



Queensland

Transport Legislation Amendment Act 2007

Act No. 43 of 2007



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Queensland

Transport Legislation Amendment Act 2007

Act No. 43 of 2007

An Act to amend particular transport legislation

[Assented to 25 October 2007]

The Parliament of Queensland enacts—**Part 1 Preliminary****1 Short title**

This Act may be cited as the *Transport Legislation Amendment Act 2007*.

2 Commencement

(1) The following provisions commence on a day to be fixed by proclamation—

- parts 4 and 5
- part 6, division 2
- sections 79(2), 80 to 83, 87(3) to (5), (7) and (8)
- schedule.

(2) Section 79(1) commences immediately after the commencement of the *Transport Legislation and Another Act Amendment Act 2007*, section 56(2).

Part 2 Amendment of Maritime and Other Legislation Amendment Act 2006**3 Act amended in pt 2**

This part amends the *Maritime and Other Legislation Amendment Act 2006*.

4 Amendment of s 144A (Insertion of new ss 90A—90D of Transport Operations (Road Use Management) Act 1995)

- (1) Section 144A, inserted section 90A, definition *dangerous driving offence*, ‘that is alcohol’—

omit.

- (2) Section 144A, inserted section 90A, definition *designated offence*, paragraph (a)(i) and *drink driving offence*, paragraph (a)(ii), ‘or (2)’—

omit, insert—

‘, (2) or (2AA)’.

Part 3 Amendment of Transport Infrastructure Act 1994

5 Act amended in pt 3

This part amends the *Transport Infrastructure Act 1994*.

6 Amendment of s 84C (Effect on land of State toll road corridor land declaration)

- (1) Section 84C—

insert—

‘(6A) A person to whom the State has leased State toll road corridor land, or a person who holds a lease under the lease from the State, may lease the State toll road corridor land to another person.’

- (2) Section 84C(7), from ‘The’ to ‘(6)’—

omit, insert—

‘Each lease under subsection (6) or (6A)’.

7 Amendment of sch 5 (Tolling matters for toll road or local government tollway)

Schedule 5—

insert—

- ‘9 The day the toll stops being payable, or a method to work out the day that the toll stops being payable, by each type of vehicle liable to pay a toll for use of a toll road or local government tollway.’.

Part 4 Amendment of Transport Operations (Marine Pollution) Act 1995

8 Act amended in pt 4

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

9 Amendment of s 33 (Definitions for part)

- (1) Section 33, definitions *Annex II* and *noxious liquid substance—*

omit.

- (2) Section 33—

insert—

‘noxious liquid substance—

- (a) includes a mixture containing a noxious liquid substance; and
- (b) does not include a liquid substance declared under a regulation not to be a noxious liquid substance.’.

10 Insertion of new s 34A

Part 5, division 2—

insert—

‘34A Recategorisation of substances

- ‘(1) A regulation may declare a category X substance, category Y substance, category Z substance or Other substance to be a substance of a different stated category.
- ‘(2) A regulation under subsection (1) has effect to categorise the substance for this Act despite the substance being differently categorised under the International Bulk Chemical Code.¹’.

11 Amendment of s 38 (Certain noxious liquid substances to be treated as oil)

- (1) Section 38(1) and (2), ‘category C or D substance’—

omit, insert—

‘category Z substance or Other substance’.

- (2) Section 38, after subsection (1)—

insert—

‘*Editor’s note—*

Other substance has a particular meaning in MARPOL. See Annex II, chapter 2, regulation 6.’.

12 Amendment of s 59 (Definitions for part)

Section 59, definition *noxious liquid substance*, from ‘part 5’—

omit, insert—

‘part 5.²’.

13 Amendment of s 66 (Reception facilities)

Section 66(1)(a), from ‘regulation 12’ to ‘Annex II’—

1 See Annex II, regulation 1.4.

2 Part 5 is about prevention of pollution by noxious liquid substances in bulk—see section 33.

omit, insert—

‘regulation 38 of Annex I, regulation 18 of Annex II’.

14 Amendment of s 133 (Regulation-making power)

- (1) Section 133(3)(a), ‘regulation 8’—

omit, insert—

‘regulation 16’.

- (2) Section 133(3)(b), (c) and (e)—

omit.

- (3) Section 133(3)(d), from ‘regulation 3(4)’ to ‘substance’—

omit, insert—

‘regulation 6.3 to MARPOL as a category X substance, category Y substance, category Z substance or Other substance’.

- (4) Section 133(3)(f), from ‘A substance’—

omit, insert—

‘X substance—declaring a residual concentration stated in the regulation is taken to be the residual concentration prescribed for the substance under Annex II, regulation 13.6 to MARPOL.’.

- (5) Section 133(3)(d) and (f)—

renumber as section 133(3)(b) and (c).

15 Amendment of schedule (Dictionary)

Schedule, definition *sewage*, ‘the Convention’—

omit, insert—

‘MARPOL’.

Maximum penalty—40 penalty units.

- ‘(3) A peak demand management plan must deal with the following matters—
- (a) strategies for managing the demand for taxi services during peak patronage periods in the relevant area;
 - (b) achievable objectives under the plan;
 - (c) the number of peak demand taxis, if any, needed under the plan;
 - (d) the days, starting times and finishing times of the peak demand taxi shifts, if any, needed under the plan;
 - (e) the persons responsible for achieving the objectives;
 - (f) strategies to inform taxi drivers, taxi service operators and the local community in the relevant area about the content of the plan and achievement of its objectives;
 - (g) monitoring performance of the plan and evaluating its effectiveness;
 - (h) reporting the matters mentioned in paragraph (g) to the chief executive.
- ‘(4) Nothing in a peak demand management plan affects—
- (a) a service contract holder’s rights and liabilities under a service contract; or
 - (b) the chief executive’s right to damages for a breach of a service contract, including damages arising out of a breach of a key performance indicator.
- ‘(5) A regulation may provide for matters relating to peak demand management plans, including, for example, the following—
- (a) when a plan must be given to the chief executive;
 - (b) duration of a plan;
 - (c) amendment of a plan.’.

20 Amendment of s 70 (Requirement for taxi service licences)

- (1) Section 70, heading, ‘licences’—

omit, insert—

‘licence or peak demand taxi permit’.

- (2) Section 70, from ‘unless’ to ‘the vehicle’—

omit, insert—

‘unless—

- (a) the person has a taxi service licence to provide the service with the vehicle; or
- (b) the person has a peak demand taxi permit to provide the service with the vehicle’.

21 Amendment of s 73 (Term of taxi service licences)

Section 73(2) to (4)—

omit, insert—

- ‘(2) To remove any doubt, it is declared that the chief executive may issue a taxi service licence on a renewable or non-renewable basis.
- ‘(3) A taxi service licence issued on a renewable basis must be renewed for successive terms of 5 years if its conditions are complied with.
- ‘(4) However, the renewal of a taxi service licence issued on a renewable basis may be for a shorter term if the applicant asks for a shorter term.
- ‘(5) A taxi service licence issued on a non-renewable basis must not be renewed.’.

22 Amendment of s 74 (Conditions of taxi service licences)

- (1) Section 74(2)(b), ‘specify’—

omit, insert—

‘state’.

- (2) Section 74(3)(b)(ii), from ‘to provide’—

omit, insert—

‘made by the holder of the contract to provide taxi services; and’.

23 Amendment of s 74AA (Notice to be kept in taxi)

- (1) Section 74AA, heading, after ‘in’—

insert—

‘licensed taxi or substitute’.

- (2) Section 74AA, from ‘must ensure’ to ‘is subject’—

omit, insert—

‘who uses a licensed taxi or substitute taxi to provide the service must keep a written notice inside the taxi that states the following and is readily available to the driver—

- (a) the area, stated in the taxi service licence for the taxi, in which the taxi may be operated;
- (b) any other condition to which the licence is subject that restricts the use of the taxi’.

24 Amendment of s 74AB (Prohibitions on using taxis)

- (1) Section 74AB, heading, after ‘using’—

insert—

‘licensed taxis or substitute’.

- (2) Section 74AB(1) and (2)—

omit, insert—

- ‘(1) The operator of a taxi service must not use a licensed taxi or substitute taxi to provide a public passenger service—

- (a) in a taxi service area outside the area stated in the licence for the taxi; or
- (b) in a way that contravenes a condition to which the licence is subject that restricts the use of the taxi.

Maximum penalty—40 penalty units.

- ‘(2) The driver of a licensed taxi or substitute taxi must not use the taxi to provide a public passenger service—

- (a) in a taxi service area outside the area stated in the licence for the taxi; or
- (b) in a way that contravenes a condition to which the licence is subject that restricts the use of the taxi.

Maximum penalty—40 penalty units.’.

25 Amendment of s 75 (Amendment of taxi service licence conditions)

Section 75(1), ‘a taxi service licence’—

omit, insert—

‘taxi service licences’.

26 Insertion of new ch 7A

After section 80B—

insert—

‘Chapter 7A Peak demand taxi permits

‘80C Purpose of peak demand taxi permits

‘The purpose of peak demand taxi permits is to ensure that the communities served by taxis in relevant areas receive quality and innovative taxi services at a reasonable cost during peak patronage periods.

‘80D What are peak demand taxi permits

‘A *peak demand taxi permit* is a permit issued by the chief executive to allow a vehicle, other than a licensed taxi, (a *peak demand taxi*) to be used to provide a taxi service in a relevant area during a peak patronage period.

‘80E Issue of peak demand taxi permits

‘A regulation may provide for the issue of peak demand taxi permits.

‘80F Term of peak demand taxi permits

‘A peak demand taxi permit is for a term of 1 year.

‘80G Conditions of peak demand taxi permits

- ‘(1) A peak demand taxi permit is subject to the conditions stated in it by the chief executive.
- ‘(2) The conditions of a peak demand taxi permit must—
- (a) require the operator to use a particular type of vehicle or a vehicle of a type approved for taxis by the chief executive; and
 - (b) state the relevant area to which the peak demand taxi permit applies; and
 - (c) require the operator not to charge more than the maximum fares published in the gazette under section 74A; and
 - (d) state the vehicle to be used under the permit.
- ‘(3) The conditions of a peak demand taxi permit may—
- (a) require that the operator have access to a continuously operating booking service; and
 - (b) require the operator—
 - (i) to cooperate with the holder of a taxi service contract; and
 - (ii) to comply with all reasonable requests made by the holder of the contract to provide taxi services; and
 - (iii) not to act in a way likely to prevent the holder of the taxi service contract complying with the conditions of the contract; and
 - (c) require the operator to install and maintain stated equipment in peak demand taxis; and
 - (d) require the operator to operate the vehicle as a peak demand taxi only in peak patronage periods; and
 - (e) make other requirements of an operator.

- ‘(4) The operator of a taxi service under a peak demand taxi permit must not contravene a condition of the permit.

Maximum penalty for subsection (4)—40 penalty units.

‘80H Notice to be kept in peak demand taxi

‘The operator of a taxi service who uses a peak demand taxi to provide the service must keep a written notice inside the taxi that states the following and is readily available to the driver—

- (a) the relevant area, stated in the permit for the taxi, in which the taxi may be operated;
- (b) any other condition to which the permit is subject that restricts the use of the taxi.

Maximum penalty—40 penalty units.

‘80I Prohibitions on using peak demand taxis

- ‘(1) The operator of a taxi service must not use a peak demand taxi to provide a public passenger service—

- (a) in a taxi service area outside the relevant area stated in the permit for the taxi; or
- (b) in a way that contravenes a condition to which the permit is subject that restricts the use of the taxi.

Maximum penalty—40 penalty units.

- ‘(2) The driver of a peak demand taxi must not use the taxi to provide a public passenger service—

- (a) in a taxi service area outside the relevant area stated in the permit for the taxi; or
- (b) in a way that contravenes a condition to which the permit is subject that restricts the use of the taxi.

Maximum penalty—40 penalty units.

- ‘(3) However, the driver or operator does not contravene subsection (1)(a) or (2)(a) while the peak demand taxi is being used to complete a single passenger journey that started within the relevant area stated in the permit.

‘80J Amendment of peak demand tax permit conditions

- ‘(1) A regulation may authorise the chief executive to amend the conditions of peak demand tax permits if the chief executive is satisfied the amendment is necessary for improving taxi services in the public interest.
- ‘(2) A regulation may also authorise the amendment of peak demand tax permits in other circumstances and make other provision about amending peak demand tax permits.

‘80K Lease and surrender of peak demand tax permits

‘A regulation may provide for the lease and surrender of peak demand tax permits.

‘80L Suspension and cancellation of peak demand tax permits

- ‘(1) A regulation may provide for the suspension and cancellation of peak demand tax permits.
- ‘(2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person’s peak demand tax permit if the person contravenes this Act or a condition of the permit.
- ‘(3) Without limiting subsection (1), a regulation may authorise the chief executive to suspend immediately a person’s peak demand tax permit if the chief executive considers it necessary in the public interest.
- ‘(4) Without limiting subsection (1), if the operator accreditation of the holder of a peak demand tax permit is suspended or cancelled—
 - (a) for suspension—the permit is suspended while the accreditation is suspended; or
 - (b) for cancellation—the permit is cancelled.’.

27 Replacement of s 86 (Term of limousine service licence)

Section 86—

omit, insert—

‘86 Term of limousine service licence

- ‘(1) A limousine service licence is for a term of—
- (a) for a special purpose limousine service licence—1 year; or
 - (b) for another limousine service licence—5 years.
- ‘(2) A limousine service licence may be renewed for successive terms of the length mentioned in subsection (1) for the licence, if the conditions of the licence have been complied with.
- ‘(3) However, a limousine service licence other than a special purpose limousine service licence may be renewed for a shorter term if the applicant for the renewal asks for a shorter term.’.

28 Amendment of s 87 (Conditions of limousine service licences)

- (1) Section 87(2)(b)—
omit, insert—
- ‘(b) require the operator to use—
- (i) if the licence is a special purpose limousine service licence—a special purpose limousine; or
 - (ii) otherwise—a luxury motor vehicle; and’.
- (2) Section 87(2)(c), ‘specify’—
omit, insert—
- ‘state’.
- (3) Section 87(2)(d)—
omit, insert—
- ‘(d) subject to section 87A—
- (i) state the vehicle to be used under the licence; and
 - (ii) require the operator to display a registration plate on the vehicle distinguishing it as—
 - (A) if the vehicle is to be used under a special purpose limousine service licence—a special

purpose limousine for which a special purpose limousine service licence is in force;
or

(B) otherwise—a limousine; and

- (e) state that the operator must do either of the following if a hirer of a limousine service provided under the licence requests that the limousine service be provided by using a stated type of vehicle—
- (i) comply with the request;
 - (ii) seek agreement from the hirer to use a different type of vehicle.’.
- (4) Section 87(3), ‘limousine licence’—
omit, insert—
‘limousine service licence’.
- (5) Section 87(3)(c), before ‘allow’—
insert—
‘for a limousine service licence other than a special purpose limousine service licence—’.
- (6) Section 87(5)(b), ‘restrictions’ to ‘subject’—
omit, insert—
‘condition to which the licence is subject that restricts the use of the limousine’.
- (7) Section 87(6)(b), from ‘restriction’ to ‘subject’—
omit, insert—
‘condition to which the licence is subject that restricts the use of the limousine’.

29 Insertion of new ss 87B–87G

After section 87A—

insert—

‘87B Electronic record of prior booking—limousine services provided other than under special purpose limousine service licence

- ‘(1) This section applies to a limousine service other than a limousine service provided under a special purpose limousine service licence.
- ‘(2) The operator of a limousine service must—
- (a) keep an electronic booking system that is in working condition in the limousine used to provide the limousine service; and
 - (b) make an electronic record containing the prescribed details of the booking for the limousine service by using the electronic booking system; and
 - (c) immediately before the limousine is used to provide the limousine service, check that the electronic booking system displays the prescribed details of the booking for the limousine service.

Maximum penalty—80 penalty units.

- ‘(3) The driver of a limousine must not use the limousine to provide a limousine service unless—
- (a) an electronic booking system in working condition is in the limousine; and
 - (b) the operator of the limousine service has made an electronic record containing the prescribed details of the booking for the limousine service by using the electronic booking system; and
 - (c) the electronic booking system displays the prescribed details of the booking for the limousine service.

Maximum penalty—80 penalty units.

‘87C Operator to keep electronic record of prior booking made for s 87B

‘The operator of a limousine service must—

- (a) keep, for at least 5 years—

- (i) each electronic record containing the prescribed details of a booking for a limousine service made, for section 87B, by using an electronic booking system; or
- (ii) a copy of the electronic record; and
- (b) if asked by an authorised person, produce the electronic record or a copy of the electronic record for inspection by the authorised person.

Maximum penalty—80 penalty units.

‘87D Driver to produce electronic record of prior booking made for s 87B

‘(1) This section applies if—

- (a) an electronic record containing the prescribed details of a booking for a limousine service is made, for section 87B, by using an electronic booking system; and
- (b) an authorised person asks the driver of the limousine used to provide the limousine service to show the authorised person the display of the prescribed details of the booking for the limousine service in or on the electronic booking system (the *display*).

