be affixed—
  - (i) on such conspicuous part of the motor vehicle, in respect of which the approval was granted, as is specified in the chief executive's approval; or
  - (ii) if no such part is specified, on such conspicuous part of the vehicle as is specified by an inspector; and
- (b) keep the plate so affixed until a fresh plate is required by the chief executive to be affixed in respect of the vehicle, or approval is granted by the chief executive for the removal of the plate.

Maximum penalty—15 penalty units.

(5) Where the chief executive requires a fresh modification plate to be affixed under this section in respect of a motor vehicle, the fresh plate shall not be affixed to the vehicle until the previous plate required to be affixed under this section has been removed or defaced by an inspector.

(6) Notwithstanding the provisions of subsection (1) the chief executive may exempt any owner from the requirement under subsection (1) of affixing a modification plate to a motor vehicle and that exemption shall be endorsed by the chief executive on the relevant certificate of modification.

(7) Where any alteration or modification of a motor vehicle has been carried out in accordance with—

- (a) the provisions of Part 4A; or
- (b) the provisions of the regulations made under the *Traffic Act 1949*;

the alteration or modification shall, for the purposes of this section, be deemed to have been approved by the chief executive.

## **PART 4—COMPULSORY INSPECTION OF CERTAIN MOTOR VEHICLES**

### **Certain motor vehicles require certificate of inspection**

**23.(1)** An owner of a category A vehicle must not use the vehicle, or permit it to be used, unless a certificate of inspection is in force for the

vehicle.

Maximum penalty—15 penalty units.

(2) This section applies to a new motor vehicle during the first year after it is first registered only if a regulation provides that this section applies to the vehicle.

### **Certificate of inspection**

**24.(1)** A certificate of inspection is obtained from—

- (a) an accredited officer; or
- (b) a Part 4 AIS.

(2) A certificate of inspection from a Part 4 AIS must be signed by—

- (a) the Part 4 examiner who examined the vehicle; and
- (b) the proprietor or nominee of the Part 4 AIS.

(3) An accredited officer or Part 4 examiner must not sign a certificate of inspection unless the person is satisfied that the motor vehicle—

- (a) is in good repair; and
- (b) has no defect that would affect its safe use on the road.

Maximum penalty—10 penalty units.

(4) A certificate of inspection must be in the approved form.

(5) A certificate remains in force for 1 year unless a regulation provides that another period applies to the vehicle.

(6) However, a motor vehicle's certificate of inspection ceases to be in force if the vehicle's registration under the *Transport Infrastructure (Roads) Act 1991* is cancelled.

(7) The proprietor or nominee of a Part 4 AIS must not sign a certificate of inspection unless the proprietor or nominee is satisfied that the motor vehicle—

- (a) is a type of vehicle that the Part 4 AIS may inspect under its approval; and
- (b) was inspected at the premises specified in the approval of the



Part 4 AIS; and

- (c) was inspected by a Part 4 examiner.

Maximum penalty—10 penalty units.

### **Procedure by approved examiners following inspection**

**24A.(1)** Where an approved examiner is of the opinion that a motor vehicle or any part thereof or anything attached thereto—

- (a) is faulty or defective in any particular or so dangerous as to be likely to cause loss of life or bodily injury to any person; or
- (b) does not comply in every respect with applicable motor vehicle safety and performance requirements;

the approved examiner shall issue to the owner of that vehicle (or, where the owner is a licensed motor dealer or a member of a firm that carries on the business of a licensed motor dealer, to any agent of the owner) a copy of the inspection report showing those replacements, repairs or alterations required to be carried out to the vehicle.

**(2)** An owner to whom a copy of an inspection report has been issued pursuant to subsection (1) shall, within a period of 14 days from and including the date of issue of the inspection report, cause those replacements, repairs or alterations to be carried out and return the vehicle to the approved examiner for re-inspection of the work carried out.

**(3)** Where a motor vehicle is not returned for re-inspection pursuant to subsection (2), a further complete inspection of the vehicle by the approved examiner shall be required.

### **Requirements of approved examiner upon inspection**

**25.** Upon inspecting a motor vehicle under this Part, an approved examiner shall in every case determine whether the vehicle—

- (a) is faulty or defective in any particular, or so dangerous as to be likely to cause loss of life or bodily injury to any person;

- (b) complies in every respect with applicable motor vehicle safety and performance requirements.

Maximum penalty—15 penalty units.

### **Production of certificate of inspection**

**26.** An owner to whom a certificate of inspection is issued under section 24 shall, upon demand by an inspector or by a person authorised by the chief executive, produce that certificate.

Maximum penalty—20 penalty units.

### **Cancellation etc. of certificates of inspection**

**27.(1)** A certificate of inspection shall have no force or effect if after inspection and without the prior approval of the chief executive or of an inspector any material alteration or addition is made to the motor vehicle specified in the certificate.

**(2)** The chief executive may at any time cancel or suspend a certificate of inspection where the chief executive deems it necessary for the safety of any person so to do, and after such cancellation, or during such suspension, the certificate shall have no force or effect.

### **Requirements for applications for renewal of registration**

**28.(1)** The owner of a category A motor vehicle must give to the chief executive, with an application for renewal of the vehicle's certificate of registration under the *Transport Infrastructure (Roads) Act 1991*, a current certificate of inspection or exemption that relates to the vehicle.

**(2)** A certificate of inspection or a certificate of exemption shall not be taken to be current if the expiry date shown on the certificate precedes the date due for renewal of the certificate of registration of the vehicle.

### **Procedure where certificate not given**

**29.(1)** If an application for registration of a category A motor vehicle is not accompanied by a current certificate of inspection or exemption, the chief executive may issue a certificate of registration and registration label

for not longer than 2 months from the expiry date of the previous certificate of registration.

(2) If a current certificate of inspection or exemption is not received by the chief executive by the expiry of the period for which the certificate of registration has or had been issued under subsection (1), the chief executive may cancel the certificate of registration and registration label.

(3) A certificate of inspection or exemption is not current if the expiry date shown on the certificate is before the expiry date of the certificate of registration and registration label issued under subsection (1).

(4) The chief executive may require payment of the prescribed inspection fee for a category A motor vehicle at the time application is made for renewal of the certificate of registration.

## **Exemptions**

**30.(1)** If it appears to the Governor in Council that—

- (a) because of circumstances affecting a particular area of the State, it is unnecessary or undesirable that sections 23, 28 and 29 should apply within the area to a particular class of motor vehicles while the vehicles are used solely within the area; or
- (b) for any other reason, it is unnecessary or undesirable that sections 23, 28 and 29 should apply to a class of motor vehicles;

the Governor in Council may, by regulation, exempt the motor vehicles from the application of the sections.

(1A) In a proceeding, it must be presumed that sections 23, 28 and 29 apply throughout the State until the contrary is proved.

(2) The Minister or the chief executive may exempt any motor vehicle or any class or type of vehicle from—

- (a) inspection under section 23; or
- (b) the payment of fees for an inspection carried out by an inspector or accredited officer pursuant to section 23.

(3) Where an exemption has been granted by the Minister or by the chief executive, a certificate of exemption shall be issued to the owner of the motor vehicle in question for such period as may be specified in the

certificate.

(4) A motor vehicle's certificate of exemption ceases to be in force if the vehicle's registration under the *Transport Infrastructure (Roads) Act 1991* is cancelled.

## **PART 4A—ALTERATION AND MODIFICATION OF COMMERCIAL AND SPECIFIED MOTOR VEHICLES**

### **Interpretation**

**31A.** For the purposes of this Part—

**“commercial motor vehicle”** means any motor vehicle other than a passenger car or a passenger car derivative.

**“passenger car”** means a motor vehicle (other than a motor cycle, an omnibus or moped) constructed principally for the conveyance of persons.

**“passenger car derivative”** means a motor vehicle of the kind known as a coupe utility or panel van of the same make as a factory produced passenger car and in which the forward part of the body form and the greater part of the mechanical equipment are the same as in that factory produced passenger car.

**“specified motor vehicle”** means a motor vehicle or class or classes of motor vehicle to which section 31B(1)(b) applies.

### **Application of Part**

**31B.(1)** This Part applies to and in relation to alterations or modifications to—

- (a) a commercial motor vehicle if the alterations or modifications are or have been carried out before the first registration of the vehicle under a registration law; and
- (b) any other motor vehicle or class or classes of motor vehicle

determined by the chief executive.

(2) Where the chief executive determines that any motor vehicle or class or classes of motor vehicle shall be a specified motor vehicle or specified motor vehicles the chief executive shall as soon as practicable publish details of the determination in the Gazette.

**Alteration to or modification of commercial and specified motor vehicles etc.**

**31C.(1)** Subject to subsection (5), an owner shall not use or allow or permit to be used on a road—

- (a) a commercial motor vehicle; or
- (b) a specified motor vehicle;

that has been altered or modified from the manufacturer's specifications unless—

- (c) the alteration or, as the case may be, modification has been carried out in accordance with the relevant standards prescribed by the regulations or such other alternative standards as are approved by the chief executive; and
- (d) an authorised officer has certified that alteration or modification; and
- (e) an authorised officer has issued a certificate of modification in the approved form in respect of that alteration or modification and has duly stamped and issued the prescribed modification plate; and
- (f) the prescribed modification plate has been affixed to the vehicle in the manner prescribed in subsection (3) and is kept so affixed at all times.

Maximum penalty—15 penalty units.

(2) An owner shall not in respect of a motor vehicle for which a certificate of modification has been issued pursuant to subsection (1), further alter or modify the vehicle from the manufacturer's specifications, or cause the vehicle to be further altered or modified, unless the further alteration or modification has been approved pursuant to subsection (1).

Maximum penalty—15 penalty units.

(3) A person who alters or modifies a motor vehicle from the manufacturer's specifications shall—

- (a) obtain a certificate of modification from an authorised officer for such alteration or modification;
- (b) cause to be affixed, in accordance with the relevant code of practice on such motor vehicle, a prescribed modification plate duly stamped.

Maximum penalty—15 penalty units.

(4) A person shall not remove, vary or deface a modification plate that has been affixed to a motor vehicle for the purposes of this Part without the approval of the chief executive.

Maximum penalty—15 penalty units.

(5) Notwithstanding the provisions of subsection (1), the chief executive may exempt any motor vehicle from the requirements of this Part provided that such vehicle shall remain subject to the provisions of Part 3 unless a further exemption is granted in respect of that last mentioned Part.

### **Authorised officers**

**31D.(1)** The Minister may appoint any person described in the appointment to be an authorised officer for such period as the Minister specifies in the appointment and shall cause to be issued a certificate of appointment in respect of every such appointment.

(2) An authorised officer appointed under subsection (1) shall perform such functions and duties and may exercise such powers as are from time to time assigned to him or her in writing by the chief executive.

(3) A person shall not be appointed an authorised officer unless the person possesses, in the opinion of the Minister, sufficient qualifications to permit the person to perform the functions and duties likely to be assigned to him or her by the chief executive.

### **Cancellation and suspension of appointment of authorised officers**

**31E.(1)** Where an authorised officer is convicted of an offence against this Act that—

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- (a) is defined in this Part;
- (b) consists of a contravention of or failure to comply with any provision of this Part;
- (c) consists of a contravention of section 43;
- (d) consists of a contravention of or failure to comply with any of the regulations concerning the examination of motor vehicles for the purpose of issuing a certificate of modification and the stamping and issuing of a modification plate;

the certificate of appointment issued to that authorised officer shall, by virtue of the conviction, be cancelled.

(2) Where a certificate of appointment is cancelled pursuant to the provisions of subsection (1), the person in whose name the certificate was issued shall surrender the certificate to the chief executive.

(3) If an authorised officer has, in the opinion of the chief executive, contravened or failed to comply with any provision of this Part or any of the regulations concerning the examination of motor vehicles for the purpose of issuing a certificate of modification and the stamping and issuing of a modification plate (whether or not the authorised officer has been prosecuted therefor), the chief executive may, by notice in writing, call upon that authorised officer to show cause before the Tribunal at a time and place appointed in the notice, why the certificate of appointment of that authorised officer should not be cancelled or suspended.

(4) If at the time and place appointed in the notice or at any other time or place to which the hearing is adjourned sufficient cause is not shown to the satisfaction of the Tribunal it may, having regard to the circumstances of the case, cancel the certificate of appointment of the authorised officer or suspend that certificate for a period specified by the Tribunal.

(5) Where a certificate of appointment is cancelled or suspended pursuant to subsection (4), the person in whose name the certificate was issued shall surrender the certificate to the chief executive.

## **PART 5—CERTIFICATES OF ROADWORTHINESS**

### **Requirements for disposal of second-hand motor vehicles**

**32.(1)** For the purposes of this section and of section 34 motor vehicles are divided into the following categories:—

- (a) category A vehicles;
- (b) category B vehicles.

**(2)** A person must not dispose of a second-hand category A vehicle unless—

- (a) the person has properly obtained a certificate of roadworthiness for the vehicle; or
- (b) a certificate of inspection under section 24 is in force for the vehicle.

Maximum penalty—20 penalty units.

**(2A)** A person must not dispose of a second-hand category B vehicle unless the person has properly obtained a certificate of roadworthiness for the vehicle.

Maximum penalty—20 penalty units.

**(3)** A person who disposes of a second-hand motor vehicle shall—

- (a) give to the person to whom delivery of possession is made, at the time of that delivery, the prescribed duplicate copy of the certificate of roadworthiness duly obtained or the certificate of inspection in force under section 24, that relates to that vehicle; and
- (b) where an application under the *Transport Infrastructure (Roads) Act 1991* for transfer of registration of that vehicle is made—submit together with that application, the prescribed original copy of the certificate of roadworthiness duly obtained or the certificate of inspection in force under section 24, that relates to that vehicle.

**(3A)** In any case where the duplicate copy of a certificate that is required to be given by subsection (3) to be given to any person has been lost or



destroyed, the person required to give the copy shall, in lieu of giving that copy as prescribed, give to the person to whom that copy should have been given his or her statutory declaration declaring the particulars contained in that certificate of roadworthiness or certificate of inspection under section 24.

Maximum penalty—20 penalty units.

(4) Where a second-hand motor vehicle is disposed of by a servant or agent of the owner of the vehicle, and in so doing contravenes or fails to comply with any provision of subsection (2), (3) or (3A) the owner shall be deemed to have committed the offence constituted by such contravention or failure to comply and, whether or not the servant or agent is prosecuted in respect of an offence, may be convicted thereof.

(4A) The operation of the provisions of section 23 of the Criminal Code is excluded in respect of the liability of an owner for an offence deemed under subsection(4) to have been committed by the owner.

(5) In any proceeding for an offence constituted by a contravention of or failure to comply with subsection (3) or (3A) the complainant shall not be required to prove that a certificate or declaration thereby required to be given or submitted was not given or submitted or obtained as prescribed and the burden of proof that such certificate or declaration was given or submitted or obtained as prescribed shall lie on the defendant.

### **Requirements for registration of second-hand motor vehicle**

**32A.** A person applying for registration of a second-hand motor vehicle shall furnish to the chief executive with the application for registration, the original copy of a certificate of roadworthiness properly obtained or a certificate of inspection in force under section 24, that relates to that vehicle.

### **Refusal to issue certificates of registration for second-hand vehicles**

**33.(1)** The chief executive may refuse to issue a certificate of registration for a second-hand motor vehicle if the application for the certificate is not accompanied by the original copy of a certificate of roadworthiness or inspection in force for the vehicle.

(2) Subsection (1) does not apply to an application made by a licensed

motor dealer for the issue of a certificate of registration in the name of the dealer for a motor vehicle that is to be disposed of by the dealer by sale.

(3) If the vehicle is disposed of by sale by the dealer after the issue of the certificate of registration, section 32 applies to the disposal.

### **Licensed motor dealer restricted in use of vehicles**

**34.(1)** A licensed motor dealer shall not use or allow or permit to be used on a road any second-hand motor vehicle that is in his or her custody in the course of his or her conduct of the business as a licensed motor dealer unless there exists a certificate of roadworthiness properly obtained that relates to that vehicle.

Maximum penalty—10 penalty units.

(2) The provisions of subsection (1) shall not apply to or in respect of the use of a second-hand motor vehicle on a road—

- (a) in the course of any demonstration, testing, repair, alteration or renovation of it, where that demonstration, testing, repair, alteration or renovation of it is necessary and bona fide; or
- (b) in taking it to an approved inspection station for inspection by an approved examiner or by the chief executive for the purposes of this Part.

### **When certificate duly obtained**

**35.** A certificate of roadworthiness shall not be taken to have been properly obtained unless—

- (a) it is issued or granted consequent upon an examination that is conducted within 30 days before the date of disposal or, as the case may be, use of the motor vehicle in question, or, where such a certificate is required pursuant to section 33 before the date the application referred to in that section is made; and
- (b) there has been no significant change in the condition and construction of the motor vehicle between the date of issue or grant of the certificate and the date of such disposal, use or, as the case may be, making of that application.