‘(2) The driver must—

- (a) produce the electronic booking system for inspection by the authorised person; or
- (b) if it is not reasonably practicable for the authorised person to read the display from outside the limousine and the authorised person tells the driver the authorised person needs to enter the limousine to read the display—allow the authorised person to enter the limousine to read the display.

Maximum penalty—80 penalty units.

‘(3) For subsection (1)(b), a limousine is used to provide a limousine service if—

- (a) it is about to be used to provide the limousine service; or
- (b) it is being used to provide the limousine service; or

- (c) it has just been used to provide the limousine service.
- ‘(4) If an authorised person enters a limousine under subsection (2)(b), the authorised person—
 - (a) may remain in the limousine for only the period of time that is reasonably necessary to read the display; and
 - (b) may inspect the limousine, and anything in the limousine, only to the extent that is reasonably necessary to read the display.

‘87E Record of prior booking—limousine service provided under special purpose limousine service licence

- ‘(1) This section applies to a limousine service provided under a special purpose limousine service licence.
- ‘(2) The operator of a limousine service must—
 - (a) make a record containing the prescribed details of the booking for the limousine service either—
 - (i) in paper form; or
 - (ii) in electronic form by using an electronic booking system; and
 - (b) give a copy of the prescribed details of the booking for the limousine service to the driver of the limousine to be used to provide the limousine service, before the limousine service is provided.

Maximum penalty—80 penalty units.

- ‘(3) The driver of a limousine must not use the limousine to provide a limousine service unless—
 - (a) the operator of the limousine service has made a record containing the prescribed details of the booking for the limousine service; and
 - (b) the driver is carrying a copy of the prescribed details of the booking for the limousine service in the limousine.

Maximum penalty—80 penalty units.

- ‘(4) If the record containing the prescribed details of the booking for the limousine service is made in electronic form by using an electronic booking system—
- (a) the operator of the limousine service satisfies subsection (2)(b) if the operator—
 - (i) keeps an electronic booking system that is in working condition in the limousine used to provide the limousine service; and
 - (ii) immediately before the limousine is used to provide the limousine service, checks that the electronic booking system displays the prescribed details of the booking for the limousine service; and
 - (b) the driver of the limousine used to provide the limousine service is taken to carry a copy of the prescribed details of the booking for the limousine service in the limousine if, while the limousine is being used to provide the limousine service, the electronic booking system—
 - (i) is in the limousine and is in working condition; and
 - (ii) displays the prescribed details of the booking for the limousine service.

‘87F Operator to keep record of prior booking made for s 87E

‘The operator of a limousine service must—

- (a) keep, for at least 5 years—
 - (i) each record containing the prescribed details of a booking for a limousine service made for section 87E; or
 - (ii) a copy of the record; and
- (b) if asked by an authorised person, produce the record or a copy of the record for inspection by the authorised person.

Maximum penalty—80 penalty units.

‘87G Driver to produce record of prior booking made for s 87E

- ‘(1) This section applies if—
- (a) a record containing the prescribed details of a booking for a limousine service is made for section 87E; and
 - (b) an authorised person asks the driver of the limousine used to provide the limousine service to show the authorised person a copy of the record of the prescribed details for the booking for the limousine service.
- ‘(2) The driver must—
- (a) produce the copy for inspection by the authorised person; or
 - (b) if the record is in electronic form in or on an electronic booking system—
 - (i) produce the electronic booking system for inspection by the authorised person; or
 - (ii) if it is not reasonably practicable for the authorised person to read the display of the prescribed details of the booking for the limousine service in or on the electronic booking system (the *display*) from outside the limousine and the authorised person tells the driver the authorised person needs to enter the limousine to read the display—allow the authorised person to enter the limousine to read the display.

Maximum penalty—80 penalty units.

- ‘(3) For subsection (1)(b), a limousine is used to provide a limousine service if—
- (a) it is about to be used to provide the limousine service; or
 - (b) it is being used to provide the limousine service; or
 - (c) it has just been used to provide the limousine service.
- ‘(4) If an authorised person enters a limousine under subsection (2)(b)(ii), the authorised person—
- (a) may remain in the limousine for only the period of time that is reasonably necessary to read the display; and

- (b) may inspect the limousine, and anything in the limousine, only to the extent that is reasonably necessary to read the display.’.

30 Amendment of s 155 (Regulations)

Section 155(3)(a), ‘and charges’—

omit, insert—

‘, charges and taxes’.

31 Amendment of sch 2 (Reviewable decisions)

Schedule 2—

insert—

‘80J(1)	amendment of the conditions of a peak demand taxi permit	Magistrates
80L	suspension or cancellation of a peak demand taxi permit	District or Magistrates’.

32 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definition *taxi*—

omit.

- (2) Schedule 3—

insert—

‘electronic booking system means a system for the electronic recording and display of information about bookings.

licensed taxi means a vehicle stated in a taxi service licence.

peak demand management plan see section 67A.

peak demand taxi see section 80D.

peak demand taxi permit see section 80D.

peak patronage period means a period—

- (a) in which the demand for taxi services is higher than usual; and

- (b) that is identified in a peak demand management plan given to the chief executive under section 67A and, if applicable, amended by the chief executive.

prescribed details, of a booking for a limousine service, means the details about the booking prescribed under a regulation for this definition.

relevant area means an area in which the administration of taxi services must be performed under a service contract as mentioned in section 66.

special purpose limousine means a motor vehicle prescribed under a regulation as a motor vehicle that may be used under a special purpose limousine service licence.

special purpose limousine service licence means a limousine service licence that is subject to the condition that the provision of a limousine service under the licence is restricted to 1 or more the following—

- (a) a service for the carriage of passengers to or from a wedding event;
- (b) a service for the carriage of passengers to or from a student event;
- (c) a tourist service.

student event means—

- (a) an event that is held for the students of an educational institution, and their invited guests, and is one of the following—
- (i) a school formal;
- (ii) a graduation ceremony;
- (iii) a debutante ball;
- (iv) another dance or ball at which evening wear or semi-formal wear is worn; or
- (b) an event held immediately before, or immediately after, an event mentioned in paragraph (a).

substitute taxi means a motor vehicle used under a taxi service licence under a regulation mentioned in section 74B.

taxi, other than in the definition *demand responsive service* means—

- (a) a motor vehicle for which a taxi service licence or peak demand taxi permit is in force; or
- (b) a substitute taxi.

wedding event means—

- (a) a ceremony for the marriage of 2 persons or a similar ceremony for the joining of 2 persons other than by marriage; or

Example of similar ceremony—

commitment ceremony for the joining of 2 persons of the same gender

- (b) an event for the celebration of a ceremony mentioned in paragraph (a); or

Example of event for paragraph (b)—

a wedding reception

- (c) an event that happens between a ceremony mentioned in paragraph (a) and an event for the celebration of the ceremony.

Example of event for paragraph (c)—

photography session for a couple being married and their assistants’.

- (3) Schedule 3, definition *disqualifying offence*, after ‘taxi service licence’—

insert—

‘, a peak demand taxi permit’.

- (4) Schedule 3, definition *limousine service*, after ‘vehicle’—

insert—

‘or special purpose limousine’.

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

Division 1 **Preliminary**

33 **Act amended in pt 6 and schedule**

This part and the schedule amend the *Transport Operations (Road Use Management) Act 1995*.

Division 2 **Amendments relating to compliance and enforcement for heavy vehicles**

34 **Amendment of s 24 (Identity cards)**

Section 24(4), penalty, ‘10’—

omit, insert—

‘27’

35 **Insertion of new ss 26A and 26B**

After section 26—

insert—

‘26A **Further power to enter place of business in relation to heavy vehicle**

‘(1) Without limiting section 26 but subject to section 26B, an authorised officer may enter a place of business of a responsible person for a heavy vehicle at any time during the usual business hours of the business—

- (a) without the occupier’s consent or a warrant; and
- (b) whether or not the place is actually being used at that time for carrying on the business;

if the authorised officer has—

- (c) the suspicion mentioned in subsection (2); or

- (d) the belief and suspicion mentioned in subsection (3).
- ‘(2) For subsection (1)(c), the authorised officer must reasonably suspect that there may be at the place—
- (a) a document relating to a heavy vehicle and required to be kept under a transport Act or alternative compliance scheme; or
 - (b) a device relating to a heavy vehicle and required to be installed, used or maintained under a transport Act or an alternative compliance scheme.
- Example—*
- a weighing, measuring, recording or monitoring device
- ‘(3) For subsection (1)(d), the authorised officer—
- (a) must reasonably believe that there may be at the place evidence of an offence, relating to a heavy vehicle, against a transport Act; and
 - (b) must reasonably suspect the evidence may be concealed or destroyed unless the place is immediately entered and searched.
- ‘(4) This section does not authorise an authorised officer, without the occupier’s consent or a warrant, to enter—
- (a) a place that is apparently unattended, unless the officer reasonably believes the place is attended; or
 - (b) a place, or any part of a place, used predominantly for residential purposes.
- ‘(5) For subsection (4)(b), a place or part of a place is not used predominantly for residential purposes if it is used merely for temporary or casual sleeping or other accommodation for drivers of heavy vehicles.
- ‘(6) The authorised officer may open unlocked doors and other unlocked panels and things at the place for gaining entry to the place under subsection (1).
- ‘(7) This section does not authorise an authorised officer to use force for exercising a power under this section.

‘(8) In this section—

place of business, of a responsible person for a heavy vehicle, means a place—

- (a) at or from which the responsible person carries on a business; or
- (b) that is occupied by the responsible person in connection with a business carried on by the responsible person.

transport Act does not include—

- (a) the Queensland Road Rules; or
- (b) a regulation made under this Act applying to the transport of dangerous goods.

‘26B Further power to enter place in relation to heavy vehicle if incident involving death, injury or damage

‘(1) Without limiting section 26, an authorised officer, without the occupier’s consent or a warrant, may enter a place at any time if the officer reasonably believes—

- (a) a heavy vehicle has, or may have, been involved in an incident involving the death of, or injury to, a person or damage to property; and
- (b) the incident may have involved an offence against a transport Act; and
- (c) the heavy vehicle is connected with the place; and
- (d) there may be at the place evidence of the offence mentioned in paragraph (b) that may be concealed or destroyed unless the place is immediately entered and searched.

‘(2) However, if the authorised officer is not a police officer, the authorised officer may enter the place only if the entry is authorised by a police officer of at least the rank of inspector.

‘(3) For subsection (1), a heavy vehicle is connected with a place if—

- (a) the place is the vehicle’s garage address; or

- (b) the vehicle is, or within the past 72 hours has been, located at the place; or
 - (c) the place is, or may be, otherwise directly or indirectly connected with the vehicle or any part of its equipment or load.
- ‘(4) Section 26A(4) to (7) applies to the entry to a place by an authorised officer under this section.
- ‘(5) In this section—
- transport Act* does not include—
- (a) the Queensland Road Rules; or
 - (b) a regulation made under this Act applying to the transport of dangerous goods.’.

36 Insertion of new ss 29A–29C

After section 29—

insert—

‘29A Post-entry approval

- ‘(1) As soon as reasonably practicable after exercising heavy vehicle evidence preservation powers, an authorised officer must apply in writing to a magistrate for an order approving the exercise of the powers (*post-entry approval order*).
- ‘(2) The application must be sworn and state the grounds on which it is sought.
- ‘(3) The authorised officer need not appear at the consideration of the application, unless the magistrate otherwise requires.
- ‘(4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

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

‘29B Making of post-entry approval order

‘A magistrate may make a post-entry approval order only if satisfied—

- (a) in the circumstances existing before the exercise of the heavy vehicle evidence preservation powers for which the order is sought—
 - (i) the authorised officer, before exercising the powers, had the required suspicion or belief for exercising them; and
 - (ii) there was a reasonable likelihood that the evidence for which the powers were exercised would be concealed or destroyed; or
- (b) having regard to the nature of the evidence found during the exercise of the powers, it is in the public interest to make the order.

‘29C Appeal

- ‘(1) Within 28 days after a magistrate refuses to make a post-entry approval order (the *appeal period*), the chief executive may appeal against the magistrate’s order to the Supreme Court.
- ‘(2) If the chief executive appeals, the chief executive must retain any seized thing until the appeal is decided.
- ‘(3) If the chief executive does not appeal, the chief executive must, immediately the appeal period ends, return any seized thing to the person from whom it was seized.
- ‘(4) In this section—

seized thing means a thing seized by an authorised officer in the exercise of the heavy vehicle evidence preservation powers for which the post-entry approval order was sought.’.

37 Amendment of s 30 (General powers after entering places)

- (1) Section 30(2)(b), after ‘measure,’—

insert—

‘weigh,’.

- (2) Section 30(2)(d), ‘copy’—
omit, insert—
 ‘copy, or take an extract from.’
- (3) Section 30(2)(f)—
insert—
‘Examples of requirements under paragraph (f)—
 - a requirement to operate equipment or facilities
 - a requirement to give access, free of charge, to photocopying equipment’.
- (4) Section 30(3), penalty—
omit, insert—
 ‘Maximum penalty—
 (a) if paragraph (b) does not apply—60 penalty units; or
 (b) if the powers are to be exercised in relation to a heavy vehicle—80 penalty units.’
- (5) Section 30(4)—
omit, insert—
- ‘(4) A requirement under subsection (2)(f) does not include—
 (a) a requirement to produce a document or give information; or
 (b) a requirement to help the authorised officer find and gain access to a document or information.
- Editor’s note—*
 For the power to make a requirement mentioned in paragraph (a), see sections 49 and 50. For the power to make a requirement mentioned in paragraph (b), see section 50AB.
- ‘(5) Subsection (6) applies for the exercise of a power by an authorised officer in relation to a heavy vehicle under subsection (2) to decide if anything found at the place may be seized under division 3.
- ‘(6) The authorised officer may move the thing to another place if—

- (a) it is not practicable to exercise the power in relation to the thing at the place where it is found; or
- (b) the occupier of the place where it is found consents in writing.’.

38 Insertion of new ss 30A and 30B

Chapter 3, part 3, division 1—

insert—

‘30A Further powers after entering place under s 26A or 26B

- ‘(1) This section applies to an authorised officer who enters a place under section 26A or 26B.
- ‘(2) If the authorised officer enters the place because the authorised officer has the suspicion mentioned in section 26A(2), the authorised officer may do either or both of the following—
 - (a) inspect—
 - (i) a document that is required to be kept under a transport Act or an alternative compliance scheme; or
 - (ii) a device that is required to be installed, used or maintained under a transport Act or an alternative compliance scheme;

Example—

a weighing, measuring, recording or monitoring device
 - (b) copy, or take an extract from, any or all of the following that are at the place—
 - (i) a document mentioned in paragraph (a)(i);
 - (ii) a readout or other data obtained from a device mentioned in paragraph (a)(ii).
- ‘(3) Subsection (4) applies if the authorised officer enters the place to obtain evidence of an offence against a transport Act because—

- (a) the authorised officer has the belief and suspicion mentioned in section 26A(3) in relation to the evidence; or
 - (b) the authorised officer has the belief mentioned in section 26B(1) in relation to the evidence.
- ‘(4) The authorised officer may, for obtaining evidence of an offence against a transport Act, do any or all of the following—
- (a) search any part of the place;
 - (b) inspect anything in the place;
 - (c) copy, or take an extract from, any or all of the following in the place—
 - (i) a document mentioned in subsection (2)(a)(i);
 - (ii) journey documentation or transport documentation;
 - (iii) a document, or a readout or other data obtained from anything, that the authorised officer reasonably believes provides, or on further inspection may provide, evidence of the offence.
- ‘(5) For exercising a power under subsection (2)(b) or (4)(c), the authorised officer may use photocopying equipment in the place free of charge.
- ‘(6) Also, for exercising a power under subsection (2) or (4), the authorised officer may—
- (a) take the persons, equipment and materials the authorised officer reasonably requires for exercising the power into the place; or
 - (b) require a responsible person for the heavy vehicle in relation to which the power is to be exercised, whether or not the responsible person is in or at the place, to give the authorised officer reasonable help to exercise the power.
- ‘(7) A person must comply with a requirement made under subsection (6)(b), unless the person has a reasonable excuse.

Maximum penalty—80 penalty units.

- ‘(8) A requirement under subsection (6)(b) does not include—
- (a) a requirement to produce a document or give information; or
 - (b) a requirement to help the authorised officer find and gain access to a document or information.

Editor’s note—

For the power to make a requirement mentioned in paragraph (a), see sections 49 and 50. For the power to make a requirement mentioned in paragraph (b), see section 50AB.

- ‘(9) Subsection (10) applies for the exercise of a power by an authorised officer under subsection (4) to decide if anything found at the place may be seized under division 3.
- ‘(10) The authorised officer may move the thing to another place if—
- (a) it is not practicable to exercise the power in relation to the thing at the place where it is found; or
 - (b) the occupier of the place where it is found consents in writing.
- ‘(11) In this section—
- transport Act* does not include—
- (a) the Queensland Road Rules; or
 - (b) a regulation made under this Act applying to the transport of dangerous goods.

‘30B Using equipment for exercising power

- ‘(1) This section applies for the exercise of a power under section 30 or 30A in relation to a thing found in a place entered under this Act.
- ‘(2) An authorised officer, or a person helping the authorised officer, may operate available equipment if the authorised officer or person reasonably believes—
- (a) the available equipment is suitable for exercising the power; and
 - (b) the power can be exercised without damaging the available equipment or the thing.

- ‘(3) In this section—
available equipment, for exercising a power in relation to a thing—
- (a) means equipment that is—
 - (i) in or at the place in which the thing is found; or
 - (ii) taken onto the place under section 30(2)(e) or 30A(6)(a); or
 - (iii) in another place to which the thing has been moved under section 30(6) or 30A(10); and
 - (b) includes electronic equipment for accessing information contained on a thing found in or at the place.

Example of information contained on a thing—

information contained on a disk, tape or other device’.

39 Amendment of s 31 (Power to stop private vehicles)

- (1) Section 31—
insert—
- ‘(2A) However, an authorised officer who is not a police officer may make a requirement under subsection (1) or (2) during the day only.
- ‘(2B) Also, an authorised officer who is not a police officer and is not wearing a uniform approved by the chief executive may only exercise the powers of an authorised officer in relation to a private vehicle if the officer reasonably believes the vehicle is so dangerous as to be likely to cause the death of, or injury to, a person.’.
- (2) Section 31(5), from ‘officers,’—
omit, insert—
 ‘officers.’.
- (3) Section 31—
insert—
- ‘(6) In this section—

day means the period between sunrise and sunset on the same day.’.

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

(1) Section 33, heading—

omit, insert—

‘33 Requiring vehicle to be moved for exercising power’.

(2) Section 33(1) to (3A)—

omit, insert—

‘(1) This section applies to—

(a) a motor vehicle, other than a heavy vehicle, that is stationary on a road or has been stopped under section 31 or 32; and

(b) without limiting sections 33A to 33C, a heavy vehicle that—

(i) is stationary in a following place—

(A) a road or road-related area;

(B) a public place;

(C) another place occupied or owned by the State or a government entity;

(D) a prescribed place an authorised officer has entered under section 26;

(E) a place an authorised officer has entered under section 26A or 26B; or

(ii) has been stopped under section 32.

‘(2) To enable an authorised officer to exercise a power under a transport Act, the officer may require a person mentioned in paragraph (a) or (b) to move the vehicle, or cause it to be moved, to a stated reasonable place—

(a) for a vehicle other than a heavy vehicle—the person in control of the vehicle; or

- (b) for a heavy vehicle—the person in control, or the operator, of the vehicle.

Example—

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

‘(3) However, the place must be—

- (a) for a private vehicle—within a 5km radius from where the vehicle was stationary or stopped; or
- (b) for a prescribed heavy vehicle—within a 30km radius from—
 - (i) where the vehicle was stationary or stopped; or
 - (ii) if the requirement is given in the course of the vehicle’s journey—any point along the forward route of the journey.

‘(3A) A requirement under subsection (2) may be made orally or in any other way, including, for example—

- (a) for a requirement made to the person in control of a vehicle—by way of a sign or electronic or other signal; or
- (b) for a requirement made to the operator of a heavy vehicle—by telephone, facsimile, electronic mail or radio.’.

(3) Section 33—

insert—

‘(6) In this section—

prescribed place, in relation to a heavy vehicle, means—

- (a) a following place of a responsible person for the heavy vehicle—
 - (i) a place at or from which the responsible person carries on a business;
 - (ii) a place that is occupied by the responsible person in connection with a business carried on by the responsible person;

- (iii) the registered office of a business carried on by the responsible person; or
- (b) a place that is—
 - (i) the garage address for the heavy vehicle; or
 - (ii) without limiting subparagraph (i), the base of a driver of the heavy vehicle; or
- (c) a place where a document relating to a heavy vehicle is located or required to be kept under a transport Act or an alternative compliance scheme.’.

41 Insertion of new ss 33A–33C

After section 33—

insert—

‘33A Requiring heavy vehicle to be moved if causing harm or obstruction etc.

- ‘(1) This section applies if—
- (a) a heavy vehicle is stationary in a following place—
 - (i) a road or road-related area;
 - (ii) a public place;
 - (iii) another place occupied or owned by the State or a government entity;
 - (iv) a prescribed place an authorised officer has entered under section 26;
 - (v) a place an authorised officer has entered under section 26A or 26B; and
 - (b) the authorised officer reasonably believes the heavy vehicle—
 - (i) is causing, or creating a risk of, serious harm to public safety, the environment or road infrastructure; or
 - (ii) is causing, or likely to cause, an obstruction to traffic.

- ‘(2) The authorised officer may require the person in control, or the operator, of the heavy vehicle to do either or both of the following—
- (a) move the vehicle, or cause it to be moved, to the extent necessary to avoid the harm or obstruction;
 - (b) do, or cause to be done, anything else the officer reasonably requires to avoid the harm or obstruction.
- ‘(3) A requirement under subsection (2) may be made in a way mentioned in section 33(3A).
- ‘(4) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—120 penalty units.

- ‘(5) Without limiting what may be a reasonable excuse for subsection (4), in a proceeding for an offence against the subsection, it is a defence if the person charged with the offence proves—
- (a) it was not possible to move the heavy vehicle because it was broken down; and
 - (b) the breakdown happened for a physical reason beyond the person’s control; and
 - (c) the breakdown could not be readily rectified in a way that would enable the requirement to be complied with within a reasonable time.
- ‘(6) In this section—
- prescribed place***, in relation to a heavy vehicle, means—
- (a) a following place of a responsible person for the heavy vehicle—
 - (i) a place at or from which the responsible person carries on a business;
 - (ii) a place that is occupied by the responsible person in connection with a business carried on by the responsible person;
 - (iii) the registered office of a business carried on by the responsible person; or
 - (b) a place that is—

- (i) the garage address for the heavy vehicle; or
- (ii) without limiting subparagraph (i), the base of a driver of the heavy vehicle; or
- (c) a place where a document relating to a heavy vehicle is located or required to be kept under a transport Act or an alternative compliance scheme.

‘33B Moving unattended heavy vehicle on road

- ‘(1) This section applies if an authorised officer—
 - (a) reasonably believes that a heavy vehicle on a road is unattended; and
 - (b) intends to exercise a power under this Act in relation to the vehicle; and
 - (c) reasonably believes it is necessary to move the vehicle to enable the exercise of the power.
- ‘(2) The authorised officer may take the steps that are reasonably necessary to move the heavy vehicle on the road, or to remove the heavy vehicle from the road, to enable the exercise of the power.

Example of reasonably necessary steps—
driving, pushing or towing the vehicle
- ‘(3) Despite subsection (2), the authorised officer may only drive, or authorise someone else (the *assistant*) to drive, the heavy vehicle if the authorised officer or assistant is qualified and fit to drive it.
- ‘(4) It is immaterial that—
 - (a) the assistant is not the operator of the heavy vehicle; or
 - (b) the authorised officer or assistant is not authorised by the operator to drive it.
- ‘(5) If the authorised officer asks a service or towing vehicle operator to move or remove the heavy vehicle, the service or towing vehicle operator may take the steps that are reasonably necessary to move or remove the heavy vehicle, as requested.
- ‘(6) The authorised officer, the assistant or a service or towing vehicle operator mentioned in subsection (5) may use the

force that is reasonably necessary to do any or all of the following—

- (a) open unlocked doors and other unlocked panels and things in the heavy vehicle;
 - (b) gain access to the heavy vehicle, its engine or other mechanical components to enable it to be moved;
 - (c) enable the heavy vehicle to be towed.
- ‘(7) Subsection (6) does not authorise an authorised officer, assistant or service or towing vehicle operator to use force against a person.
- ‘(8) In this section—
- road* includes a road-related area.

‘33C Moving other stationary heavy vehicle if causing harm or obstruction etc.

- ‘(1) This section applies if an authorised officer reasonably believes—
- (a) a heavy vehicle on a road or road-related area is unattended or broken down; and
 - (b) the heavy vehicle—
 - (i) is causing, or creating an imminent risk of, serious harm to public safety, the environment or road infrastructure; or
 - (ii) is causing, or likely to cause, an obstruction to traffic.
- ‘(2) The authorised officer may move or authorise someone else (the *assistant*) to move the heavy vehicle or, if it is a combination, any vehicle forming part of the combination, to the extent it is reasonably necessary to avoid the harm or obstruction.

Example—

by driving, pushing or towing the vehicle

- ‘(3) The authorised officer or assistant may—

- (a) enter the heavy vehicle to enable the authorised officer or assistant to move it; and
 - (b) for a combination—separate any or all of the vehicles forming part of the combination for the purpose of moving them.
- ‘(4) The authorised officer may drive the heavy vehicle or authorise someone else (also the *assistant*) to drive it if the authorised officer reasonably believes—
- (a) the heavy vehicle is driveable; and
 - (b) there is no-one else in or near the heavy vehicle who is more capable of driving it and fit and willing to drive it.
- ‘(5) It is immaterial that—
- (a) the assistant is not the operator of the heavy vehicle; or
 - (b) the authorised officer or assistant is not authorised by the operator to drive the heavy vehicle or qualified to drive it.
- ‘(6) In driving the heavy vehicle under subsection (4), the authorised officer or assistant is exempt from a provision of a transport Act to the extent the provision would require the authorised officer or assistant to be licensed to drive the vehicle.
- ‘(7) The authorised officer or assistant mentioned in subsection (2) or (4) may use the force that is reasonably necessary to the extent it is reasonably necessary to avoid the harm or obstruction.
- ‘(8) Subsection (7) does not authorise an authorised officer or assistant to use force against a person.’.

42 Amendment of s 34 (Power to inspect vehicles)

Section 34(4)—

omit.

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

Section 35—

insert—

- ‘(2A) Subsections (2B) and (2C) apply if—
- (a) the vehicle is a heavy vehicle; and
 - (b) the officer is not a police officer and reasonably believes the heavy vehicle has, or may have, been involved in an incident involving the death of, or injury to, a person or damage to property.
- ‘(2B) The authorised officer—
- (a) may exercise a power under this section only if authorised to do so by a police officer of at least the rank of inspector; and
 - (b) without limiting paragraph (a), may open unlocked doors and other unlocked panels and things in the vehicle for gaining entry to it under subsection (2)(a).
- ‘(2C) Despite subsection (2)(a), an authorised officer who is not a police officer must not use force to enter the vehicle.’.

44 Insertion of new ss 35A–35C

After section 35—

insert—

‘35A Further powers to inspect and search heavy vehicles

- ‘(1) Without limiting sections 34 and 35, this section applies to a heavy vehicle, whether or not it is unattended, if it is stationary in a following place—
- (a) a road or road-related area;
 - (b) a public place;
 - (c) another place occupied or owned by the State or a government entity;
 - (d) a prescribed place an authorised officer has entered under section 26;
 - (e) a place an authorised officer has entered under section 26A or 26B.

- ‘(2) An authorised officer may inspect the heavy vehicle to check whether it complies with a transport Act or an alternative compliance scheme.
- ‘(3) Also, an authorised officer may search the heavy vehicle to carry out a check as mentioned in subsection (2) if the authorised officer reasonably believes—
 - (a) the heavy vehicle has been used, is being used, or is likely to be used, to commit an offence against a transport Act; or
 - (b) the heavy vehicle may have been involved in an incident involving injury to, or the death of, a person or damage to property.
- ‘(4) An authorised officer may form the belief mentioned in subsection (3) whether or not the heavy vehicle has been inspected under this Act.
- ‘(5) Without limiting subsection (2) or (3), for exercising a power under the subsection, the authorised officer may do any or all of the following—
 - (a) enter the heavy vehicle;
 - (b) exercise a power that an authorised officer may exercise under section 35(2)(c) to (g);
 - (c) move, but not take away, anything in the heavy vehicle that is not locked or sealed.
- ‘(6) An authorised officer may exercise a power under this section at any time and without the consent of the heavy vehicle’s driver or anyone else.
- ‘(7) However, if an authorised officer has the belief mentioned in subsection (3)(b) in relation to the heavy vehicle, the authorised officer—
 - (a) may exercise a power under this section in relation to the vehicle only if authorised to do so by a police officer of at least the rank of inspector; and
 - (b) without limiting paragraph (a), may open unlocked doors and other unlocked panels and things in the vehicle for gaining entry to it under subsection (5)(a).

- ‘(8) This section does not authorise an authorised officer to use force for exercising a power under this section.
- ‘(9) Also, an authorised officer may not exercise a power under this section in relation to a personal possession found in the heavy vehicle.
- ‘(10) In this section—
- prescribed place***, in relation to a heavy vehicle, means—
- (a) a following place of a responsible person for the heavy vehicle—
 - (i) a place at or from which the responsible person carries on a business;
 - (ii) a place that is occupied by the responsible person in connection with a business carried on by the responsible person;
 - (iii) the registered office of a business carried on by the responsible person; or
 - (b) a place that is—
 - (i) the garage address for the heavy vehicle; or
 - (ii) without limiting subparagraph (i), the base of a driver of the heavy vehicle; or
 - (c) a place where a document relating to a heavy vehicle is located or required to be kept under a transport Act or an alternative compliance scheme.
- transport Act*** does not include—
- (a) the Queensland Road Rules; or
 - (b) a regulation made under this Act applying to the transport of dangerous goods.

‘35B Further powers to access stored information or to decide if anything found in a heavy vehicle may be seized

- ‘(1) Without limiting section 35 or 35A, this section applies to help an authorised officer who exercises a power in relation to a heavy vehicle under section 35 or 35A—

- (a) to access information contained on anything found in or at the vehicle; or
- Example of information contained on a thing—*
information contained on a disk, tape or other device
- (b) to decide if anything found in the vehicle may be seized under division 3.
- ‘(2) The authorised officer, or a person helping the authorised officer, may exercise the power by operating equipment that is—
- (a) in or at the heavy vehicle; or
- (b) taken into the vehicle under section 35(2)(g); or
- (c) where the thing has been moved under subsection (4).
- ‘(3) However, subsection (2) only applies if the authorised officer or person reasonably believes—
- (a) the equipment is suitable for exercising the power; and
- (b) the power can be exercised without damaging the equipment or thing.
- ‘(4) For exercising a power as mentioned in subsection (1)(b), the authorised officer may move the thing to somewhere else if—
- (a) it is not practicable to exercise the power in relation to the thing where it is found; or
- (b) the person in control of the vehicle consents in writing.

‘35C Running or stopping heavy vehicle engine

- ‘(1) An authorised officer may, to enable the officer to effectively exercise a power under this Act in relation to a heavy vehicle, enter the heavy vehicle and run or stop its engine (*take the prescribed action*) or authorise someone else (the *assistant*) to enter the vehicle and take the prescribed action if—
- (a) a person fails to comply with a requirement made by an authorised officer under section 39 to take the prescribed action; or
- (b) no responsible person for the heavy vehicle is available or willing to take the prescribed action; or

- (c) the authorised officer reasonably believes there is no-one else in or near the heavy vehicle who is more capable of taking the prescribed action and is fit and willing to do so.
- ‘(2) The authorised officer or assistant may use the force that is reasonably necessary to enter the heavy vehicle and take the prescribed action.
- ‘(3) Subsection (2) does not authorise an authorised officer or assistant to use force against a person.
- ‘(4) It is immaterial that—
- (a) the assistant is not the operator of the heavy vehicle; or
- (b) the authorised officer or assistant is not—
- (i) authorised by the operator to drive the heavy vehicle or take the prescribed action; or
- (ii) qualified to drive the heavy vehicle or take the prescribed action.
- ‘(5) This section does not authorise the authorised officer or assistant to drive the heavy vehicle.
- ‘(6) In running the engine, the authorised officer or assistant is exempt from a provision of a transport Act to the extent the provision would require the authorised officer or assistant to be qualified to take the prescribed action.’.

45 Amendment of s 38 (Power to prohibit persons driving)

Section 38(1) and (2)—

omit, insert—

- ‘(1) This section applies if—
- (a) a motor vehicle is stationary on a road or road-related area or has been stopped under section 31 or 32; and
- (b) an authorised officer reasonably believes a person would contravene this Act by driving the vehicle.
- ‘(2) The authorised officer may require a person mentioned in paragraph (a) or (b) not to drive the vehicle in contravention of this Act—

- (a) for a vehicle other than a heavy vehicle—the person in control of it; or
- (b) for a heavy vehicle—any person.
- ‘(2A) The requirement—
- (a) for a vehicle other than a heavy vehicle—must be given by notice in the approved form; or
- (b) for a heavy vehicle—may be given orally or in any other way, including, for example, by way of a sign or electronic or other signal.’.

46 Amendment of s 39 (Powers to enable effective and safe exercise of other powers)

- (1) Section 39(1)—

omit, insert—

- ‘(1) An authorised officer may require a person mentioned in paragraph (a) or (b) to give the officer reasonable help to enable the officer to effectively exercise a power under this Act in relation to a vehicle—
- (a) for a vehicle other than a heavy vehicle—the person in control of the vehicle; or
- (b) for a heavy vehicle—a responsible person for the vehicle.