**Certificate valid for 1 transaction only**

**36.** A certificate of roadworthiness shall be valid for the purpose of effecting 1 disposal of the motor vehicle in respect of which the certificate was issued or granted and no more.

**Application of ss 32–34**

**37.(1)** Section 32 does not apply in respect of—

- (a) a disposal of a motor vehicle to a licensed motor dealer;
- (b) a disposal of a motor vehicle effected for the purpose of wrecking, renovation, repair or alteration of the vehicle if, in the case of a registered motor vehicle, within 7 days after the disposal the certificate of registration under the *Transport Infrastructure (Roads) Act 1991* that relates to the vehicle is duly cancelled.

**(2)** If it appears to the Governor in Council that, because of circumstances affecting a particular area of the State, it is unnecessary or undesirable that section 32, 33 or 34 should apply within the area, the Governor in Council may, by regulation, exclude the area from the application of the section and, while the regulation is in force, the section does not apply to the disposal of a motor vehicle within the area.

**(3)** In a proceeding, it must be presumed that sections 32, 33 and 34 apply throughout the State until the contrary is proved.

**PART 5AA—APPROVALS UNDER INSPECTION SCHEME***Division 1—Matters relevant to all applications for approval***Application of Part**

**38.** This Part applies to the following approvals—

- (a) an approval of a Part 4 AIS;

- (b) an approval of a Part 5 AIS;
- (c) an approval of an individual as a Part 4 examiner;
- (d) an approval of an individual as a Part 5 examiner;
- (e) an approval of an individual as a nominee.

### **Requirements for applications**

**38A.(1)** An application for an approval under Part 4 or 5 must—

- (a) be made to the chief executive; and
- (b) be on an approved form; and
- (c) specify, or be accompanied by, the particulars required by the approved form; and
- (d) be accompanied by the application fee prescribed by regulation.

**(2)** An application must be in relation to—

- (a) all motor vehicles; or
- (b) a class of motor vehicles.

*Examples of paragraph (b)—*

1. Vehicles owned or operated by the applicant as a fleet.
2. Vehicles of a particular make or size.

### **More than 1 approval may be granted**

**38B.** A person may apply for, and be granted, more than 1 approval, whether of the same kind or different kinds.

### **Form of approvals**

**38C.(1)** An approval must be in a form approved by the chief executive.

**(2)** An approval is subject to any conditions that are—

- (a) specified in the approval; or
- (b) prescribed by regulation.

**(3)** Without limiting the generality of subsection (2), the conditions that

may be specified in the approval or prescribed by regulation include conditions relating to—

- (a) the method of inspecting motor vehicles; and
- (b) the equipment to be used in an inspection.

(4) If a condition specified in the approval is inconsistent with a condition specified in a regulation in relation to the approval, the condition specified in the regulation prevails to the extent of the inconsistency.

### *Division 2—Applicant must be a fit and proper person*

#### **Approval only if applicant is a fit and proper person**

**38D.(1)** The chief executive may grant an application under this Part only if the chief executive is satisfied that the applicant is a fit and proper person.

(2) Subsection (1) is in addition to any other limitation on the chief executive's power to grant an application.

#### **Determining whether applicant is a fit and proper person**

**38E.(1)** In deciding whether a person is a fit and proper person, the chief executive must have regard to—

- (a) whether the person demonstrates knowledge and understanding of the obligations of an approved person of the relevant kind under this Act; and
- (b) whether the person is a person of good repute who does not have a history of behaviour that would render the applicant unsuitable to be approved.

*Examples of behaviour that would render an applicant unsuitable—*

1. Involvement in car theft.
2. Receiving a stolen vehicle.

(2) If the applicant is a body corporate, or the chief executive knows, or suspects on reasonable grounds, that the applicant would hold an approval on behalf of a partnership, the chief executive must discharge the responsibility under subsection (1) by applying the subsection to—

- (a) each person in a position of authority or influence in relation to the body corporate; or
- (b) each person who is a member of the partnership;

as if each person were an applicant.

### **Reports needed before approval**

**38F.(1)** The chief executive may obtain—

- (a) a report from the Commissioner of the Police Service about the criminal history of—
  - (i) an applicant for approval; and
  - (ii) each person to whom section 38E, 38I or 39A applies as if the person were the applicant; and
- (b) if the applicant or person holds or previously held in another State or a Territory a relevant licence, permit, authority, interest or position—a report from the appropriate authority in the State or Territory.

(2) Section 6 of the *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to a report under subsection (1)(a).

### ***Division 3—Approval of premises***

#### **Application of Division**

**38G.** This Division applies to an application for approval of premises as a Part 4 AIS or Part 5 AIS.

#### **Who may apply for approval?**

**38H.** An application must be made by the proprietor of the premises the subject of the application.

#### **Nomination of individuals to be nominees**

**38I.(1)** If the applicant—

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- (a) is a body corporate or a member of a partnership; or
- (b) is already approved under this Act for other premises; or
- (c) will not be present at the premises to supervise work at the premises on a daily basis;

the applicant must nominate, in the application, an adult individual to be the nominee for the approval sought by the applicant.

(2) Another applicant may nominate, in the application, an adult individual to be the nominee for the approval sought by the applicant.

(3) An application that nominates a person as a nominee of the applicant must be accompanied by, or include, an application for approval of an adult individual as a nominee.

(4) The application for approval of a nominee may be granted only if the chief executive is satisfied that the nominee is a fit and proper person.

(5) If—

- (a) subsection (1) requires an applicant to nominate an individual to be the nominee for an approval; and
- (b) at any time after the approval is granted, the individual is the only nominee and ceases to hold the position in which the person is charged with responsibility for the conduct of the business for which approval was granted;

the proprietor must nominate another individual to be the nominee for the approval.

(6) A person ceases to be the nominee for an approval if the person ceases to hold the position in which the person is charged with responsibility for the conduct of the business for which the approval was granted.

**Role of nominee etc.**

**38J.(1)** If an application for an adult individual to be the nominee in relation to the approval of premises is granted, the individual becomes the nominee for the approval.

(2) In the conduct of business on the premises to which the approval relates, the nominee—

- (a) is responsible for ensuring that the functions of the proprietor of the premises are properly performed; and
- (b) is subject to the obligations imposed by this Act on the proprietor; and
- (c) is liable as the proprietor for an offence against this Act, or for failure to perform an obligation of the proprietor, in relation to the premises.

(3) The nominee's liability to be punished for a contravention of this Act does not affect the liability of the proprietor to be punished for the contravention.

### **Approval of premises**

**38K.** The chief executive may grant an application in relation to premises only if the chief executive is satisfied that—

- (a) the premises are equipped and will be maintained in accordance with the regulations; and
- (b) the proprietor of the premises is a fit and proper person.

### **Notice of approval of premises**

**38L.** The proprietor of a Part 4 AIS or Part 5 AIS must exhibit the approval at the premises as required by regulation.

Maximum penalty—5 penalty units.

## *Division 4—Approval of approved examiners*

### **Who may apply?**

**39.** An adult individual may apply for approval as a Part 4 examiner or a Part 5 examiner.

### **Approval of examiners**

**39A.** The chief executive may approve of a person as an examiner of the



type specified in the application if the chief executive is satisfied—

- (a) that the person is a fit and proper person for approval as an examiner of the specified type; or
- (b) that the person has the qualifications prescribed by regulation for an examiner of the specified type.

### *Division 5—Variation, cancellation and suspension of approvals*

#### **Variation of approval on application**

**40.(1)** The holder of an approval may apply to the chief executive for a variation of the approval.

**(2)** The chief executive must determine the application by—

- (a) varying the approval in the way sought; or
- (b) refusing to vary the approval.

**(3)** The chief executive must vary the approval unless the chief executive is satisfied on reasonable grounds that the variation is not desirable for the effective administration of this Act.

#### **Variation of approvals without application**

**40A.(1)** If the chief executive believes on reasonable grounds that it may be desirable for the effective administration of this Act to vary a condition of an approval, the chief executive may give the holder of the approval a notice under this section.

**(2)** The notice must—

- (a) be in writing; and
- (b) specify the administration matter involved; and
- (c) outline the facts and circumstances that form the basis for the belief; and
- (d) invite the holder to show cause within a specified period (not less than 14 days) why the approval should not be varied in the way specified in the notice.