Example of requirements for vehicles other than heavy vehicles—

to open the vehicle’s bonnet to enable the engine to be inspected

Examples of requirements for heavy vehicles—

- to hold the heavy vehicle stationary on a weighing device to enable the heavy vehicle to be weighed
- to open the heavy vehicle’s bonnet to enable the engine to be inspected
- to help the authorised officer to weigh or measure all or part of the heavy vehicle, including an axle or axle group
- to help the authorised officer to weigh or measure all or part of the heavy vehicle’s equipment or load
- to operate equipment or facilities
- to give access, free of charge, to photocopying equipment

- ‘(1A) A requirement that may be made under subsection (1)—
- (a) includes a requirement to run or stop the vehicle’s engine; but
 - (b) does not include—
 - (i) a requirement to drive the vehicle; or
 - (ii) a requirement to produce a document or give information; or
 - (iii) a requirement to help the authorised officer find and gain access to a document or information.

Editor’s note—

For the power to make a requirement mentioned in subparagraph (ii), see sections 49 and 50. For the power to make a requirement mentioned in subparagraph (iii), see section 50AB.

- ‘(1B) Subsections (1C) to (1F) apply if a responsible person for a heavy vehicle is required, under subsection (1), to run or stop the vehicle’s engine (*take the prescribed action*).
- ‘(1C) The responsible person may use the force that is reasonably necessary to enter the heavy vehicle and take the prescribed action.
- ‘(1D) Subsection (1C) does not authorise the responsible person to use force against a person.
- ‘(1E) It is immaterial that—
- (a) the responsible person is not the operator of the heavy vehicle; or
 - (b) the responsible person is not—
 - (i) authorised by the operator to drive the heavy vehicle or take the prescribed action; or
 - (ii) qualified to drive the heavy vehicle or take the prescribed action.
- ‘(1F) In running the engine, the responsible person is exempt from a provision of a transport Act to the extent the provision would require the responsible person to be qualified to take the prescribed action.’.

(2) Section 39(2), ‘or just’—

omit, insert—

‘or has just’.

(3) Section 39(2), examples—

omit, insert—

‘*Examples—*

- require the persons in the vehicle to get out of the vehicle while the authorised officer inspects the vehicle’s undercarriage
- require a person who has just left the vehicle to stand back from the carriageway of the road
- require a person to remain in control of the vehicle for a reasonable time

‘(2A) A requirement under subsection (1) or (2) may be made orally, in writing or in any other way, including, for example, by way of a sign, electronic or other signal, post, telephone, facsimile, electronic mail or radio.’.

47 Insertion of new ch 3, pt 3, div 2, sdivs 4 and 5

Chapter 3, part 3, division 2, after section 39A—

insert—

‘Subdivision 4 Other provisions about stopping and moving vehicles etc.

‘39B Stopped or moved vehicle to remain at a place

‘(1) This section applies if a person is required to—

- (a) stop a vehicle under section 31 or 32; or
- (b) move a vehicle to a place under section 33 or 33A.

‘(2) The person must not allow the vehicle to be moved from the place where it is stopped or moved to, until the end of the time reasonably necessary to enable the authorised officer to perform a function or exercise a power for which the vehicle was stopped or moved.

Maximum penalty—

- (a) for a private vehicle—60 penalty units; or
- (b) for a prescribed heavy vehicle—80 penalty units.

‘39C Interfering with prescribed heavy vehicle equipment or load

- ‘(1) This section applies if a person is required—
 - (a) to stop a prescribed heavy vehicle under section 32; or
 - (b) to move a prescribed heavy vehicle or a heavy vehicle to a place under section 33; or
 - (c) to move a heavy vehicle to a place under section 33A.
- ‘(2) A person must not, for the time reasonably necessary to enable the authorised officer to perform a function or exercise a power for which the prescribed heavy vehicle or heavy vehicle was stopped or moved—
 - (a) interfere with any equipment in the vehicle; or
 - (b) unload or change the position of any part of the vehicle’s load.

Maximum penalty—80 penalty units.

‘Subdivision 5 Further powers in relation to heavy vehicles concerning mass, dimension or loading requirements

‘39D Application of sdiv 5

‘This subdivision applies to a heavy vehicle regardless of whether the vehicle is, has been, or becomes the subject of a direction or requirement given or made by an authorised officer under another provision of this part.

‘39E Powers for minor risk breach of mass, dimension or loading requirement

- ‘(1) This section applies if an authorised officer reasonably believes a heavy vehicle—

- (a) is the subject of 1 or more minor risk breaches of mass, dimension or loading requirements; and
 - (b) is not, or is no longer, also the subject of a substantial, or severe, risk breach of a mass, dimension or loading requirement.
- ‘(2) If the authorised officer reasonably believes it appropriate in the circumstances, the officer may give the driver or operator of the heavy vehicle—
- (a) a direction to immediately rectify stated breaches of mass, dimension or loading requirements relating to the vehicle; or
 - (b) a direction to move the vehicle, or cause it to be moved, to a stated place and not to move the vehicle from there until stated breaches of mass, dimension or loading requirements relating to the vehicle are rectified.

Examples of circumstances for subsection (2)—

- 1 Rectification is reasonable and can be carried out easily.
 - 2 Rectification is necessary in the public interest to avoid the potential risk of harm to public safety, the environment, road infrastructure or public amenity.
- ‘(3) A place mentioned in subsection (2)(b) must be—
- (a) a place the authorised officer reasonably believes is suitable for the purpose of complying with the direction; and
 - (b) within a 30km radius from—
 - (i) where the heavy vehicle is located when the direction is given; or
 - (ii) if the requirement is given in the course of the vehicle’s journey—any point along the forward route of the journey.
- ‘(4) If the authorised officer does not give the driver or operator of a heavy vehicle a direction under subsection (2) and the authorised officer reasonably believes the driver or operator is not, or is no longer, subject to a direction for the rectification of a minor risk breach of a mass, dimension or loading requirement relating to the vehicle, the officer may authorise the driver or operator to continue the vehicle’s journey.

- ‘(5) An authorisation or direction given under this section must be in writing and may be given with or without conditions.
- ‘(6) Despite subsection (5), a direction to move a heavy vehicle may be given orally if the moving of the vehicle is carried out in the presence, or under the supervision, of an authorised officer.
- ‘(7) The person to whom an authorisation or direction is given under this section must comply with the authorisation or direction, unless the person has a reasonable excuse.

Maximum penalty—120 penalty units.

- ‘(8) In this section—

stated means stated by the authorised officer.

‘39F Powers for substantial risk breach of mass, dimension or loading requirement

- ‘(1) This section applies if an authorised officer reasonably believes—
- (a) a heavy vehicle is the subject of 1 or more substantial risk breaches of mass, dimension or loading requirements; and
 - (b) the heavy vehicle is not, or is no longer, also the subject of a severe risk breach of a mass, dimension or loading requirement.
- ‘(2) The authorised officer must give the driver or operator of the heavy vehicle—
- (a) a direction not to move the vehicle until stated breaches of mass, dimension or loading requirements relating to the vehicle are rectified; or
 - (b) a direction to move the heavy vehicle, or cause it to be moved, to a stated reasonable place and not to move it from there until stated breaches of mass, dimension or loading requirements relating to the vehicle are rectified, if circumstances warranting the giving of the direction exist.

Examples of reasonable place for paragraph (b)—

- the intended destination of the vehicle’s journey

- the depot of the vehicle or, if the vehicle is a combination, the depot of a vehicle in the combination

Example of circumstances for paragraph (b)—

Moving the vehicle is necessary in the public interest to avoid the potential risk of harm to public safety, the environment, road infrastructure or public amenity.

- ‘(3) The direction must be in writing and may be given with or without conditions.
- ‘(4) Despite subsection (3), a direction to move a heavy vehicle may be given orally if the moving of the vehicle is carried out in the presence, or under the supervision, of an authorised officer.
- ‘(5) The person to whom the direction is given must comply with it, unless the person has a reasonable excuse.
Maximum penalty—120 penalty units.
- ‘(6) In this section—
stated means stated by the authorised officer.

‘39G Powers for severe risk breach of mass, dimension or loading requirement

- ‘(1) This section applies if an authorised officer reasonably believes a heavy vehicle is the subject of 1 or more severe risk breaches of mass, dimension or loading requirements.
- ‘(2) The authorised officer must give the driver or operator of the heavy vehicle—
 - (a) a direction not to proceed until stated breaches of mass, dimension or loading requirements relating to the vehicle are rectified; or
 - (b) if the prescribed circumstances exist, a direction—
 - (i) to move the heavy vehicle, or cause it to be moved, to the nearest stated safe location; and
 - (ii) not to proceed from there until stated breaches of mass, dimension or loading requirements relating to the vehicle are rectified.

- ‘(3) A direction given under subsection (2) must be in writing and may be given with or without conditions.
- ‘(4) Despite subsection (3), a direction to move a heavy vehicle may be given orally if the moving of the vehicle is carried out in the presence, or under the supervision, of an authorised officer.
- ‘(5) The person to whom the direction is given must comply with it, unless the person has a reasonable excuse.

Maximum penalty—120 penalty units.

- ‘(6) Nothing in this section prevents an authorised officer from taking into account the safety of the heavy vehicle or any load in it if the officer reasonably believes the officer can do so without prejudicing the safety of other property, people, the environment, road infrastructure or public amenity.
- ‘(7) In this section—

prescribed circumstances means—

- (a) there is an appreciable risk of harm to the environment, road infrastructure or public amenity; or
- (b) there is a risk to the safety of people, or live animals, in the vehicle.

risk of harm to public safety, in relation to a heavy vehicle—

- (a) includes the risk of harm to the safety of people, or live animals, in the vehicle; but
- (b) does not include the risk of harm to the safety of the vehicle or any load, other than a live animal, in the vehicle.

safe location means a location where the authorised officer reasonably believes the vehicle will pose a reduced risk or no appreciable risk of harm to public safety, the environment, transport infrastructure or public amenity.

Example of a safe location—

the depot of the vehicle or, if the vehicle is a combination, the depot of a vehicle in the combination

stated means stated by the authorised officer.

‘39H Operation of direction in relation to a combination

- ‘(1) This section applies if a direction is given under this subdivision in relation to a combination.
- ‘(2) Subject to subsection (3), nothing in this subdivision prevents a component vehicle of the combination from being separately driven or moved if—
- (a) the component vehicle is not itself the subject of a contravention of a mass, dimension or loading requirement; and
 - (b) it is not otherwise unlawful for the component vehicle to be driven or moved.
- ‘(3) Subsection (2) does not apply if a condition of the direction prevents the component vehicle from being separately driven or moved.
- ‘(4) In this section—
- component vehicle*, of a combination, means a towing vehicle or trailer of the combination.’.

48 Insertion of new s 40A

After section 40—

insert—

‘40A Further powers to seize evidence in relation to heavy vehicle

- ‘(1) An authorised officer who enters a place—
- (a) because the officer has the belief and suspicion mentioned in section 26A(3); or
 - (b) under section 26B;
- may seize a document, device or other thing that is in the place if the officer reasonably believes it is, or may provide, evidence of an offence against a transport Act.
- ‘(2) Subsection (3) applies if, under this part, an authorised officer, or a person helping the officer—
- (a) either—
 - (i) enters a place in relation to a heavy vehicle; or

- (ii) enters or inspects a heavy vehicle; and
 - (b) finds a disk, tape or other storage device (the *original information storage device*) containing information the authorised officer reasonably believes is relevant to decide whether a transport Act or an alternative compliance scheme has been contravened.
- ‘(3) The authorised officer or person may—
- (a) put the information in documentary form and seize the document; or
 - (b) copy the information from the original information storage device to another information storage device and seize the other information storage device; or
 - (c) seize the original information storage device and any equipment at the place or vehicle necessary for accessing the information contained in the device if—
 - (i) it is not practicable to take action, at the place or vehicle, under paragraph (a) or (b) in relation to the information; and
 - (ii) the officer or person reasonably believes the device and equipment can be seized without being damaged.
- ‘(4) In this section—
- transport Act* does not include—
- (a) the Queensland Road Rules; or
 - (b) a regulation made under this Act applying to the transport of dangerous goods.’.

49 Amendment of s 46 (Return of seized things)

Section 46(2), from ‘satisfied’—

omit, insert—

‘satisfied—

- (a) its retention as evidence of an offence against a transport Act is necessary; or

- (b) for equipment seized under section 40A(3)(c)—the equipment is needed to access the information.
- ‘(3) Despite subsections (1) and (2), if the chief executive or the commissioner (the *official*) gave the seized thing to an external public authority under section 168B, the official must ensure the seized thing is returned to its owner as soon as practicable after the official is satisfied its retention as evidence for the external public authority’s law enforcement purposes is no longer necessary.’.

50 Insertion of new ch 3, pt 3, div 3B

Chapter 3, part 3—

insert—

‘Division 3B Embargo notice for evidence about heavy vehicle

‘46B Embargo notice

- ‘(1) This section applies if—
- (a) an authorised officer may seize a document, device or other thing under this part in relation to a heavy vehicle; and
 - (b) the thing can not, or can not readily, be physically seized and removed.
- ‘(2) The authorised officer may issue a written notice (*embargo notice*) under this section prohibiting any dealing with the thing or any part of it without the written consent of the chief executive, commissioner or authorised officer.
- ‘(3) The embargo notice—
- (a) must be in the approved form, or contain the particulars prescribed under a regulation; and
 - (b) must list the activities it prohibits; and
 - (c) must set out a copy of section 46C(1) and (3).
- ‘(4) The authorised officer may issue the embargo notice—

- (a) by causing a copy of it to be served on the relevant entity; or
 - (b) if the relevant entity can not be located after all reasonable steps have been taken to do so, by fixing a copy of the embargo notice in a prominent position on the thing the subject of the notice.
- ‘(5) In this section—
- dealing**, with a thing or part of a thing, includes—
- (a) moving, selling, leasing or transferring the thing or part; and
 - (b) changing information on, or deleting information from, the thing or part.
- relevant entity**, for an embargo notice, means—
- (a) the person in control of the heavy vehicle to which the thing the subject of the embargo notice relates; or
 - (b) the occupier of the place in which the thing the subject of the embargo notice is located.

‘46C Noncompliance with embargo notice

- ‘(1) A person who knows that an embargo notice relates to a document, device or other thing (the **embargoed thing**) must not—
- (a) do anything the notice prohibits; or
 - (b) instruct someone else to do anything the notice prohibits or prohibits the person from doing.

Maximum penalty—107 penalty units.

- ‘(2) In a proceeding for an offence against subsection (1) to the extent it relates to a charge that the person charged with the offence (**defendant**) moved the embargoed thing, or part of it, it is a defence if the defendant proves that he or she—
- (a) moved the embargoed thing, or part of it, to protect or preserve it; or

- (b) notified the authorised officer who issued the embargo notice of the move and new location of the embargoed thing, or part of it, within 48 hours after the move.
- ‘(3) A person served with an embargo notice must take all reasonable steps to stop any other person from doing anything forbidden by the notice.
- Maximum penalty—107 penalty units.
- ‘(4) Despite any other Act or law, a sale, lease, transfer or other dealing with an embargoed thing in contravention of this section is void.’.

51 Insertion of new s 48A

After section 48—

insert—

‘48A Further power to require personal details for exercising power in relation to heavy vehicle

- ‘(1) This section applies if—
- (a) an authorised officer finds a person committing a heavy vehicle offence; or
- (b) an authorised officer reasonably suspects a person has committed, or is about to commit, a heavy vehicle offence; or
- (c) an authorised officer reasonably suspects a person is or may be the driver or other person in control of a heavy vehicle that has or may have been involved in an incident involving injury to, or death of, a person or damage to property; or
- (d) an authorised officer reasonably suspects a person is or may be—
- (i) a responsible person for a heavy vehicle involved in a heavy vehicle offence or suspected heavy vehicle offence; and
- (ii) able to help in the investigation of the offence or suspected offence.

- ‘(2) The officer may require the person to state the person’s personal details.
- ‘(3) When making the requirement, the officer must warn the person it is an offence to fail to state the person’s personal details, unless the person has a reasonable excuse.
- ‘(4) The officer may require the person to give evidence of the correctness of the stated personal details if the officer reasonably suspects the stated personal details are false or misleading.
- ‘(5) A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- ‘(6) Without limiting what may be a reasonable excuse for subsection (5), in a proceeding for an offence of contravening a requirement made under subsection (2) to state a business address, it is a defence if the person charged with the offence proves—
 - (a) the person did not have a business address; or
 - (b) the person’s business address was not connected, directly or indirectly, with road transport involving heavy vehicles.
- ‘(7) A person does not commit an offence against subsection (5) if—
 - (a) the person was required to state the person’s personal details by an authorised officer who suspected the person had committed a heavy vehicle offence; and
 - (b) the person is not proved to have committed the offence.
- ‘(8) In this section—

heavy vehicle offence means an offence against a transport Act that involves or relates to a heavy vehicle, other than an offence against—

- (a) the Queensland Road Rules; or
- (b) a regulation made under this Act applying to the transport of dangerous goods.

personal details, of a person, means 1 or more of the following—

- (a) the person's full name;
- (b) the person's date of birth;
- (c) the address where the person is living;
- (d) the address where the person usually lives;
- (e) the person's business address.'.

52 **Amendment of s 49 (Power to require documents to be produced)**

(1) Section 49(1)—

omit, insert—

'(1) Subject to subsection (2A), an authorised officer may require a person to produce for inspection a document issued, or required to be kept, by the person under a transport Act or a corresponding law.

Examples—

- an Australian driver licence
- a log book'.

(2) Section 49—

insert—

'(2A) Only an authorised officer who is a police officer may require the driver of a private vehicle to produce his or her driver licence under subsection (1).'

53 **Amendment of s 50AA (Power to require information)**

(1) Section 50AA, heading—

omit, insert—

'50AA Chief executive's or commissioner's power to require information if information offence committed'.

(2) Section 50AA(1), 'reasonably to suspect'—

omit, insert—

‘to reasonably suspect’.

- (3) Section 50AA(3)(c) and (d)—

omit, insert—

‘(c) if the person is an individual, advise the person that—

- (i) it is not a reasonable excuse for the person to fail to give the information because the information might tend to incriminate the person; and
- (ii) the information, and any evidence directly or indirectly derived from the information that might tend to incriminate the person, is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.’.

- (4) Section 50AA(6), after ‘However,’—

insert—

‘if the person is an individual,’.

- (5) Section 50AA(6A), after ‘person’—

insert—

‘is an individual and’.

- (6) Section 50AA(6D), ‘the person’—

omit, insert—

‘a person who is an individual’.

54 Insertion of new s 50AB

Chapter 3, part 3, division 4—

insert—

‘50AB Power to require help to find and access documents or information about heavy vehicle

- ‘(1) An authorised officer may require a responsible person for a heavy vehicle to help the officer find and gain access to any documents or information to enable the officer to effectively exercise a power under any of the following provisions for

monitoring or enforcing compliance with this Act in relation to the vehicle—

- section 30(2)(a) or (b)
- section 30A(2) or (4)
- section 35(2)(b) or (c)
- section 35A(2) or (3)
- section 40
- section 40A.

Examples of documents or information—

- a document required to be kept in the vehicle under a transport Act about the vehicle's performance, specifications, capabilities or authorised operations
- a weighing document for a container loaded on to the vehicle
- a telephone record

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

Maximum penalty—120 penalty units.

‘(3) In this section—

information includes electronically stored information.’.

55 Insertion of new ch 3, pts 4B and 4C

Chapter 3—

insert—

‘Part 4B Reciprocal powers of authorised officers

‘51F Reciprocal powers

‘(1) This section has effect in relation to the Commonwealth or another State (the *other jurisdiction*) while a law of the other jurisdiction contains a provision corresponding to this section.

- ‘(2) The Minister may enter into an agreement with a Minister of the other jurisdiction for the purposes of this section and to amend or revoke the agreement.
- ‘(3) To the extent envisaged by the agreement—
- (a) an authorised officer, other than a police officer, may, in Queensland or the other jurisdiction, exercise a power in relation to a heavy vehicle that is conferred on officers of the other jurisdiction under the law of the other jurisdiction; and
 - (b) an authorised officer who is a police officer may, in Queensland or the other jurisdiction, exercise a power in relation to a heavy vehicle that is conferred on a police officer of the other jurisdiction under the law of the other jurisdiction; and
 - (c) an officer, other than a police officer, of the other jurisdiction may, in Queensland or the other jurisdiction, exercise a power in relation to a heavy vehicle that is conferred on authorised officers, other than police officers, under this Act; and
 - (d) a police officer of the other jurisdiction may, in Queensland or the other jurisdiction, exercise a power in relation to a heavy vehicle that is conferred on authorised officers who are police officers under this Act.
- ‘(4) However, if, under this Act or the law of the other jurisdiction, a power may only be exercised in relation to a heavy vehicle by a police officer, an authorised officer who is not a police officer must not exercise the power in relation to a heavy vehicle in Queensland or the other jurisdiction.
- ‘(5) Anything done or omitted to be done by an authorised officer or police officer under subsection (3)(a) or (b) is taken to have been done under this Act as well as under the law of the other jurisdiction.
- ‘(6) A regulation may make provision for the exercise of a power under this section.
- ‘(7) Nothing in this section affects the appointment under section 20(2) of a person as an authorised officer for this Act.

‘Part 4C Chief executive’s powers for vehicles

‘Division 1 Moving vehicles

‘51G Moving abandoned, or otherwise stationary, vehicle on prescribed road

- ‘(1) This section applies if—
- (a) either—
 - (i) a vehicle on a prescribed road is immobilised by a breakdown, collision or fuel shortage or is otherwise stationary; or
 - (ii) the chief executive reasonably believes a vehicle on a prescribed road is abandoned; and
 - (b) either—
 - (i) the chief executive can not immediately find the person in control of the vehicle; or
 - (ii) the chief executive can immediately find the person in control of the vehicle but reasonably believes the person is unable or unwilling to move the vehicle immediately.
- ‘(2) The chief executive may take the steps that are reasonably necessary to move the vehicle on, or remove the vehicle from, the prescribed road.
- Example of reasonably necessary steps—*
- driving, pushing or towing the vehicle
- ‘(3) If the chief executive asks a service or towing vehicle operator to move or remove the vehicle, the service or towing vehicle operator may take the steps that are reasonably necessary to move or remove it as requested.
- ‘(4) However, for a vehicle mentioned in subsection (1)(a)(i), the chief executive may take the steps mentioned in subsection (2) only if the chief executive reasonably believes it is necessary for the safety or convenience of people using the prescribed road.

‘Division 2 Recovering moving expenses

‘51H Definition for div 2

‘In this division—

moving expenses, for a vehicle, means reasonable expenses relating to 1 or more of the following acts—

- (a) calling a service or towing vehicle to the vehicle on a prescribed road;
- (b) moving the vehicle on a prescribed road;
- (c) removing the vehicle from a prescribed road;
- (d) storing the vehicle after it has been removed from a prescribed road;
- (e) releasing a vehicle mentioned in paragraph (d) from storage;
- (f) disposing of a vehicle mentioned in paragraph (c) other than by selling it.

‘51I Recovering moving expenses

- ‘(1) The chief executive may recover as a debt the moving expenses for a vehicle incurred by the State under this part.
- ‘(2) The moving expenses may be recovered from—
 - (a) the person who was in control of the vehicle immediately before it was moved or removed; or
 - (b) if the identity of the person mentioned in paragraph (a) can not be discovered—the vehicle’s owner, unless the vehicle was being used without the owner’s consent.

‘51J Notice to owner

- ‘(1) As soon as practicable, but within 14 days after removing a vehicle from a prescribed road, the chief executive must give the owner of the vehicle a written notice—
 - (a) stating that the vehicle has been removed; and
 - (b) explaining how it may be recovered; and

- (c) stating that it may be sold if it is not recovered.
- ‘(2) If the owner can not be identified or located within the 14 days, the notice may be given by publishing it in a newspaper circulating generally in the State.
- ‘(3) The chief executive need not give the notice required by this section if—
 - (a) the chief executive reasonably believes the vehicle is abandoned; and
 - (b) either—
 - (i) the proceeds of the vehicle’s sale are not likely to cover—
 - (A) the moving expenses for the vehicle; and
 - (B) the expenses reasonably incurred by the chief executive in selling the vehicle; or
 - (ii) it is otherwise impracticable to give the notice.

‘51K Releasing removed vehicle

‘The chief executive must release a vehicle that was removed from a prescribed road to its owner if—

- (a) the vehicle was used by a person without the owner’s consent immediately before it was removed; or
- (b) the vehicle was used by the owner or a person with the owner’s consent immediately before it was removed and the moving expenses for the vehicle have been paid.

‘51L Disposing of removed vehicle

- ‘(1) The chief executive may dispose of a vehicle removed from a prescribed road if—
 - (a) the moving expenses for the vehicle are not paid within 2 months after a notice is given to the vehicle’s owner under section 51J; or
 - (b) if the chief executive decides under section 51J(3) not to give a notice to the vehicle’s owner—at least 2 months have passed since the chief executive made the decision.

-
- ‘(2) Unless subsection (3) applies, the chief executive may only dispose of the vehicle by selling it.
- ‘(3) If the sale proceeds of the vehicle are not likely to cover the moving expenses and sale expenses for the vehicle, the chief executive may dispose of the vehicle in the way the chief executive considers appropriate.
- ‘(4) If the vehicle is sold, the sale proceeds must be applied in making payments in the following order—
- (a) the sale expenses for the vehicle;
 - (b) the moving expenses for the vehicle;
 - (c) any balance to the owner.
- ‘(5) If the sale proceeds are less than the moving expenses and sale expenses for the vehicle, the difference is a debt payable to the State by the person who is liable under section 51I for the moving expenses.
- ‘(6) The chief executive may waive all or part of the moving expenses and sale expenses.
- ‘(7) Compensation is not recoverable against the chief executive or the State for a payment made under this section.
- ‘(8) In this section—
- sale expenses*, for a vehicle, means the expenses reasonably incurred by the chief executive in selling the vehicle.’.

56 Amendment of s 52 (False or misleading statements)

Section 52(2), penalty—

omit, insert—

‘Maximum penalty—

- (a) if paragraph (b) does not apply—60 penalty units; or
- (b) if the statement relates to a heavy vehicle—134 penalty units.’.

57 Amendment of s 53 (False or misleading documents)

- (1) Section 53, heading, after ‘documents’—

insert—

‘, **generally**’.

(2) Section 53(2), penalty—

omit, insert—

‘Maximum penalty—

(a) if paragraph (b) does not apply—60 penalty units; or

(b) if the information relates to a heavy vehicle—134 penalty units.’.

58 Insertion of new ss 53B–53D

After section 53A—

insert—

‘53B False or misleading transport documentation for goods

‘(1) This section applies if—

(a) goods are consigned for transport by road, or partly by road and partly by another method; and

(b) all or part of the road transport happens or is to happen in Queensland by use of a heavy vehicle.

‘(2) Each consignor of the goods commits an offence if the transport documentation for the consignment is false or misleading in a material particular relating to the mass, dimension or loading of any or all of the goods.

Maximum penalty—134 penalty units.

‘(3) Each packer of the goods commits an offence if—

(a) the goods are packed in Australia in a freight container or other container, or in a package or on a pallet, for road transport; and

(b) the transport documentation for the consignment is false or misleading in a material particular relating to the mass, dimension or loading of any or all of the goods.

Maximum penalty—134 penalty units.

‘(4) Each loader of the goods commits an offence if—

- (a) the goods are loaded on a heavy vehicle for road transport; and
- (b) the transport documentation for the consignment is false or misleading in a material particular relating to the mass, dimension or loading of any or all of the goods.

Maximum penalty—134 penalty units.

- ‘(5) Each receiver of the goods in Australia commits an offence if—
- (a) the goods are packed outside Australia in a freight container or other container, or in a package or on a pallet, for road transport; and
 - (b) the transport documentation for the consignment is false or misleading in a material particular about the mass, dimension or loading of any or all of the goods.

Maximum penalty—134 penalty units.

- ‘(6) In a proceeding for an offence against subsection (2), (3), (4) or (5), the person charged has the benefit of the reasonable steps defence for the offence.

Editor’s note—

See section 57D for the reasonable steps defence.

- ‘(7) In this section—
- receiver**, of goods in Australia, means a person who, other than the person who merely unloads the goods—
- (a) first receives the goods in Australia; or
 - (b) unpacks the goods after the goods are first unloaded in Australia.

‘53C False or misleading information in container weight declaration

- ‘(1) The responsible entity for a freight container commits an offence if—
- (a) the responsible entity gives the container to the operator of a heavy vehicle; and

- (b) the container weight declaration for the container contains information that is false or misleading in a material particular.

Maximum penalty—134 penalty units.

- ‘(2) The operator of a heavy vehicle commits an offence if—
- (a) the operator arranges for a freight container to be transported in Queensland by use of the vehicle; and
- (b) the container weight declaration for the container given to a driver of the vehicle contains information that is false or misleading in a material particular.

Maximum penalty—134 penalty units.

- ‘(3) For this section, information in a container weight declaration is not false or misleading merely because it overstates the actual weight of the freight container and its contents.
- ‘(4) In a proceeding for an offence against subsection (1) or (2), the person charged has the benefit of the reasonable steps defence for the offence.

Editor’s note—

See section 57D for the reasonable steps defence.

‘53D False or misleading information given by responsible person to another responsible person

- ‘(1) A responsible person for a heavy vehicle (the *information giver*) must not give another responsible person for a heavy vehicle (the *affected person*) information the information giver knows, or could reasonably be expected to know, is false or misleading in a material particular.

Maximum penalty—134 penalty units.

- ‘(2) Subsection (1) does not apply if the affected person knew, or could reasonably be expected to know, that the information was false or misleading in the material particular.
- ‘(3) Also, subsection (1) does not apply if the information giver gives the information in writing and, when giving the information—

- (a) tells the affected person, to the best of the information giver's ability, how it is false or misleading; and
 - (b) if the information giver has, or can reasonably obtain, the correct information—gives the correct information in writing.
- ‘(4) It is enough for a complaint against the information giver for an offence against subsection (1) to state that the information given was false or misleading to the information giver's knowledge.
- ‘(5) In a prosecution for an offence against subsection (1), the issue of whether a person could reasonably be expected to have known that information was false or misleading must be decided having regard to the person's abilities, experience, qualifications and training, and the circumstances surrounding the offence.
- ‘(6) In this section—
- information** means information in any form, whether or not in writing.
- material particular** means a particular relating to an element of a relevant offence that is or could be committed by a person mentioned in paragraph (a) or (b) if the person relies, or were to rely, on the particular—
- (a) the responsible person for a heavy vehicle to whom the information is given;
 - (b) any other responsible person for a heavy vehicle who, at any time, is given the false or misleading information.
- relevant offence** means an offence relating to a heavy vehicle under this Act, other than an offence against subsection (1).’

59 Amendment of s 54 (Obstructing authorised officers or accredited persons)

Section 54(1), penalty—

omit, insert—

‘Maximum penalty—

- (a) if paragraph (b) does not apply—60 penalty units; or

- (b) if the official is an authorised officer exercising a power in relation to a heavy vehicle—107 penalty units.’.

60 Replacement of s 55 (Impersonating authorised officers or accredited persons)

Section 55—

omit, insert—

‘55 Pretending to be an authorised officer or accredited person

‘A person must not pretend to be—

- (a) an authorised officer; or
(b) an accredited person.

Maximum penalty—

- (a) for paragraph (a)—107 penalty units; or
(b) for paragraph (b)—60 penalty units.’.

61 Insertion of new ch 3, pt 5, div 1, sdiv 2 hdg and s 57AA

After section 57A—

insert—

‘Subdivision 2 Extended liability offences

‘57AA Application of sdiv 2

‘This subdivision applies in addition to subdivision 1 for proceedings in relation to a heavy vehicle.’.

62 Amendment of s 57B (Further liability provisions for extended liability offences)

- (1) Section 57B(2)—

omit, insert—

- ‘(2) If the person in control of a heavy vehicle commits an extended liability offence, each influencing person is also taken to have committed the offence.

Maximum penalty—the maximum penalty for an individual for committing the offence.

‘(2AA) However—

- (a) if an influencing person, or an associate of the influencing person, was in a position to influence the conduct of the person in control of the vehicle—the influencing person has the benefit of the reasonable steps defence; or

Editor’s note—

See section 57D for the reasonable steps defence.

- (b) it is a defence for an influencing person to prove neither the influencing person, nor an associate of the influencing person, was in a position to influence the conduct of the person in control of the vehicle.

‘(2AB) Despite subsection (2AA)(a), the influencing person has the benefit of the reasonable steps defence to the extent only that it relates to reliance on the weight stated in a container weight declaration if—

- (a) the influencing person is the operator of the heavy vehicle; and
- (b) the extended liability offence is a substantial, or severe, risk breach of a mass, dimension or loading requirement for the heavy vehicle.

Editor’s note—

See section 57G in relation to reliance on the container weight declaration.’.

(2) Section 57B(3), definitions *extended liability offence* and *influencing person*—

omit, insert—

‘***extended liability offence*** means—

- (a) an offence against section 162D; or
- (b) another offence committed by the person in control of a heavy vehicle because there has been a contravention of a mass, dimension or loading requirement in relation to the vehicle.

influencing person, in relation to a heavy vehicle—

- (a) means any or all of the following persons—
- (i) the owner of the heavy vehicle or, if the heavy vehicle is a combination, the owner of a vehicle forming part of the combination;
 - (ii) the registered operator of the heavy vehicle or, if the heavy vehicle is a combination, the registered operator of a vehicle forming part of the combination;
 - (iii) a person, other than the owner or registered operator, who controls or directly influences the loading or operation of the heavy vehicle; and

Example—

the operator of the heavy vehicle

- (b) includes any or all of the following persons—
- (i) the consignor of any goods in the heavy vehicle;
 - (ii) the packer of any goods in the heavy vehicle;
 - (iii) the loader of any goods in the heavy vehicle.’