- (3) After the end of the specified period, the chief executive must—
- (a) consider any representations properly made by the holder; and
  - (b) if the chief executive is satisfied on reasonable grounds that the variation is desirable for the effective administration of this Act—vary the approval.

### **Procedure for effecting variations**

**40B.** For the purpose of effecting the variation of an approval, the chief executive must—

- (a) by written notice, request the holder to send the approval to the chief executive within the period (not less than 7 days) specified in the notice; and
- (b) after varying the approval in the appropriate way—return it to the holder.

### **Cancellation and suspension of approvals—grounds**

**41.** Each of the following is a ground for the cancellation or suspension of an approval—

- (a) that the holder of the approval has contravened a provision of this Act, a regulation or the approval concerning the examination of motor vehicles (whether or not the holder has been prosecuted for the contravention);
- (b) that the AIS does not comply with a provision of this Act, a regulation or the approval concerning the equipment to be used for examining motor vehicles;
- (c) that the holder of the approval has been convicted of an offence against this Act;
- (d) that the holder of the approval is no longer a fit and proper person because of behaviour that has rendered that person unsuitable, for example, involvement in car theft or receiving a stolen vehicle;
- (e) that the holder of an approval has failed to respond to a request

under section 40B(a);

- (f) that the approval was obtained by fraud or misrepresentation.

### **Cancellation and suspension of approvals—procedures**

**41A.(1)** If the chief executive believes on reasonable grounds that a ground for the cancellation or suspension of an approval exists, the chief executive must give the holder of the approval a notice under this section.

**(2)** The notice must—

- (a) be in writing; and
- (b) specify the grounds for cancellation or suspension; and
- (c) specify the administration matter involved; and
- (d) outline the facts and circumstances that form the basis for the chief executive's beliefs mentioned in subsection (1); and
- (e) invite the holder to show cause within a specified period (not less than 14 days) why the approval should not be cancelled or suspended.

**(3)** After the specified period, the chief executive must—

- (a) consider any representations properly made by the person; and
- (b) if the chief executive is satisfied on reasonable grounds that a ground for cancellation or suspension of an approval exists—take the appropriate action and serve the holder of the approval with notice of the decision to cancel or suspend.

**(4)** The appropriate action is—

- (a) if the notice was a notice of intention to cancel the approval—
  - (i) cancel the approval; or
  - (ii) suspend the approval for a period that the chief executive considers is appropriate; or
- (b) if the notice was a notice of intention to suspend the approval for a specified period—suspend the approval for—
  - (i) the period; or

(ii) a shorter period that the chief executive considers appropriate.

(5) A cancellation or suspension of an approval takes effect—

- (a) on the day on which notice mentioned in subsection (3) is given to the holder; or
- (b) if a later day is specified on the notice—on the later day.

### **Surrender of approvals**

**41B.(1)** The holder of an approval may surrender the approval by written notice given to the chief executive.

(2) The approval must accompany the notice.

(3) A surrender of an approval takes effect—

- (a) on the day on which the notice is given; or
- (b) if a later day is specified in the notice—on the later day.

## ***Division 6—Appeals***

### **Appeals concerning decisions of chief executive**

**42.** A person who is aggrieved by any of the following decisions of the chief executive under this Part may appeal to the Tribunal—

- (a) a decision that an applicant is not a fit and proper person;
- (b) a decision not to approve premises as a Part 4 AIS or Part 5 AIS;
- (c) a decision not to approve a person as a Part 4 examiner or Part 5 examiner;
- (d) a decision to refuse to vary an approval sought by the holder of the approval;
- (e) a decision to vary an approval under section 40A(3)(b);
- (f) a decision to cancel or suspend an approval under section 41A(3)(b).

## **PART 5A—CERTIFICATION OF MOTOR MECHANICS**

### **Motor mechanic's certificate**

**42A.(1)** Upon the application of a person in the approved form for a motor mechanic's certificate and upon payment of the prescribed fee, the chief executive shall grant that application if the chief executive is satisfied—

- (a) that (except in the case of a person with respect to whom the prescribed rules provide that such a certificate may be granted without examination) the applicant has duly passed the examination prescribed with respect to that certificate;
- (b) that the applicant has complied in all respects with the prescribed rules granting such a certificate.

**(2)** Where the chief executive grants the application of a person for a motor mechanic's certificate the chief executive shall issue to that person a certificate in the approved form.

### **Disciplinary action**

**42B.(1)** Where the chief executive has reason to suspect that a person to whom a motor mechanic's certificate has been granted—

- (a) has been convicted of an offence against this Act;
- (b) has ceased to be a fit and proper person to hold a motor mechanic's certificate;

the chief executive may, by notice in writing, call upon the person to show cause at a time and place appointed in the notice why the motor mechanic's certificate in question should not be cancelled or suspended.

**(2)** If at the time and place appointed in the notice or at any other time and place to which the hearing is adjourned sufficient cause is not shown to the satisfaction of the chief executive or, the person to whom the notice is given under subsection (1) does not appear at any such time and place, the chief executive, having regard to the circumstances of the case, may cancel the certificate, or suspend the same for a period specified by the chief executive.

**Obtaining certificate by improper means**

**42C.(1)** A person who by fraud or fraudulent means obtains or attempts to obtain a motor mechanic's certificate under this Act commits an offence against this Act and is liable to a penalty of 20 penalty units or to 6 months imprisonment.

(2) Where, in the opinion of the chief executive, a person has obtained a motor mechanic's certificate in contravention of subsection (1) or has obtained such a certificate by improper means, the chief executive may cancel the certificate.

(3) A person in respect of whom a motor mechanic's certificate has been cancelled under subsection (2) shall not use that certificate after receipt by the person of a notice in writing from the chief executive that the certificate has been cancelled.

Maximum penalty—20 penalty units.

**Surrender of cancelled or suspended certificates**

**42D.(1)** Upon the cancellation or suspension of a motor mechanic's certificate the person to whom that certificate was issued shall surrender to the chief executive the certificate and any copy of that certificate issued to the person for exhibition purposes after receipt by the person of a notice in writing from the chief executive that the certificate has been cancelled or suspended.

(2) A person in respect of whom a motor mechanic's certificate has been cancelled or suspended who fails to comply with the provisions of subsection (1) within 14 days from the date of receipt of the notice from the chief executive commits a continuing offence against this Act and is liable to a penalty of 20 penalty units and, in addition, to a penalty of 1 penalty unit for each day beyond such 14th day during which such failure to comply continues.

**Appeals concerning motor mechanic's certificates**

**42E.** A person who is aggrieved by a decision of the chief executive—

- (a) not to issue a motor mechanic's certificate under section 42A;
- (b) to cancel or suspend a motor mechanic's certificate under

section 42B or 42C;  
may appeal to the Tribunal.

## **PART 5B—APPEALS TRIBUNAL**

### **Appeals Tribunal**

**42F.(1)** There shall be constituted for the purposes of this Act a tribunal to be called the Appeals Tribunal.

**(2)** The Tribunal shall consist of 3 persons of whom—

(a) 2 shall be continuing members of the Tribunal appointed by the Governor in Council of whom—

(i) 1 shall be a Stipendiary Magistrate, who shall be the chairperson;

(ii) 1 must be an officer of the department;

(b) 1 shall be a provisional member of the Tribunal who shall be a person appointed in respect of each appeal by the Minister who is, in the opinion of the Minister, suitably qualified to be a representative of persons who hold certificates or, as the case may be, licences, of the kind that is the subject of the appeal concerned.

**(3)** The appointment of a person as a member of the Tribunal shall specify whether the person is appointed pursuant to subsection (2)(a)(i) or (ii).

**(4)** The term of every appointment of a continuing member made to the Tribunal shall commence on the date specified therefor in the instrument by which the appointment is made and, except where the appointment is to a casual vacancy, shall be for a period of 1 year.

**(5)** A provisional member appointed to the Tribunal shall hold office during the course of the hearing and determination of the appeal in respect of which the provisional member is appointed.

**(6)** A person shall be eligible for further appointment as a member of the Tribunal.

(7) A person appointed as a continuing member of the Tribunal shall, unless the person sooner vacates office as prescribed, continue to hold office until the person's successor assumes office in the person's place.

### **Vacation of office**

**42G.(1)** A member of the Tribunal may, by notice in writing furnished to the Minister, resign office at any time.

(2) The Governor in Council may at any time remove from office a continuing member of a Tribunal by notice in writing furnished to the member.