63 Insertion of new ss 57C–57G

Chapter 3, part 5, division 1—

insert—

‘57C Liability for inducing breaches of mass, dimension or loading requirements—consignees

- ‘(1) A consignee of goods consigned for road transport by use of a heavy vehicle commits an offence if—
- (a) the person does an act or makes an omission; and
 - (b) the doing of the act or making of the omission results or is likely to result in inducing or rewarding a breach of a mass, dimension or loading requirement; and
 - (c) the person—
 - (i) intends that result; or

- (ii) is reckless or negligent as to the matter mentioned in paragraph (b).

Maximum penalty—134 penalty units.

- ‘(2) Without limiting subsection (1)(c)(i), the person is taken to have intended the result mentioned in subsection (1)(b) if the person knew or ought reasonably to have known that—

- (a) a container weight declaration for the container in which the goods were consigned was not given as required under a regulation; or
- (b) a container weight declaration given for the container contained information about the weight of the container and its contents that was false or misleading in a material particular.

- ‘(3) In this section—

consignee, of goods consigned for road transport by use of a heavy vehicle—

- (a) means the person who—
 - (i) has consented to being, and is, named or otherwise identified as the intended consignee of the goods in the transport documentation for the consignment; or
 - (ii) actually receives the goods after their road transport ends; but
- (b) does not include a person who merely unloads or unpacks the goods.

‘Subdivision 3 Reasonable steps

‘57D Reasonable steps defence

- ‘(1) If, in relation to a prescribed provision, a person has the benefit of the reasonable steps defence, it is a defence to a charge for an offence against the provision if the person charged establishes that—

- (a) the person did not know, and could not reasonably be expected to have known, of the contravention concerned; and
 - (b) either—
 - (i) the person took all reasonable steps to prevent the contravention; or
 - (ii) there were no steps the person could reasonably be expected to have taken to prevent the contravention.
- ‘(2) Without limiting subsection (1), in deciding whether things done or omitted to be done by the person charged constitute reasonable steps, the court may have regard to the following—
- (a) the circumstances of the alleged offence, including any risk category for the contravention constituting the offence;
 - (b) without limiting paragraph (a), the measures available and measures taken for any or all of the following—
 - (i) to accurately and safely weigh or measure the heavy vehicle or its load, or to safely restrain the load in the heavy vehicle;
 - (ii) to provide and obtain sufficient and reliable evidence from which the weight or measurement of the heavy vehicle or its load might be calculated;
 - (iii) to manage, reduce or eliminate a potential contravention arising from the location of the heavy vehicle, or from the location of the load in the heavy vehicle, or from the location of goods in the load;
 - (iv) to manage, reduce or eliminate a potential contravention arising from weather and climatic conditions, or from potential weather and climatic conditions, affecting or potentially affecting the weight or measurement of the load;
 - (v) to exercise supervision or control over others involved in activities leading to the contravention;

- (c) the measures available and measures taken for any or all of the following—
 - (i) to include compliance assurance conditions in relevant commercial arrangements with other responsible persons for heavy vehicles;
 - (ii) to provide information, instruction, training and supervision to employees to enable compliance with relevant laws;
 - (iii) to maintain equipment and work systems to enable compliance with relevant laws;
 - (iv) to address and remedy similar compliance problems that may have happened in the past;
- (d) whether the person charged had, either personally or through an agent or employee, custody or control of the heavy vehicle, its load, or any goods included or to be included in the load;
- (e) the personal expertise and experience that the person charged had or ought to have had or that an agent or employee of the person charged had or ought to have had.

‘(3) In this section—

prescribed provision means section 53B(2), (3), (4) or (5), 53C(1) or (2), 57B(2) or 162D(1).

‘57E Inclusion of reasonable diligence

‘For any provision of this Act that provides that a person may avoid liability for an offence by proving the person took all reasonable steps in relation to a matter, the taking of all reasonable steps includes the exercise of reasonable diligence.

‘57F Proof of compliance with industry code of practice

‘(1) This section—

- (a) applies for deciding whether a person charged with an offence against a prescribed provision took all reasonable steps to prevent the contravention; and

- (b) does not limit sections 53B(6), 53C(4), 57B(2AA) and 162D(2).
- ‘(2) Proof, as established by the person, that the person complied with all relevant standards and procedures, including, for example, an industry code of practice and the spirit of the code, in relation to matters to which the offence relates is evidence that the person took all reasonable steps to prevent the contravention.
- ‘(3) Subsection (2) does not apply unless the person has given written notice of the intention to prove the matters referred to in the subsection to the prosecution.
- ‘(4) The notice must be—
- (a) signed by the person; and
 - (b) given at least 28 business days before the day fixed for the hearing of the charge.
- ‘(5) In this section—
- prescribed provision*** means section 53B(2), (3), (4) or (5), 53C(1) or (2), 57B(2) or 162D(1).

‘57G Reliance on container weight declaration

- ‘(1) This section applies if the operator or driver of a heavy vehicle is charged with an offence involving a breach of a mass requirement for the vehicle and is seeking to prove the reasonable steps defence in relation to the offence.
- ‘(2) To the extent the weight of a freight container together with its contents is relevant to the offence, the person charged may rely on the weight stated in the relevant container weight declaration.
- ‘(3) However, subsection (2) does not apply if the person knew or ought reasonably to have known that—
- (a) the weight stated in the relevant container weight declaration was less than the actual weight; or
 - (b) the distributed weight of the container and its contents, together with either of the following would cause a contravention of a mass requirement for the heavy vehicle—

- (i) the mass or location of any other load;
- (ii) the mass of the vehicle or any part of it.’.

64 Amendment of s 58 (Proof of appointments unnecessary)

Section 58(b) to (e)—

omit, insert—

- ‘(b) the chief executive officer of a corresponding authority administering a corresponding law to a transport Act;
- (c) the commissioner;
- (d) the head of the police force or police service of the Commonwealth or another State;
- (e) an authorised officer;
- (f) a person appointed as an authorised officer, or holding an equivalent office, under a corresponding law to a transport Act;
- (g) an accredited person;
- (h) a police officer;
- (i) a member of the police force or police service of the Commonwealth or another State.’.

65 Amendment of s 59 (Proof of signatures unnecessary)

Section 59(b) to (e)—

omit, insert—

- ‘(b) the chief executive officer of a corresponding authority administering a corresponding law to a transport Act;
- (c) the commissioner;
- (d) the head of the police force or police service of the Commonwealth or another State;
- (e) an authorised officer;
- (f) a person appointed as an authorised officer, or holding an equivalent office, under a corresponding law to a transport Act;

- (g) an accredited person;
- (h) a police officer;
- (i) a member of the police force or police service of the Commonwealth or another State.’.

66 Amendment of s 60 (Evidentiary aids)

- (1) Section 60(2)(c) and (l)—

omit.

- (2) Section 60(2)—

insert—

‘(aa) a specified place was or was not subject to a specified prohibition, restriction or other requirement relating to the operation or use of a heavy vehicle;

- (c) a specified place was or was not—

(i) a road or road-related area; or

(ii) a declared route or declared zone; or

(iii) an off-street regulated parking area; or

(iv) part of a place or thing mentioned in subparagraph (i), (ii) or (iii);

- (l) a specified application, or another specified document required to be lodged, under a transport Act was or was not received;

(la) a specified report or specified information required to be given to the chief executive under a transport Act was received on a specified day or has not been received;

(lb) no report or information of a specified type required to be given to the chief executive under a transport Act has been received by a specified day;

(ma) a specified heavy vehicle was or was not insured to cover third party personal injury or death either generally or during a specified period or in a specified situation or specified circumstances;

(q) a specified heavy vehicle was weighed by or in the presence of a specified authorised officer on a specified

- weighbridge or weighing facility or by use of a specified weighing device;
- (r) a specified entity was a corresponding authority;
 - (s) a specified entity was or was not a participant in an alternative compliance scheme;
 - (t) a specified person had or had not notified the chief executive—
 - (i) of any, or a specified, change of the person's address; or
 - (ii) that the person suffered from any, or a stated, mental or physical incapacity likely to adversely affect the person's ability to drive safely;
 - (u) a specified mathematical or statistical procedure was carried out in relation to specified information generated, recorded, stored, displayed, analysed, transmitted or reported by an approved intelligent transport system and the results of the procedure being carried out.'.
- (3) Section 60—
insert—
- '(3A) A procedure specified in a certificate under subsection (2)(u) is presumed, unless the contrary is proved—
- (a) to be valid and reliable for the purpose for which it was used; and
 - (b) to have been carried out correctly.
- '(6A) Without limiting subsection (6), a record of the mass of a heavy vehicle, or of any component of the vehicle, made by the operator of a weighbridge at which the vehicle or component was weighed, or by an employee of the operator of the weighbridge, is evidence of the mass at the time the vehicle or component was weighed.'

67 Insertion of new ss 61A–61C

After section 61—

insert—

‘61A Manufacturer’s statements

- ‘(1) A written statement of the recommended maximum loaded mass (*mass rating*) for a heavy vehicle, or for a component of a heavy vehicle, purporting to be made by the manufacturer of the vehicle or component is admissible in a proceeding under a transport Act and is evidence—
- (a) of the mass rating; and
 - (b) of any conditions, stated in the statement, to which the mass rating is subject; and
 - (c) that the statement was made by the manufacturer.
- ‘(2) A written statement of the strength or performance rating of equipment used to restrain a load and designed for use on a heavy vehicle, or on a component of a heavy vehicle, purporting to be made by the manufacturer of the equipment is admissible in a proceeding under a transport Act and is evidence—
- (a) that the equipment was designed for the use; and
 - (b) of the strength or performance rating of the equipment; and
 - (c) of any conditions, stated in the statement, to which the rating is subject; and
 - (d) that the statement was made by the manufacturer.

Example of equipment used to restrain a load—

a chain or strap

‘61B Transport and journey documentation

- ‘(1) Without limiting section 60, transport documentation and journey documentation are admissible in a proceeding relating to a heavy vehicle under a transport Act and are evidence of—
- (a) the identity and status of the parties to the transaction to which the documentation relates; and
 - (b) the destination or intended destination of the load to which the documentation relates.
- ‘(2) In this section—

status, of the parties to a transaction, includes the status of each of the parties as a responsible person for a heavy vehicle used or intended to be used for transporting the goods the subject of the transaction.

‘61C Evidence not affected by nature of vehicle

‘Evidence obtained in relation to a vehicle because of the exercise of a power under this Act in the belief or suspicion that the vehicle is a prescribed heavy vehicle is not affected merely because the vehicle is not a prescribed heavy vehicle.’.

67A Insertion of new ss 61D–61G

Before section 62—

insert—

‘61D Certificates of TCA

- ‘(1) A certificate purporting to be signed by a person on behalf of TCA stating any of the following matters is evidence of the matter—
- (a) a specified map in electronic form is or is not an intelligent access map issued by TCA for a specified date or for a specified period;
 - (b) a specified document is or is not a copy of an intelligent access map, or a specified part of an intelligent access map, issued by TCA for a specified date or for a specified period.
- ‘(2) A certificate purporting to be signed by a person on behalf of TCA stating any of the following matters is evidence of the matter—
- (a) a specified intelligent transport system was or was not an approved intelligent transport system on a specified date or during a specified period;
 - (b) a specified person was or was not an IAP service provider on a specified date or during a specified period;
 - (c) a specified person was or was not an IAP auditor on a specified date or during a specified period.

‘(3) A person who purportedly signs a certificate of a type mentioned in subsection (1) or (2) on behalf of TCA is presumed, unless the contrary is proved, to have been authorised by TCA to sign the certificate on TCA’s behalf.

‘(4) In this section—

IAP auditor means a person engaged by TCA to be an auditor for the intelligent access program.

IAP service provider means a person certified by TCA as a service provider for the intelligent access program.

‘61E Intelligent access map

‘(1) An intelligent access map, or a document that is a copy of an intelligent access map or a specified part of an intelligent access map, issued by TCA for a specified date or for a specified period—

- (a) is admissible in a proceeding under a transport Act relating to a heavy vehicle; and
- (b) is presumed, unless the contrary is proved, to be a correct representation of the national road network or the specified part of the national road network shown on the map or document, on the specified date or for the specified period.

‘(2) If a defendant for a charge of an offence against a transport Act intends to challenge the correctness of the representation of the national road network or the specified part of the national road network shown on a map or document mentioned in subsection (1) on the specified date or for the specified period, the defendant must give the chief executive written notice of the intention to challenge.

‘(3) The notice must—

- (a) be signed by the defendant or the defendant’s lawyer; and
- (b) state the grounds on which the defendant intends to rely to challenge the matter mentioned in subsection (2); and
- (c) be given at least 14 days before the day fixed for the hearing of the charge.

‘61F Approved intelligent transport system

- ‘(1) An approved intelligent transport system, including all the equipment and software that makes up the system, is presumed, unless the contrary is proved, to have operated properly on any particular occasion.
- ‘(2) Without limiting subsection (1), information generated, recorded, stored, displayed, analysed, transmitted and reported by an approved intelligent transport system is presumed, unless the contrary is proved, to have been correctly generated, recorded, stored, displayed, analysed, transmitted and reported by the system.
- ‘(3) Without limiting subsection (1) or (2), information generated by an approved intelligent transport system is presumed, unless the contrary is proved, not to have been changed by being recorded, stored, displayed, analysed, transmitted or reported by the system.
- ‘(4) If in a proceeding it is established by contrary evidence that particular information recorded or stored by an approved intelligent transport system is not a correct representation of the information generated by the system, the presumption mentioned in subsection (3) continues to apply to the remaining information recorded or stored by the system despite that contrary evidence.
- ‘(5) If a defendant for a charge of an offence against a transport Act intends to challenge any of the following matters, the defendant must give the chief executive written notice of the intention to challenge—
 - (a) that an approved intelligent transport system has operated properly;
 - (b) that information generated, recorded, stored, displayed, analysed, transmitted or reported by an approved intelligent transport system has been correctly generated, recorded, stored, displayed, analysed, transmitted or reported by the system;
 - (c) that information generated by an approved intelligent transport system has not been changed by being recorded, stored, displayed, analysed, transmitted or reported by the system.

- ‘(6) The notice must—
- (a) be signed by the defendant or the defendant’s lawyer; and
 - (b) state the grounds on which the defendant intends to rely to challenge a matter mentioned in subsection (5)(a), (b) or (c); and
 - (c) be given at least 14 days before the day fixed for the hearing of the charge.
- ‘(7) This section does not limit section 60(6) or 61.

‘61G Reports and statements made by approved intelligent transport system

- ‘(1) A report purporting to be made by an approved intelligent transport system—
- (a) is presumed, unless the contrary is proved—
 - (i) to have been properly made by the system; and
 - (ii) to be a correct representation of the information generated, recorded, stored, displayed, analysed, transmitted and reported by the system; and
 - (b) is admissible in a proceeding under a transport Act relating to a heavy vehicle; and
 - (c) is evidence of the matters stated in it.
- ‘(2) However, subsection (1)(c) does not apply to information stated in a report made by an approved intelligent transport system that has been manually entered into the system by an operator or driver of a heavy vehicle.

Example—

If a driver of a heavy vehicle enters the total mass of the vehicle into the intelligent transport system, the information about the total mass of the vehicle stated in a report made by the system is not evidence of the total mass of the vehicle.

- ‘(3) Also, if in a proceeding it is established by contrary evidence that a part of a report made by an approved intelligent transport system is not a correct representation of particular information generated, recorded, stored, displayed, analysed, transmitted or reported by the system, the presumption

mentioned in subsection (1)(a) continues to apply to the remaining parts of the report despite that contrary evidence.

- ‘(4) If a defendant for a charge of an offence against a transport Act intends to challenge any of the following matters, the defendant must give the chief executive written notice of the intention to challenge—
- (a) that a report made by an approved intelligent transport system has been properly made;
 - (b) that a report made by an approved intelligent transport system is a correct representation of the information generated, recorded, stored, displayed, analysed, transmitted and reported by the system;
 - (c) the correctness of a statement of a vehicle’s position on the surface of the earth at a particular time that is made by an approved intelligent transport system.
- ‘(5) The notice must—
- (a) be signed by the defendant or the defendant’s lawyer; and
 - (b) state the grounds on which the defendant intends to rely to challenge the matter mentioned in subsection (4)(a), (b) or (c); and
 - (c) be given at least 14 days before the day fixed for the hearing of the charge.
- ‘(6) This section does not limit section 60(6) or 61.’.

68 Amendment of s 62 (Proceedings for offences)

- (1) Section 62(2)—
omit.
- (2) Section 62(2A) and (3)—
renumber as section 62(2) and (5).
- (3) Section 62—
insert—

- ‘(3) If the proceeding is for an offence involving a heavy vehicle, other than an offence that may be started as mentioned in subsection (2), the proceeding must start—
- (a) within 2 years after the offence was committed; or
 - (b) within 1 year after the offence comes to the complainant’s knowledge, but within 3 years after the offence was committed.
- ‘(4) If the proceeding is for an offence other than an offence that may be started as mentioned in subsection (2) or (3), the proceeding must start—
- (a) within 1 year after the offence was committed; or
 - (b) within 6 months after the offence comes to the complainant’s knowledge, but within 2 years after the offence was committed.’.