(3) A member of the Tribunal shall be deemed to have vacated office—

- (a) if the member dies;
- (b) if the member resigns office;
- (c) in the case of the chairperson—if the chairperson ceases to be a Stipendiary Magistrate;
- (d) in the case of a continuing member—if the continuing member is removed from office.

### **Filling vacancies**

**42H.(1)** If a casual vacancy occurs in the office of a continuing member of the Tribunal during the currency of his or her term of appointment, there may be appointed to fill that vacancy a person who has the qualification referred to in section 42F(2)(a) by reason of which his or her predecessor in office was eligible to be appointed as a member of the Tribunal.

(2) A person appointed to fill a casual vacancy as provided in subsection (1) shall hold office for the remainder of the term for which his or her predecessor was appointed but shall be eligible for reappointment if the person remains otherwise qualified as prescribed to be a member of the Tribunal.

### **Functions of the Tribunal**

**42J.** It is the function of the Tribunal—



- (a) to hear any appeal, which is within the jurisdiction of the Tribunal, that is referred to it pursuant to the provisions of this Act; and
- (b) to make or cause to be made such investigations as it considers necessary for the purposes of such hearing; and
- (c) to determine every such appeal in accordance with and for the purposes of the provisions of this Act.

### **Determination of questions before the Tribunal**

**42K.(1)** Subject to subsection (2), a question before the Tribunal shall be decided according to the opinion of a majority of the members constituting the Tribunal.

**(2)** A question of law arising before the Tribunal shall be decided by the chairperson.

### **Status of Tribunal and powers of its members**

**42L.** Subject to this Act—

- (a) the Tribunal shall be deemed to be a commission of inquiry within the meaning of the *Commissions of Inquiry Act 1950*;
- (b) the members of the Tribunal shall be deemed to be commissioners to whom that Act applies and to have the powers, authorities, rights, privileges and protection of commissioners under that Act other than—
  - (i) powers reserved by that Act to the chairperson of a commission who is a Judge of the Supreme Court; and
  - (ii) power to issue a warrant in the first instance or before the return of a summons conferred by section 8(2) of that Act;

and the provisions of that Act shall apply accordingly.

### **Secretary to Tribunal**

**42M.** The secretary of the Tribunal is to be an officer of the department.

**Institution of appeal**

**42N.(1)** An appeal shall be instituted within 14 days from the date on which the person instituting the appeal referred to in this Part as the appellant receives notice of the chief executive's decision by which the appellant is aggrieved and no later, by lodging with the secretary a notice of appeal in writing in the prescribed form and paying the prescribed fee.

(2) The grounds of appeal shall be clearly and briefly set forth in the notice of appeal.

(3) The appellant may at any time, by notice in writing to the secretary, withdraw his or her appeal.

**Notice of hearing**

**42O.(1)** When an appeal has been duly instituted, the secretary shall arrange with the chairperson of the Tribunal a date, time and place for the hearing of the appeal and shall give at least 7 days notice thereof to the appellant and to the chief executive.

(2) So far as is practicable an appeal shall be heard and determined within 1 month after the date on which it is instituted.

**Venue and nature of appeal**

**42P.(1)** The Tribunal shall sit at such place as the chairperson appoints and shall determine an appeal on the evidence that was before the chief executive in the matter in question and on such further evidence as, in the opinion of the chairperson, is relevant to the matter of inquiry.

(2) The Tribunal may inform itself on any matter in such manner as it deems fit and subject to this Act, shall not be bound by rules of and practices as to evidence.

(3) Subject to this Act, an appeal shall be conducted in accordance with directions of the Tribunal, which directions shall be consistent with natural justice.

(4) The appellant or, as the case may be, the chief executive may appear before the Tribunal in person or by counsel or solicitor or by an agent acceptable to the Tribunal.

**Determination of appeal**

**42Q.** By way of determining an appeal, the Tribunal may confirm or set aside the chief executive's decision in issue and may make any determination and order that the chief executive could properly have made under this Act with respect to the matter in question, and may make such order as to costs as it thinks fit.

**Effect of institution and of determination of appeal**

**42R.(1)** An appeal duly instituted under this Act shall suspend the operation of the decision in respect of which the appeal was instituted until the appeal is determined by the Tribunal or withdrawn by the appellant, whichever event occurs sooner.

(2) The decision of the Tribunal shall be final and conclusive and effect shall be given to that decision.

(3) Where a decision of the chief executive—

- (a) is set aside on appeal—that decision shall thereupon be of no further force or effect;
- (b) is confirmed on appeal—that decision shall again operate and have full force and effect from the time of that confirmation.

**Restricted right to question Tribunal's proceedings**

**42S.** The proceedings of the Tribunal and the determination of the Tribunal shall not be questioned in any proceedings whatever except proceedings based solely on 1 or both of the following grounds—

- (a) that the Tribunal had or has no jurisdiction or has exceeded its jurisdiction in the proceedings in question or in making the determination in question;
- (b) there has occurred a denial of natural justice in the course of the proceedings in question.

**Protection for Tribunal's member**

**42T.** A member of the Tribunal shall not incur any liability on account of

anything done or omitted by the member bona fide and without negligence for the purposes of this Act.

## **PART 6—GENERAL PROVISIONS**

### **Forgery of certificates, false entries and false declarations**

**43.** A person shall not—

- (a) forge or counterfeit any certificate of inspection or roadworthiness or motor mechanic's certificate or any metal plate required by, under or for any purpose of this Act;
- (b) give, obtain or sign any such certificate knowing it to be false in any particular;
- (c) knowingly utter or make use of any such certificate or metal plate so forged, counterfeited or false;
- (d) knowingly utter or make use of as applying to any person or motor vehicle any such certificate or metal plate which does not so apply;
- (e) personate any person named in any such certificate;
- (f) falsely represent himself or herself to be an inspector or authorised officer;
- (g) connive at any of the offences defined in paragraphs (a) to (f);
- (h) make a false entry in any register, record book, other record, notice, certificate or document required by under or for the purposes of this Act to be kept, exhibited, delivered, served or sent;
- (i) make or sign a false declaration required by under or for any purpose of this Act;
- (j) knowingly make use of any such false entry or declaration;
- (k) make a document purporting to be a certificate of roadworthiness issued at an approved inspection station unless the person is an

approved examiner;

- (l) make a document purporting to be a certificate of inspection issued at an approved inspection station unless the person is an approved examiner;
- (m) falsely advertise himself or herself or hold himself or herself out as having obtained a motor mechanic's certificate under or as being registered under this Act, or permit any such advertisement or holding out.

Maximum penalty—20 penalty units.

### **Offences**

**44.(2)** All offences against this Act may be prosecuted and all amounts of fees prescribed and payable under this Act and not paid may be recovered in a summary way under the *Justices Act 1886* upon the complaint of any person authorised by the Minister or the chief executive.

**(3)** A prosecution for an offence against this Act may be commenced within 1 year from the time when the matter of complaint arose or within 4 months after the matter of complaint comes to the knowledge of the complainant whichever period is the later to occur.

### **Owner liable for act of agent**

**45.(1)** Where a motor vehicle in relation to which a notice is given under section 20 (which notice contains a requirement referred to in subsection (2) of that section) is disposed of by an agent of the owner other than—

- (a) if such owner is not a licensed motor dealer—
  - (i) for the purpose of wrecking, renovation, repairs or alteration of the vehicle; or
  - (ii) to a licensed motor dealer; or
- (b) if such owner is a licensed motor dealer—for the purpose of wrecking;

before the repairs specified in the notice have been effected to the vehicle the owner shall be deemed to have committed the offence defined in section 20(2A) and, whether or not the agent is prosecuted in respect of an

offence, may be convicted thereof unless the owner shows that—

- (c) the owner had no knowledge that the disposal was taking place; and
- (d) the owner could not by the exercise of reasonable diligence have ascertained that the disposal was taking place.

(2) The operation of section 23 of the Criminal Code is excluded in respect of the liability of an owner for an offence deemed under this section to have been committed by the owner.