69 Insertion of new ss 162A–162D

Chapter 5B—

insert—

‘162A Severe risk breach of mass requirement

‘A contravention of a mass requirement for a heavy vehicle is a *severe risk breach* of the mass requirement if the vehicle’s gross mass is equal to or greater than the severe risk breach lower limit for the mass requirement.

‘162B Severe risk breach of dimension requirement

- ‘(1) A contravention of a dimension requirement for a heavy vehicle is a *severe risk breach* of the dimension requirement if—
- (a) the vehicle’s dimension, the subject of the contravention, is equal to or greater than the severe risk breach lower limit for the dimension requirement; or
 - (b) the contravention is a severe risk breach of the dimension requirement under subsection (2) or (3).

- ‘(2) A contravention of a dimension requirement relating to width for a heavy vehicle is a *severe risk breach* of the requirement if—
- (a) the contravention would, under a regulation, be a substantial risk breach of the dimension requirement if this subsection were not enacted; and
 - (b) either—
 - (i) the contravention happens—
 - (A) at night; or
 - (B) in hazardous weather conditions causing reduced visibility; or
 - (C) on a declared route in a declared zone; or
 - (ii) the load on the vehicle projects from it in a way that is dangerous to persons or property.
- ‘(3) A contravention of a dimension requirement relating to length for a heavy vehicle is a *severe risk breach* of the requirement if—
- (a) the contravention would, under a regulation, be a substantial risk breach of the dimension requirement if this subsection were not enacted; and
 - (b) either—
 - (i) the rear of a load on the vehicle does not carry a warning signal required under a regulation; or
 - (ii) the load on the vehicle projects from it in a way that is dangerous to persons or property.

‘162C Severe risk breach of loading requirement

‘A contravention of a loading requirement for a heavy vehicle is a *severe risk breach* of the loading requirement if—

- (a) the contravention involves a loss or shifting of the heavy vehicle’s load; and
- (b) the loss or shifting of the load involves a risk of harm to public safety, the environment, road infrastructure or public amenity.

‘162D Offence

- ‘(1) A person commits an offence if—
- (a) in relation to a heavy vehicle, there is a contravention of a mass, dimension or loading requirement that is a severe risk breach of the requirement; and
 - (b) the person is a person in control of the heavy vehicle.

Maximum penalty—134 penalty units.

- ‘(2) In a proceeding for an offence against subsection (1) that is a contravention of a mass requirement for a heavy vehicle, the person charged with the offence has the benefit of the reasonable steps defence to the extent it relates to reliance on the weight stated in a container weight declaration.

Editor’s notes—

- 1 See section 57D for the reasonable steps defence.
- 2 See section 57G in relation to reliance on the container weight declaration.’.

70 Amendment of s 163 (Forfeiture on conviction)

Section 163(8)—

omit, insert—

- ‘(8) In this section—

extreme overloading offence means a severe risk breach of a mass requirement for a heavy vehicle if its gross mass is equal to or greater than 160% of the maximum mass (rounded up to the nearest 0.1t) permitted for the vehicle under this Act.

vehicle means heavy vehicle.’.

71 Insertion of new ch 5C

After chapter 5B—

insert—

‘Chapter 5C Mass, dimension or loading concession

‘163A Noncompliance with mass, dimension or loading concession

- ‘(1) A person acting under the authority of a mass, dimension or loading concession must not contravene a condition of the concession.

Maximum penalty—80 penalty units.

- ‘(2) If a person commits an offence against subsection (1)—
- (a) the mass, dimension or loading concession does not operate in the person’s favour while the contravention continues; and
 - (b) the concession must be disregarded in deciding—
 - (i) whether the person has contravened a mass, dimension or loading requirement for a heavy vehicle; and
 - (ii) the risk category for the contravention.
- ‘(3) However, subsection (2)(b)(ii) does not apply if the concession exempts the person from a provision of a transport Act relating to—
- (a) a mass requirement for a heavy vehicle; or
 - (b) a dimension requirement for a heavy vehicle relating to length for a B-double or road train.
- ‘(4) If, because of the operation of subsection (2), a person commits an offence against a provision of a transport Act (the ***other offence provision***) from which the person was exempted under the mass, dimension or loading concession, the person—
- (a) may be charged with an offence against either subsection (1) or the other offence provision; but
 - (b) must not be charged with both offences.

Editor’s note—

See also the Criminal Code, section 16.

‘(5) In this section—

condition, of a mass, dimension or loading concession, means a term or condition stated in or otherwise applicable to the concession.

Example—

a term or condition imposing a different requirement in place of a requirement contained in the provision of a transport Act from which the holder of the concession is exempted

mass, dimension or loading concession means an exemption given under this Act exempting a person or vehicle from a provision of this Act relating to a mass, dimension or loading requirement.’.

72 Insertion of new ss 163B and 163C

Chapter 6—

insert—

‘163B Matters court must consider when imposing sanction for noncompliance

- ‘(1) The purpose of this section is to bring to a court’s attention the implications and consequences of a contravention of a mass, dimension or loading requirement when deciding the kind and level of sanction to be imposed for the contravention.
- ‘(2) In deciding the sanction, including the level of a fine, to be imposed for the contravention, the court must consider the following matters—
- (a) a minor risk breach of a mass, dimension or loading requirement involves either or both of the following—
 - (i) an appreciable risk of accelerated road wear;
 - (ii) an appreciable risk of unfair commercial advantage;
 - (b) a substantial risk breach of a mass, dimension or loading requirement involves 1 or more of the following—
 - (i) a substantial risk of accelerated road wear;
 - (ii) an appreciable risk of damage to road infrastructure;

- (iii) an appreciable risk of increased traffic congestion;
 - (iv) an appreciable risk of diminished public amenity;
 - (v) a substantial risk of unfair commercial advantage;
- (c) a severe risk breach of a mass, dimension or loading requirement involves 1 or more of the following—
 - (i) an appreciable risk of harm to public safety or the environment;
 - (ii) a serious risk of accelerated road wear;
 - (iii) a serious risk of harm to road infrastructure;
 - (iv) a serious risk of increased traffic congestion;
 - (v) a serious risk of diminished public amenity;
 - (vi) a serious risk of unfair commercial advantage.
- ‘(3) This section does not limit the matters the court may consider in deciding the sanction for the contravention.
- ‘(4) Nothing in this section authorises or requires the court to assign the contravention to a different risk category.
- ‘(5) Nothing in this section requires evidence to be adduced about a matter mentioned in subsection (2).

‘163C Court may treat noncompliance as a different risk category

- ‘(1) If a court is satisfied there has been a contravention of a mass, dimension or loading requirement but is not satisfied the contravention is a substantial risk breach or a severe risk breach, the court may treat the contravention as a minor risk breach.
- ‘(2) If a court is satisfied there has been a contravention of a mass, dimension or loading requirement and that the contravention is at least a substantial risk breach but is not satisfied the contravention is a severe risk breach, the court may treat the contravention as a substantial risk breach.’.

73 Insertion of new s 164A

After section 164—

insert—

‘164A Commercial benefits penalty order

- ‘(1) If a court finds a person guilty of an offence against a transport Act in relation to a heavy vehicle, the court may, on application by the prosecutor, and in addition to imposing any other penalty for the offence, make a commercial benefits penalty order under this section.
- ‘(2) The commercial benefits penalty order may require the person to pay, as a fine, an amount not exceeding 3 times the amount estimated by the court to be the gross commercial benefit—
- (a) received or receivable, by the person or by an associate of the person, from the commission of the offence; and
 - (b) for a journey that was interrupted or not commenced because of action taken by an authorised officer in connection with the commission of the offence—that would have been received or receivable, by the person or by an associate of the person, from the commission of the offence had the journey been completed.
- ‘(3) In estimating the gross commercial benefit, the court may take into account—
- (a) benefits of any kind, whether or not monetary; and
 - (b) any other matters it considers relevant, including, for example—
 - (i) the value of any goods involved in the offence; and
 - (ii) the distance over which the goods were, or were to be, carried.
- ‘(4) However, in estimating the gross commercial benefit, the court must disregard any costs, expenses or liabilities incurred by the person or by an associate of the person.
- ‘(5) Nothing in this section prevents the court from ordering payment of an amount that is—
- (a) less than 3 times the estimated gross commercial benefit; or
 - (b) less than the estimated gross commercial benefit.
- ‘(6) For this section, a person is an associate of another if—

- (a) one is a spouse, parent, brother, sister or child of the other; or
- (b) they are members of the same household; or
- (c) they are partners; or
- (d) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or
- (e) one is a body corporate and the other is a director or member of the governing body of the body corporate; or
- (f) one is a body corporate (other than a public company whose shares are listed on a stock exchange) and the other is a shareholder in the body corporate; or
- (g) they are related bodies corporate within the meaning of the Corporations Act; or
- (h) a chain of relationships can be traced between them under any one or more of the above paragraphs.

‘(7) In this section—

beneficiary, of a trust, includes an object of a discretionary trust.

body corporate includes—

- (a) the State, another State or the Commonwealth; and
- (b) an entity other than an individual.

transport Act does not include—

- (a) the Queensland Road Rules; or
- (b) a regulation made under this Act applying to the transport of dangerous goods.’.

74 Insertion of new ss 168A–168D

After section 168—

insert—

‘168A Effect of corresponding administrative action or corresponding order in relation to heavy vehicle

- ‘(1) A corresponding administrative action has the same effect in Queensland in relation to a heavy vehicle as it has in the other jurisdiction.
- ‘(2) A corresponding order has the same effect in Queensland in relation to a heavy vehicle as it has in the other jurisdiction.
- ‘(3) Nothing in this section gives a corresponding administrative action or corresponding order effect in Queensland or in a particular place in Queensland—
- (a) to the extent the action or order is incapable of having effect in relation to Queensland or the particular place; or
 - (b) if any terms of the action or order expressly provide that it does not extend or apply in relation to Queensland or the particular place; or
 - (c) if any terms of the action or order expressly provide that it has effect only in the other jurisdiction or a particular place in the other jurisdiction.
- ‘(4) In this section—

corresponding administrative action means an action of an administrative nature that is—

- (a) taken by a corresponding authority under or in connection with a corresponding law to a transport Act; and
- (b) of a kind prescribed under a regulation.

corresponding order means an order of a court or tribunal of another jurisdiction that is—

- (a) made under a corresponding law to a transport Act in a judicial or other proceeding, whether civil or criminal; and
- (b) of a kind prescribed under a regulation.

transport Act does not include—

- (a) the Queensland Road Rules; or

- (b) a regulation made under this Act applying to the transport of dangerous goods.

‘168B Giving evidence about heavy vehicle to external public authority

- ‘(1) The chief executive or the commissioner (the *official*) may give any prescribed evidence to an external public authority if the official—
 - (a) considers giving the evidence to the external public authority is appropriate for law enforcement purposes; and
 - (b) has consulted with the external public authority about giving the evidence.
- ‘(2) Subsection (1) does not apply if the official or external public authority would otherwise be required to maintain confidentiality about the evidence under an Act.
- ‘(3) In this section—

prescribed evidence means anything seized under chapter 3, part 3, division 3, or any information obtained under this Act about a contravention of this Act or a corresponding law in relation to a heavy vehicle.

‘168C Chief executive may give information to corresponding authority

- ‘(1) The chief executive may give information to a corresponding authority about—
 - (a) any action taken in relation to a heavy vehicle by the chief executive under a transport Act; or
 - (b) any information in relation to a heavy vehicle obtained under this Act, including any information contained in any document, device or other thing inspected or seized under this Act.
- ‘(2) Subsection (1) does not apply if the chief executive or corresponding authority would otherwise be required to maintain confidentiality about the information under an Act.
- ‘(3) In this section—

transport Act does not include—

- (a) the Queensland Road Rules; or
- (b) a regulation made under this Act applying to the transport of dangerous goods.

‘168D Contracting out in relation to heavy vehicles prohibited

‘A contract or agreement relating to a heavy vehicle is void to the extent to which it—

- (a) is contrary to this Act; or
- (b) purports to exclude, limit or otherwise change the effect of a provision of this Act.’.

75 Insertion of new ch 7, pt 10

Chapter 7—

insert—

‘Part 10 Transitional provisions for Transport Legislation Amendment Act 2007

‘210 Recovering moving expenses for vehicle on prescribed road

- ‘(1) This section applies to moving expenses for a vehicle on a prescribed road incurred by the State, but not recovered, under a regulation before the commencement.
- ‘(2) The moving expenses are taken to have been incurred, and may be recovered, under chapter 3, part 4C.
- ‘(3) A proceeding to recover the moving expenses that was started, but not finished, before the commencement is taken to have been started under chapter 3, part 4C.
- ‘(4) In this section—

commencement means the commencement of section 51I.

‘211 Recovering vehicle removed from prescribed road

- ‘(1) This section applies if a vehicle was removed from a prescribed road, and not recovered by its owner, under a regulation before the commencement.
- ‘(2) The vehicle is taken to have been removed from the prescribed road under chapter 3, part 4C.
- ‘(3) A notice of the kind mentioned in section 51J and given under a regulation in relation to the vehicle before the commencement is taken to be a notice given under section 51J.
- ‘(4) For applying section 51L(1)(b) to the vehicle, a reference in the paragraph to a decision made under section 51J(3) includes a reference to a decision of the kind mentioned in section 51J(3) that was made under a regulation before the commencement.
- ‘(5) In this section—
commencement means the commencement of section 51J.

‘212 Transitional provision for s 57B

- ‘(1) This section applies if a proceeding for an extended liability offence as defined in previous section 57B was started but not finished before the amending provision commenced.
- ‘(2) Despite the Criminal Code, section 11, the proceeding may continue as if the amending provision had not been enacted.

Editor’s note—

The Criminal Code, section 11, deals with the effect of changes in the law.

- ‘(3) In this section—

amending provision means the *Transport Legislation Amendment Act 2007*, section 62.

previous section 57B means section 57B as in force immediately before the amending provision commenced.’

76 Amendment of sch 3 (Reviewable decisions)

Schedule 3—

insert—

‘46B issuing embargo notice Magistrates’.

77 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *driver, goods, government entity, heavy vehicle, operator, person in control* and *reasonably believe—*

omit.

- (2) Schedule 4—

insert—

‘approved intelligent transport system means an intelligent transport system approved by TCA for use under the intelligent access program.

base, of a driver of a heavy vehicle—

- (a) means—
- (i) if the driver’s log book states that the driver operates and receives instructions from a place, other than the vehicle’s garage address, stated in the log book—the stated place; or
 - (ii) if subparagraph (i) does not apply—the vehicle’s garage address or the towing vehicle of a combination’s garage address, stated in the vehicle’s registration certificate or the driver’s log book; or
 - (iii) if neither subparagraph (i) nor (ii) applies—the place from which the driver normally works and receives instructions for the use of the vehicle; and
- (b) for a driver who is, at different times, self-employed or employed—means each base worked out under paragraph (a) in relation to the employment.

consignor, in relation to goods transported or to be transported by a heavy vehicle, means—

- (a) the person who has consented to being, and is, named or otherwise identified as the consignor of the goods in the transport documentation for the consignment; or
- (b) if there is no person as described in paragraph (a), the person who—
 - (i) engages an operator of the heavy vehicle, either directly or through another person, to transport the goods by road; or
 - (ii) has possession of, or control over, the goods immediately before the goods are transported by road; or
 - (iii) loads the heavy vehicle with the goods, for road transport, at a place—
 - (A) where goods in bulk are stored or temporarily held; and
 - (B) that is unattended, other than by the driver or trainee driver of the heavy vehicle or someone else necessary for the normal operation of the heavy vehicle, during loading; or
- (c) if there is no person as described in paragraph (a) or (b) and the goods are imported into Australia through a place in Queensland, the importer of the goods.

container weight declaration—

- (a) means a written declaration, whether contained in 1 or more documents, stating or purporting to state the weight of a freight container and its contents; and

Example—

an email, or a placard fixed to the container

- (b) includes a copy of a declaration mentioned in paragraph (a).

corresponding authority means—

- (a) a government entity of the Commonwealth or another State responsible for administering a corresponding law to a transport Act; or

- (b) a person prescribed under a regulation as a corresponding authority for this Act.

declared route means a road or part of a road declared under a regulation to be a declared route for this Act.

declared zone means an area declared under a regulation to be a declared zone for this Act.

dimension requirement, for a heavy vehicle, means a requirement of a transport Act relating to the dimensions of the vehicle or of a load or component of the vehicle, including, for example, the following—

- (a) the dimensions of the vehicle, disregarding any load on the vehicle;
- (b) the dimensions of the vehicle including its load;
- (c) the dimensions of the load on the vehicle;
- (d) the dimensions by which a load on the vehicle projects from the vehicle;
- (e) the internal measurements of the vehicle, including, for example, the distance between—
 - (i) components of the vehicle; or
 - (ii) for a combination—
 - (A) vehicles in the combination; or
 - (B) a vehicle in the combination and a component of another vehicle in the combination.

drive, in relation to a vehicle or animal, includes ride.