### **Evidentiary aids**

**46.** In any proceeding for the purposes of this Act—

- (a) it shall not be necessary to prove the appointment of the chief executive or of any inspector or an accredited officer;
- (b) a signature purporting to be that of the chief executive or the chief executive's delegate or of any inspector or an accredited officer shall be taken to be the signature it purports to be until the contrary is proved;
- (c) it shall not be necessary to prove the limits of any district or that any place or locality is within a district, or the authority of the chief executive or any inspector or an accredited officer to do any act or take any proceeding, but the provisions of this paragraph shall not prejudice the right of any defendant to prove the limits of the district or the extent of such authority;
- (d) a document purporting to be a duplicate or copy of a notice or order given or made under this Act by the chief executive or the chief executive's delegate or any inspector or an accredited officer shall, upon its production in that proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (e) a document purporting to be signed by the chief executive or the chief executive's delegate stating that at any material time there was or was not in force a certificate, metal plate or inspection label under this Act as described therein issued to a specified person, or in respect of a specified motor vehicle, or that any such certificate,

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metal plate or inspection label was or was not subject to the terms, conditions or restrictions set out in the document shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;

- (f) a document purporting to be signed by the chief executive or the chief executive's delegate certifying that the amount of fees specified therein is payable under this Act and has not been paid by a specified person shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (g) a certificate purporting to be that of a person charged with the function of registering motor vehicles pursuant to the *Transport Infrastructure (Roads) Act 1991* or of any other person authorised in that behalf by the chief executive or purporting to be that of a person or authority charged with the function of registering motor vehicles under corresponding legislation of any other State or Territory or of any person authorised in that behalf by such person or authority which certificate states that at or during a time specified therein a motor vehicle identified therein was registered in the name of a person specified therein is evidence, and in the absence of evidence to the contrary, conclusive evidence that the person so specified was the owner of the motor vehicle so identified at or during the time so specified, and the authority of the person giving such certificate to give the same shall be presumed until the contrary is proved;
- (h) a declaration by any person that the person has delivered, posted or affixed a notice, order or other document referred to in section 48(2) in a manner provided by that section shall, upon its production in that proceeding, be evidence, and in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (i) a document purporting to be signed by the chief executive or the chief executive's delegate certifying that the motor vehicle specified therein has not been presented for inspection as directed shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the

matters contained therein;

- (j) a document purporting to be signed by the chief executive or the chief executive's delegate and purporting to be a copy of the manufacturer's specifications in respect of any motor vehicle shall, upon its production in that proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in that document;
- (k) a document purporting to be signed by the chief executive or the chief executive's delegate certifying that at any material time a person was the proprietor of an approved inspection station or an approved examiner, as the case may be, shall upon its production in that proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in that document;
- (l) a certificate purporting to be signed by the chief executive to the effect that neither a certificate of inspection nor a certificate of exemption has been furnished to the chief executive under section 28(1) shall upon its production in that proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (m) a certificate purporting to be signed by the chief executive to the effect that—
  - (i) neither a certificate of roadworthiness nor a certificate of inspection has been furnished to the chief executive pursuant to section 32(3)(b);
  - (ii) neither a certificate of roadworthiness nor a certificate of inspection has been furnished to the chief executive pursuant to section 32A;

shall upon its production in that proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

### **Power of court to order cause of contravention to be remedied**

**47.(1)** Where the owner of a motor vehicle is convicted of an offence under this Act, the court may, in addition to or instead of inflicting a penalty,



order the owner, within the time specified in the order, to take such steps as the court specifies for remedying the matters in respect of which the contravention occurred and may, on application, enlarge the time so specified.

(2) Where such an order is made, the owner shall not be liable under this Act in respect of the continuation of the contravention during the time allowed by the court but if, after the expiration of the time as originally specified or enlarged by subsequent order, the order is not complied with, the owner shall be liable to a fine not exceeding 1 penalty unit for each day on which the noncompliance continues.

(3) The power of the court under this section shall include power to adjourn the matter of the punishment to be imposed for the offence until the expiration of the time or any enlargement of the time specified in an order made under this section but in that event the defendant shall not be punished if the defendant has duly complied with the order.

### **Service of notices and orders**

**48.(1)** Where a provision of this Act requires a notice or other document to be served upon or given or delivered to the chief executive or an inspector or an authorised officer—

- (a) that notice or other document shall be deemed to be so served, given or delivered upon the receipt by the chief executive or the inspector or the authorised officer, as the case may be, of a prepaid post letter addressed to him or her and containing the notice or other document; or
- (b) if the person responsible for so serving, giving or delivering that notice or other document produces the proper receipt from a post office for a prepaid certified letter addressed to the chief executive or the inspector or the authorised officer, as the case may be, and containing the notice or other document then, until the contrary is proved, that notice or other document shall be deemed to be so served, given or delivered when that letter would have been received in the ordinary course of post.

**(1A)** Subsection (1) shall be construed so as not to prejudice the power to serve, give or deliver such a notice or other document by personal delivery.

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(2) A notice, order or other document empowered, authorised or required by a provision of this Act to be served or given or delivered to an owner or other person by the chief executive or an inspector or an authorised officer may be so given, delivered or served—

- (a) by delivering the same to that owner or other person (or his or her manager, supervisor or agent) personally; or
- (b) by prepaid post letter containing that notice, order or other document and addressed to that owner or person at his or her business or residential address, in which case it shall be deemed to be so served, given or delivered upon the receipt by that person of that letter; or
- (c) by prepaid certified letter containing that notice, order or other document and addressed as specified in paragraph (b), in which case the production in evidence of the proper receipt from a post office for that letter shall, until the contrary is proved, be sufficient proof that it was so served, given or delivered upon the date when that letter would have been received by the person concerned in the ordinary course of post; or
- (d) by affixing that notice, order or other document to a conspicuous part of the motor vehicle to which it relates; or
- (e) by leaving that notice, order or other document at the usual place of business or residence of that owner or other person or at his or her place of business or residence last known to the chief executive, inspector or authorised officer.

(3) An owner or the owner's manager, supervisor or agent or other person shall, if so required by the chief executive or an inspector or an authorised officer acknowledge, by signing a duplicate copy thereof, a notice, order or other document under this Act requiring that owner to do or refrain from doing any act, work or thing relating to any motor vehicle and served upon, or given or delivered to that owner by the chief executive or the inspector or the authorised officer.

**Matters may be completed by different inspectors or accredited officers**

49. Notwithstanding anything to the contrary in this Act, if an inspector

or accredited officer has issued any requisition or given any direction or granted any approval or made any determination under this Act, whether upon or subject to any conditions or not, the same or any other inspector or accredited officer who is empowered by this Act to issue, give, grant, or make a like requisition, direction, approval or, as the case may be, determination, may at any time withdraw or revoke or from time to time vary the requisition, direction, approval or determination or any condition upon or subject to which it has been issued, given, granted or made or take further steps thereon.

### **Recovery of fees**

**50.** A summary proceeding under the *Justices Act 1886* to recover an unpaid fee under this Act may be started and determined—

- (a) within any division of the metropolitan district appointed under the *Justices Act 1886* for the purposes of Magistrates Courts; or
- (b) with the Magistrates Courts district in which, or within 35 km of the boundaries of which, the inspection or other service for which the fee is payable was made or provided.

### **Chief executive may approve forms**

**50A.(1)** The chief executive may, by Gazette notice, approve a form for use under this Act.

**(2)** If the chief executive approves a form for a purpose, the form must be used for that purpose.

### **Regulations**

**51.(1)** The Governor in Council may make regulations for the purposes of this Act.

**(2)** A regulation may make provision with respect to—

- (a) regulating and controlling the powers and duties of the chief executive, inspectors and other officers including the exercise and discharge of those powers and duties;
- (b) regulating and controlling—

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- (i) the procedure and standards to be observed with respect to the construction, modification, alteration and repair of a motor vehicle;
- (ii) the prohibition of the construction, modification, alteration, repair or use of a motor vehicle in respect of which the procedure or standard prescribed has not been complied with in every respect;
- (c) regulating and controlling the form and manner of serving, giving, delivering, furnishing, granting or keeping orders, notices, applications, plans, records, certificates, registers, exemptions and other documents required under this Act to be served, given, delivered, furnished, granted or kept;
- (d) regulating and controlling—
  - (i) the fees to be paid in respect of the inspection of motor vehicles and the grant of certificates of inspection or exemption with respect thereto, which fees may differ in amount in respect of different classes or types of motor vehicles or different certificates of inspection or exemption with respect to different classes or types of motor vehicles;
  - (ia) the fees to be paid in respect of examinations for and the granting of motor mechanic's certificates under this Act;
  - (ii) other matters and things in respect whereof fees shall be payable under this Act and the respective amounts of those fees;
  - (iii) the persons by whom and the places and times when and where all such fees are payable including the collections by and payment to inspectors at the time of making any inspection or examination under this Act of any fee prescribed to be payable in respect of the inspection or examination or of any certificate issued as a consequence of any such inspection or examination;
- (e) the forms to be used for the purposes of this Act and the respective purposes for which the forms are to be used;
- (f) approved inspection stations, the staffing and equipment thereof;
- (fa) the duties of proprietors of such stations;

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- (fb) the duties of approved examiners;
- (fc) certificates of approval issued in relation to such stations, their duration and renewal;
- (fd) certificates of roadworthiness, the standards to be met by motor vehicles inspected therefor;
- (fe) certificates of inspection, the standards to be met by motor vehicles inspected therefor;
- (fg) approved examiners, the qualifications required of them;
- (fh) licences issued to approved examiners;
- (fi) the suspension and cancellation of certificates of approval and licences, the seizure and cancellation of certificates of roadworthiness and inspection reports that do not comply with this Act;
- (fj) seizure and cancellation of certificates of inspection and inspection reports that do not comply with this Act;
- (fk) fees to be paid in respect of purposes referred to in Part 5, in respect of renewals of a certificate, and in respect of an examination for and issue of certificates of roadworthiness;
- (g) the practice and procedure upon appeals to a Stipendiary Magistrate instituted pursuant to this Act, and providing for the award of costs therein and the recovery of such costs awarded;
- (h) penalties not exceeding 20 penalty units for any contravention of or failure to comply with the regulations or in the case of a daily penalty not exceeding 1 penalty unit per day;
- (i) prescribing, providing for, regulating and controlling—
  - (i) the qualifications and experience required of applicants for motor mechanic's certificates under this Act;
  - (ii) the examinations by means of which examinees qualify for motor mechanic's certificates under this Act;
  - (iia) the standards and times and places of and all other matters touching those examinations and the conduct and holding thereof including giving of public notice by advertisement of the exact time and place for the holding of such

examinations;

- (iii) the granting and status of motor mechanic's certificates and the conditions upon which those certificates may be cancelled or suspended on the grounds of misconduct, negligence, intemperance, unfitness, or successive offences under this Act; and
- (iv) the conduct of such investigations;
- (j) prescribing, regulating and controlling the business and procedure of the Tribunal;
- (k) alteration or modification of commercial motor vehicles, appointment of authorised officers, duties of authorised officers;
- (l) certificates of approvals of authorised officers and qualifications required of them, certificates of inspection of altered or modified commercial motor vehicles;
- (m) standards to be met for altered or modified motor vehicles;
- (n) modification plates prescribed and details to be supplied;
- (o) suspension and cancellation of appointment of authorised officers;
- (p) fees to be paid in respect of the purposes of Part 4A in respect of certificates of inspection forms and approvals of authorised officers.

(3) A regulation made for the purposes of subsection (2) may prescribe that a notice may also advise that an amount (determined by the chief executive) not more than double the amount of any fee payable for any purpose under this Act may be paid within the period mentioned in subsection (2)(a), without involving court proceedings.

(4) A notice mentioned in subsection (2) may be given in relation to a matter in addition to another notice given under this Act in relation to the matter.

## **PART 7—SAVINGS AND TRANSITIONAL PROVISIONS**

**Reference to Chief Inspector of Motor Vehicle etc.**

**52.** In any Act, a reference to the Chief Inspector of Motor Vehicles is a reference to the chief executive.

**Existing instruments**

**53.(1)** A regulation in force immediately before the commencement of this section continues to have effect after the commencement.

**(2)** An order in council in force under this Act immediately before the commencement of this section continues to have effect after the commencement, and may be repealed or amended, as if it were a regulation.

**(3)** A person who was an approved examiner immediately before the commencement of this section is taken to be approved under the Act after the commencement as—

- (a) a Part 4 examiner for motor vehicles not in excess of 8 t; and
- (b) a Part 5 examiner in relation to all Category B vehicles except caravans and motor cycles.

**(4)** A place that was an approved inspection station immediately before the commencement of this section is taken to be approved under the Act after the commencement as—

- (a) a Part 4 AIS for motor vehicles not in excess of 8 t; and
- (b) a Part 5 AIS in relation to all Category B vehicles except caravans and motor cycles.

**(5)** A report under section 14 immediately before the commencement of this section is taken to be made under section 13 after the commencement.

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 10 November 1994. Future amendments of the Motor Safety Act 1980 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

**3 List of legislation****Motor Vehicles Safety Act 1980 No. 3**

date of assent 31 March 1980

commenced 1 January 1981 (proc pubd Ind Gaz 15 November 1980 p 321)

as amended by—

**Motor Vehicles Safety Act and Other Acts Amendment Act 1985 No. 30 Pt 2**

date of assent 17 April 1985

commenced 1 March 1986 (proc pubd Gaz 18 January 1986 p 126)

**Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 Sch**

date of assent 25 October 1989

commenced on date of assent

**Motor Vehicles Safety Act Amendment Act 1990 No. 53**

date of assent 3 September 1990

commenced on date of assent



**Public Service (Administrative Arrangements) Act 1990 No. 73 s 3 Sch 5**

date of assent 10 October 1990

commenced 24 November 1990 (proc pubd Gaz 24 November 1990 p 1450)

**Motor Vehicles Safety Amendment Act 1993 No. 45 (as amd by Act No. 10 of 1994 Pt 3)**

date of assent 7 September 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 28 October 1994 (1994 SL No. 381)

**Transport Operations (Passenger Transport) Act 1994 No. 43 s 143 Sch 3**

date of assent 14 September 1994

commenced 7 November 1994 (1994 SL No. 378)

## 4 List of annotations

**Key to abbreviations in list of annotations**

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
exp	=	expires/expired
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
R1	=	Reprint No. 1
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

**Long title** sub 1993 No. 45 s 4

**Arrangement of Act**

s 3 amd 1985 No. 30 s 5  
om R1 (see RA s 36)

**Savings**

s 4 amd 1985 No. 30 s 6; 1990 No. 73 s 3 Sch 5  
om 1993 No. 45 s 3 Sch 1

**Application of Act**

s 5 amd 1989 No. 103 s 3 Sch; 1993 No. 45 s 3 Sch 1

**Meaning of terms**

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- def **“accredited officer”** ins 1985 No. 30 s 7(a)  
sub 1993 No. 45 s 5
  - def **“address”** ins 1993 No. 45 s 5(2)
  - def **“approved examiner”** sub 1985 No. 30 s 7(b)  
amd 1989 No. 103 s 3 Sch  
sub 1993 No. 45 s 5
  - def **“approved form”** ins 1993 No. 45 s 5(2)
  - def **“approved inspection station”** sub 1985 No. 30 s 7(c)  
om 1993 No. 45 s 5(1)
  - def **“approved inspection stations”** or **“AIS”** ins 1993 No. 45 s 5(2)
  - def **authorised officer”** amd 1985 No. 30 s 7(d)  
sub 1993 No. 45 s 5
  - def **“category A vehicle”** ins 1993 No. 45 s 5(2)
  - def **“category B vehicle”** ins 1993 No. 45 s 5(2)
  - def **“certificate of modification”** ins 1985 No. 30 s 7(e)
  - def **“certificate of roadworthiness”** sub 1985 No. 30 s 7(f)  
amd 1990 No. 73 s 3 Sch 5  
sub 1993 No. 45 s 5
  - def **“chief executive”** ins 1993 No. 45 s 5(2)
  - def **“Chief Inspector”** om 1985 No. 30 s 7(g)
  - def **“commercial motor vehicle”** om 1985 No. 30 s 7(h)
  - def **“Commissioner”** ins 1985 No. 30 s 7(i)  
om 1990 No. 73 s 3 Sch 5
  - def **“Director-General”** ins 1990 No. 73 s 3 Sch 5  
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  - def **“driver”** ins 1993 No. 45 s 5(2)
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  - def **“holder of an approval”** ins 1993 No. 45 s 5(2)
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  - def **“inspector”** sub 1985 No. 30 s 7(k); 1993 No. 45 s 5
  - def **“Minister”** ins 1985 No. 30 s 7(l)  
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  - def **“motor vehicle”** amd 1985 No. 30 s 7(m)
  - def **“motor vehicle safety and performance requirements”** ins 1993  
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  - def **“owner”** amd 1993 No. 45 s 3 Sch 1
  - def **“Part 4 approved inspection station”** or **“Part 4 AIS”** ins 1993  
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  - def **“Part 4 examiner”** ins 1993 No. 45 s 5(2)
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  - def **“registration law”** ins 1993 No. 45 s 5(2)
  - def **“road”** ins 1985 No. 30 s 7(n)
  - def **“tare”** ins 1985 No. 30 s 7(o)
  - def **“trailer”** amd 1985 No. 30 s 7(p)

def “**Tribunal**” ins 1985 No. 30 s 7(q)

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**Vacation of office**

s 42G ins 1985 No. 30 s 45

**Filling vacancies**

s 42H ins 1985 No. 30 s 45

**Validation of proceedings**

s 42I ins 1985 No. 30 s 45  
om 1993 No. 45 s 3 Sch 1

**Functions of the Tribunal**

s 42J ins 1985 No. 30 s 45

**Determination of questions before the Tribunal**

s 42K ins 1985 No. 30 s 45

**Status of Tribunal and powers of its members**

s 42L ins 1985 No. 30 s 45

**Secretary to Tribunal**

s 42M ins 1985 No. 30 s 45  
sub 1993 No. 45 s 3 Sch 1

**Institution of appeal**

s 42N ins 1985 No. 30 s 45  
amd 1990 No. 73 s 3 Sch 5; 1993 No. 45 s 3 Sch 2

**Notice of hearing**

s 42O ins 1985 No. 30 s 45  
amd 1990 No. 73 s 3 Sch 5; 1993 No. 45 s 3 Sch 2

**Venue and nature of appeal**

s 42P ins 1985 No. 30 s 45  
amd 1990 No. 73 s 3 Sch 5; 1993 No. 45 s 3 Sch 2

**Determination of appeal**

s 42Q ins 1985 No. 30 s 45  
amd 1990 No. 73 s 3 Sch 5; 1993 No. 45 s 3 Sch 2

**Effect of institution and of determination of appeal**

s 42R ins 1985 No. 30 s 45  
amd 1990 No. 73 s 3 Sch 5; 1993 No. 45 s 3 Sch 2

**Restricted right to question Tribunal's proceedings**

s 42S ins 1985 No. 30 s 45

**Protection for Tribunal's member**

s 42T ins 1985 No. 30 s 45

**Forgery of certificates, false entries and false declarations**

s 43 amd 1985 No. 30 s 46; 1993 No. 45 s 3 Sch 1

**Offences**

s 44 amd 1985 No. 30 s 47; 1990 No. 73 s 3 Sch 5; 1993 No. 45 s 3 Schs 1–2

**Evidentiary aids**

s 46 amd 1985 No. 30 s 48; 1990 No. 73 s 3 Sch 5; 1993 No. 45 s 3 Schs 1–2

**Power of court to order cause of contravention to be remedied**

**s 47** amd 1985 No. 30 s 49; 1993 No. 45 s 3 Sch 1

**Service of notices and orders**

**s 48** amd 1985 No. 30 s 50; 1990 No. 73 s 3 Sch 5; 1993 No. 45 s 3 Sch 2

**Matters may be completed by different inspectors or accredited officers**

**prov hdg** amd 1985 No. 30 s 51(a)

**s 49** amd 1985 No. 30 s 51(b)

**Recovery of fees**

**s 50** amd 1989 No. 103 s 3 Sch

sub 1993 No. 45 s 3 Sch 1

**Chief executive may approve forms**

**s 50A** ins 1993 No. 45 s 10

**Regulations**

**s 51** amd 1985 No. 30 s 52; 1989 No. 103 s 3 Sch; 1990 No. 73 s 3 Sch 5; 1993 No. 45 ss 11 (om 1994 No. 10 s 9), 3 Sch 1

**Regulations may adopt standards**

**s 52** prev s 52 amd 1985 No. 30 s 53

om 1993 No. 45 s 3 Sch 1

**Repeal of annual report**

**s 53** prev s 53 om 1985 No. 30 s 54

**PART 7—AMENDMENTS OF INSPECTION OF MACHINERY ACT 1951–1974**

**Pt hdg** prev Pt hdg om R1 (see RA s 39)

**Pt 7** prev Pt 7 (ss 54–68) om R1 (see RA s 40)

**PART 7—SAVINGS AND TRANSITIONAL PROVISIONS**

**Pt hdg** pres Pt hdg ins 1993 No. 45 s 3 Sch 1

**Reference to Chief Inspector of Motor Vehicle etc.**

**s 52** pres s 52 ins 1993 No. 45 s 3 Sch 1

**Existing instruments**

**s 53** pres s 53 ins 1993 No. 45 s 3 Sch 1

**SCHEDULE 1**

ins 1985 No. 30 s 55

om 1993 No. 45 s 3 Sch 1

**SCHEDULE 2—TYPES OF MOTOR VEHICLES**

ins 1985 No. 30 s 55

om 1993 No. 45 s 3 Sch 1

**SCHEDULE 3**

ins 1985 No. 30 s 55

om 1993 No. 45 s 3 Sch 1

**5 Table of changed names and titles**TABLE OF CHANGED NAMES AND TITLES  
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
Commissioner (of Police)	Commissioner (of the Police Service)	Police Service Administration Act 1990 s 11.1(1)(b)
member (of the police force)	police officer	Police Service Administration Act 1990 s 11.1 (1)(c) (see also s 1.4)

**6 Table of obsolete and redundant provisions**TABLE OF OBSOLETE AND REDUNDANT PROVISIONS  
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
references to a Territory	Acts Interpretation Act 1954 s 36 def "Territory"
references to provisions of a law inclusive	Acts Interpretation Act 1954 s 35D

**7 Table of corrected minor errors**TABLE OF CORRECTED MINOR ERRORS  
under the Reprints Act 1992 s 44

Section	Description
42F(2)(a)	om 'appointed by Governor' ins 'appointed by the Governor'

**8 Table of renumbered provisions**TABLE OF RENUMBERED PROVISIONS  
under the Reprints Act 1992 s 43

Previous	Renumbered as
16(1)(i)	16(1)(a)
16(1)(ii)	16(1)(b)
16(1)(iii)	16(1)(c)
16(1)(iii)(a)	16(1)(c)(i)
16(1)(iii)(b)	16(1)(c)(ii)
16(1)(iv)	16(1)(d)
16(1)(iv)(a)	16(1)(d)(i)
16(1)(iv)(b)	16(1)(d)(ii)
16(1)(iv)(c)	16(1)(d)(iii)
16(1)(v)	16(1)(e)
16(1)(vi)	16(1)(f)
16(1)(vi)(A)	16(1)(f)(i)
16(1)(vi)(B)	16(1)(f)(ii)
16(1)(vii)	16(1)(g)
16(2), 2nd sentence	16(3)
16(2), 3rd sentence	16(4)
16(2), 4th sentence	16(5)
18(1)(i)	18(1)(a)
18(1)(ii)	18(1)(b)
18(1)(iii)	18(1)(c)
18(1)(iv)	18(1)(d)
18(1)(v)	18(1)(e)
18(1)(vi)	18(1)(f)
18(1)(vii)	18(1)(g)
18(2), 2nd sentence	18(3)
20(2), 2nd sentence	20(2A)
31B, 1st sentence	31B(1)
31B, 2nd sentence	31B(2)
32(3), 2nd sentence	32(3A)
32(4), 2nd sentence	32(4A)
48(1), 2nd sentence	48(1A)
51(2)(d)(iA)	51(2)(d)(ia)
51(2)(f), 1st unnum para	51(2)(fa)
51(2)(f), 2nd unnum para	51(2)(fb)
51(2)(f), 3rd unnum para	51(2)(fc)
51(2)(f), 4th unnum para	51(2)(fd)
51(2)(f), 5th unnum para	51(2)(fe)
51(2)(f), 6th unnum para	51(2)(ff)
51(2)(f), 7th unnum para	51(2)(fg)

51(2)(f), 8th unnum para	51(2)(fh)
51(2)(f), 9th unnum para	51(2)(fj)
51(2)(f), 10th unnum para	51(2)(fk)
51(2)(i)(ii), 1st unnum para	51(2)(i)(iia)
51(2)(i)(iii), 1st unnum para	51(2)(i)(iv)
51(2)(k), 1st unnum para	51(2)(l)
51(2)(k), 2nd unnum para	51(2)(m)
51(2)(k), 3rd unnum para	51(2)(n)
51(2)(k), 4th unnum para	51(2)(o)
51(2)(k), 5th unnum para	51(2)(p)

## **9 Transitional and savings provision**

**Section 3 of Act No. 53 of 1990 provides—**

### **Retrospective operation of section 2**

**3.** A certificate of approval of premises as an approved inspection station issued on or after 1 December 1986 and before the commencement of this Act is taken to have been validly issued if the premises would have been so approved had section 38 of the *Motor Vehicles Safety Act 1980–1990* (as inserted by section 2 of this Act) been in force at that time.