driver—

- (a) means the person driving or in charge of any vehicle, tram, train, vessel, or animal; and
- (b) includes, in relation to a trailer—
 - (i) the person driving or in charge of the vehicle to or by which the trailer is attached or drawn; and
 - (ii) for chapter 3, part 3, if the trailer was, but is no longer connected to the towing vehicle in a combination—the driver of the towing vehicle in

the combination to or by which the trailer was, or apparently was, last attached or drawn.

embargo notice see section 46B(2).

employee means an individual who works under a contract of employment, apprenticeship or training.

employer means a person who employs someone else under—

- (a) a contract of employment, apprenticeship or training; or
- (b) a contract for services.

external public authority—

- (a) means—
 - (i) the Commonwealth, the State or another State; or
 - (ii) an entity established by or under a law of the Commonwealth, the State or another State for a public purpose; or

Example—

 - a local government
 - (iii) the holder of an office established by or under a law of the Commonwealth, the State or another State for a public purpose; or
 - (iv) a police force or police service of the Commonwealth or another State; but
- (b) does not include the department in which this Act is administered or the Queensland Police Service.

fit, to drive a heavy vehicle or run or stop its engine, for a person, means the person is—

- (a) apparently physically and mentally fit to drive the vehicle; and
- (b) not apparently affected by either or both of the following—
 - (i) alcohol;
 - (ii) a drug that affects a person's ability to drive; and

- (c) not found at any relevant time to have an alcohol concentration in the blood exceeding the amount permitted under this Act.

freight container—

- (a) means—
 - (i) a re-usable container of the kind mentioned in Australian/New Zealand Standard 3711.1 that is designed for repeated use for transporting goods; or
 - (ii) a re-usable container of the same or a similar design and construction to a container mentioned in paragraph (a) though of different dimensions; or
 - (iii) a container of a kind prescribed under a regulation; but
- (b) does not include anything declared under a regulation not to be a freight container.

garage address, of a heavy vehicle, means—

- (a) for a heavy vehicle normally kept at a depot when not in use—the principal depot of the vehicle; or
- (b) for a heavy vehicle not normally kept at a depot when not in use—
 - (i) if the vehicle has only 1 registered operator—the registered operator's home address; or
 - (ii) if the vehicle has more than 1 registered operator—each of the home addresses of the registered operators.

goods includes any of the following—

- (a) merchandise, wares, chattels and money;
- (b) fluid, metal, stone, timber, and any other article, substance, or material whatsoever;
- (c) live or dead animals;
- (d) containers, whether empty or not.

government entity—

- 1 A government entity means a government department or an agency, authority, commission, corporation, instrumentality, office or other entity, established under an Act for a public or official purpose and includes part of a government entity.
- 2 If the reference is to a government entity of the Commonwealth or another State paragraph 1 applies as if the reference to an Act were a reference to an Act of the Commonwealth or the other State.

gross mass means—

- (a) for a heavy vehicle, other than a combination, the total of—
 - (i) the unladen mass of the vehicle; and
 - (ii) the mass of the load, if any, in the vehicle; or
- (b) for a combination, the total of—
 - (i) the unladen mass of all the vehicles in the combination; and
 - (ii) the total mass of the load, if any, in the vehicles.

heavy vehicle means a vehicle with a GVM of more than 4.5t, or a combination that includes a vehicle with a GVM of more than 4.5t.

heavy vehicle evidence preservation powers means powers that may be exercised under section 26A, 26B, 30A or 40A.

home address, of a registered operator, means—

- (a) for an individual—the individual's residential address in Australia; or
- (b) for a body corporate with a registered office in Australia—the address of the registered office; or
- (c) if neither paragraph (a) nor (b) applies—the address of the registered operator's principal or only place of business in Australia.

intelligent access map means a map in electronic form issued by TCA showing the national road network.

intelligent access program means a program under this Act that allows particular heavy vehicles to have access, or improved access, to the road network in return for monitoring, by an approved intelligent transport system, of the vehicles' compliance with conditions imposed on the access or improved access.

intelligent transport system means a system involving the use of electronic or other technology, whether located in a heavy vehicle or on or near a road or elsewhere, that is able to monitor, generate, record, store, display, analyse, transmit or report information about—

- (a) any or all of the following—
 - (i) a heavy vehicle, its equipment or load;
 - (ii) the driver of a heavy vehicle;
 - (iii) the operator of a heavy vehicle;
 - (iv) anyone else involved in road transport by use of a heavy vehicle; and
- (b) without limiting paragraph (a), the compliance or noncompliance of the operation of a heavy vehicle under a transport Act.

journey documentation—

- (a) means a document, other than transport documentation, in any form—
 - (i) directly or indirectly associated with—
 - (A) a transaction for the actual or proposed transport of goods by road by use of a heavy vehicle or any previous transport of the goods in any way; or
 - (B) goods, to the extent the document is relevant to a transaction for their actual or proposed transport; and
 - (ii) whether relating to a particular journey or to journeys generally; and
- (b) includes, for example, any or all of the following—

- (i) a document kept, used or obtained by a responsible person for the heavy vehicle in connection with the transport of the goods;
- (ii) a workshop, maintenance or repair record relating to a heavy vehicle used, or claimed to be used, for transporting the goods;
- (iii) a subcontractor's payment advice relating to the goods or their transport;
- (iv) records kept, used or obtained by the driver of the heavy vehicle used, or claimed to be used, for transporting the goods;

Examples—

- a driver's run sheet
 - a logbook entry
 - a fuel docket or receipt
 - a food receipt
 - a tollway receipt
 - a pay record
 - a mobile or other phone record
- (v) information reported through the use of an intelligent transport system;
 - (vi) a driver manual or instruction sheet;
 - (vii) an advice resulting from check weighing of the heavy vehicle's mass or load performed before, during or after a journey.

loader, of goods in a heavy vehicle, means a person who—

- (a) loads the vehicle with the goods for road transport; or
- (b) loads a bulk container, freight container, or tank that is part of the vehicle, with the goods for road transport; or
- (c) loads the vehicle with a freight container, whether or not it contains goods, for road transport; or
- (d) supervises an activity mentioned in any of paragraphs (a) to (c); or

- (e) manages or controls an activity mentioned in any of paragraphs (a) to (d).

loading requirement, for a heavy vehicle, means a requirement of a transport Act relating to the restraint or positioning of a load or any part of it on the vehicle.

mass requirement, for a heavy vehicle, means a requirement of a transport Act relating to the mass of the vehicle or the mass of or on any component of the vehicle, and includes the following—

- (a) a requirement about mass limits relating to—
- (i) the tare mass of a heavy vehicle (that is, the actual mass of the vehicle excluding any load in the vehicle); or
 - (ii) the gross mass of a heavy vehicle; or
 - (iii) the mass of the load in a heavy vehicle; or
 - (iv) the mass on a tyre, an axle or an axle group of a heavy vehicle;
- (b) a requirement of a transport Act about mass limits relating to axle spacing;
- (c) mass limits set out on signs erected or displayed under a transport Act.

Example—

a signposted bridge limit

minor risk breach means—

- (a) for a mass or dimension requirement for a heavy vehicle—the subject matter of the breach is less than the substantial risk breach lower limit for the requirement; or
- (b) for a loading requirement for a heavy vehicle—a breach not involving—
- (i) a loss or shifting of the load; or
 - (ii) a risk of harm to public safety, the environment, road infrastructure or public amenity.

moving expenses, for a vehicle, for chapter 3, part 4C, division 2 and chapter 7, part 10, see section 51H.

operator, of a heavy vehicle, means—

- (a) for a vehicle, including a vehicle in a combination—the person responsible for controlling or directing the operations of the vehicle; or
- (b) for a combination—the person responsible for controlling or directing the operations of the towing vehicle in the heavy combination;

if the person does not merely do any or all of the following—

- (c) own or drive the vehicle;
- (d) maintain, or arrange for the maintenance of, the vehicle;
- (e) arrange for the registration of the vehicle.

packaging—

- (a) means the container in which goods are received or held for road transport; and
- (b) includes anything that enables the container to receive or hold the goods or to be closed.

packer, of goods, means a person who does any of the following—

- (a) puts the goods in packaging for road transport;
- (b) assembles the goods in an outer packaging or unit load for road transport;
- (c) supervises an activity mentioned in paragraph (a) or (b);
- (d) manages or controls an activity mentioned in paragraph (a), (b) or (c).

person in control, of a vehicle, includes the following—

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

post-entry approval order see section 29A(1).

prescribed heavy vehicle—

- (a) means any of the following—
 - (i) a vehicle with a GVM of more than 4.5t;
 - (ii) a public passenger vehicle;
 - (iii) another vehicle providing services on a road for which a licence is required under a transport Act;
 - (iv) a vehicle transporting dangerous goods if a regulation applies to the transport of the dangerous goods;
 - (vi) a vehicle used for driver training for reward; and
- (b) includes a combination that includes a vehicle mentioned in paragraph (a).

prescribed road, for chapter 3, part 4C and sections 210 and 211, means a franchised road or a State-controlled road under the *Transport Infrastructure Act 1994*.

qualified, to drive a heavy vehicle or run or stop its engine, for a person, means the person—

- (a) holds a driver licence that is of the appropriate class to drive the vehicle and is not suspended; and
- (b) is not prevented under a law, including, for example, by the conditions of the driver licence, from driving the vehicle at the relevant time.

reasonable steps defence means the defence mentioned in section 57D.

reasonably believe means believe on grounds that are reasonable in the circumstances.

reasonably suspect means suspect on grounds that are reasonable in the circumstances.

responsible entity, for a freight container, means—

- (a) the person who, in Australia, consigned the container for road transport in Queensland by use of a heavy vehicle; or
- (b) if there is no person as described in paragraph (a)—the person who, in Australia, for the consignor, arranged for

the container's road transport in Queensland by use of a heavy vehicle; or

- (c) if there is no person as described in paragraph (a) or (b)—the person who, in Australia, physically offered the container for road transport in Queensland by use of a heavy vehicle.

responsible person, for a heavy vehicle, means a person having, at a relevant time, a role or responsibility associated with road transport by use of the vehicle, and includes any of the following—

- (a) an owner of the heavy vehicle or, if it is a heavy combination, the owner of a heavy vehicle forming part of the combination;
- (b) the person in control of the heavy vehicle;
- (c) a person who is instructing a learner driver of the heavy vehicle;
- (d) an operator or registered operator of the heavy vehicle;
- (e) a person in charge or apparently in charge of—
 - (i) the heavy vehicle's garage address; or
 - (ii) a base of a driver of the heavy vehicle;
- (f) a person appointed under an alternative compliance scheme to have monitoring or other responsibilities under the scheme, including, for example, responsibilities for certifying, monitoring or approving the heavy vehicle under the scheme;
- (g) a person who provides to the owner or the registered operator of the heavy vehicle an intelligent transport system for the vehicle;
- (h) other than in section 26A—a person in charge of a place entered by an authorised officer under this Act for exercising a power under this Act in relation to the heavy vehicle;
- (i) the consignor of goods for transport by use of the heavy vehicle;

- (j) the packer of goods in a freight container or other container or in a package or on a pallet for road transport by use of the heavy vehicle;
- (k) the loader of goods or a container on the heavy vehicle for road transport;
- (l) a person who unloads goods or a container containing goods consigned for road transport by use of the heavy vehicle;
- (m) a person to whom goods are consigned for road transport by use of the heavy vehicle;
- (n) a person who receives goods packed outside Australia in a freight container or other container or on a pallet for road transport in Australia by use of the heavy vehicle;
- (o) an owner or operator of a weighbridge or weighing facility used to weigh the heavy vehicle, or an occupier of the place where the weighbridge or weighing facility is located;
- (p) a responsible entity for a freight container on the heavy vehicle;
- (q) a person who controls or directly influences the loading or operation of the heavy vehicle;
- (r) an agent, employer, employee or subcontractor of a person referred to in any of paragraphs (a) to (q).

risk category, for a contravention of a mass, dimension or loading requirement, means 1 of the following categories—

- (a) minor risk breach;
- (b) substantial risk breach;
- (c) severe risk breach.

road-related area has the meaning given under a regulation.

Editor's note—

See section 13 of the Queensland Road Rules.

severe risk breach—

- (a) of a mass requirement for a heavy vehicle—see section 162A; or

- (b) of a dimension requirement for a heavy vehicle—see section 162B; or
- (c) of a loading requirement for a heavy vehicle—see section 162C.

severe risk breach lower limit means—

- (a) for a mass requirement for a heavy vehicle, a gross mass equalling 120% of the maximum mass (rounded up to the nearest 0.1t) permitted for the vehicle under this Act; or
- (b) for a dimension requirement for a heavy vehicle—
 - (i) relating to its length—the length equalling the maximum length permitted for the vehicle under this Act plus 600mm; or
 - (ii) relating to its width—the width equalling the maximum width permitted for the vehicle under this Act plus 80mm; or
 - (iii) relating to its height—the height equalling the maximum height permitted for the vehicle under this Act plus 300mm; or
 - (iv) relating to its load projection—the projection of any load on the vehicle equalling the maximum load projection permitted from either side of the vehicle under this Act plus 80mm.

substantial risk breach means—

- (a) for a mass or dimension requirement for a heavy vehicle, a contravention of the requirement that is—
 - (i) equal to or greater than a substantial risk breach lower limit for the requirement; and
 - (ii) less than the severe risk breach lower limit for the requirement; or
- (b) for a loading requirement for a heavy vehicle—
 - (i) a contravention of the requirement involving a loss or shifting of the load not involving a risk of harm to public safety, the environment, road infrastructure or public amenity; or

- (ii) a contravention of the requirement not involving, but likely to involve, a loss or shifting of the load involving a risk of harm to public safety, the environment, road infrastructure or public amenity.

substantial risk breach lower limit means—

- (a) for a mass requirement for a heavy vehicle, a gross mass equalling 105% of the maximum mass (rounded up to the nearest 0.1t) permitted for the vehicle under this Act; or
- (b) for a dimension requirement for a heavy vehicle—
 - (i) relating to its length—the length equalling the maximum length permitted for the vehicle under this Act plus 350mm; or
 - (ii) relating to its width—the width equalling the maximum width permitted for the vehicle under this Act plus 40mm; or
 - (iii) relating to its height—the height equalling the maximum height permitted for the vehicle under this Act plus 150mm; or
 - (iv) relating to its load projection—the projection of any load on the vehicle equalling the maximum load projection permitted from either side of the vehicle under this Act plus 40mm.

TCA means Transport Certification Australia Limited ACN 113 379 936.

transport documentation means—

- (a) each contractual document directly or indirectly associated with—
 - (i) a transaction for the actual or proposed road transport of goods or any previous transport of the goods by any transport method; or
 - (ii) goods, to the extent the document is relevant to the transaction for their actual or proposed road transport; or
- (b) each document—

- (i) contemplated in a contractual document mentioned in paragraph (a); or
- (ii) required by law, or customarily given, in connection with a contractual document or transaction mentioned in paragraph (a).

Examples—

- a bill of lading
- a consignment note
- a container weight declaration
- a contract of carriage
- a delivery order
- an export receipt advice
- an invoice
- a load manifest
- a sea carriage document
- a vendor declaration

two-up driver, for a heavy vehicle, means a person accompanying the vehicle's driver on a journey or part of a journey, who has been, is or will be, sharing the task of driving the vehicle during the journey.

unattended, for a heavy vehicle, for sections 33B, 33C and 35A, means—

- (a) there is no-one in or near the vehicle who appears to be its driver; or
- (b) there is a person in or near the vehicle who appears to be its driver but the person is—
 - (i) unwilling, or not qualified or fit, to drive the vehicle; or
 - (ii) not authorised by the operator of the vehicle to drive it; or
 - (iii) subject to a requirement under section 38(2) not to drive it.

unit load means a load of goods that are—

- (a) wrapped in plastic and strapped or otherwise secured to a pallet or other base and to each other for transport; or
 - (b) placed together in a protective outer container, other than a freight container, for transport; or
 - (c) secured together in a sling for transport.’.
- (3) Schedule 4, definition *owner*, paragraph (b)(ii), before ‘hiring’—
insert—
‘credit agreement,’.
- (4) Schedule 4, definition *private vehicle*, before ‘heavy’—
insert—
‘prescribed’.
- (5) Schedule 4, definition *registered operator*, after ‘operator’—
insert—
‘, of a vehicle,’.

Division 3 Other amendments

78 Amendment of s 62 (Proceedings for offences)

- (1) Section 62(2), ‘The’—
omit, insert—
‘Subject to subsection (2A), the’.
- (2) Section 62—
insert—
- ‘(2A) If the proceeding is for an offence against section 92(1) in relation to an incident that happened after the commencement of this subsection that involves injury to or death of a person, the proceeding must start within 5 years after the offence was committed.’.

79 Amendment of s 79B (Immediate suspension or disqualification)

(1) Section 79B(1)(ca), after ‘79(2)’—

insert—

‘, (2AA)’.

(2) Section 79B(1)(d), from ‘and the following’ to ‘no alcohol limit’—

omit.

80 Amendment of s 118 (Photographic evidence—inspection and challenges)

Section 118—

insert—

‘(5) A notice under subsection (4) must be in the approved form and must also state the grounds on which the person intends to rely to challenge the image from the photographic detection device.’.

81 Amendment of s 119 (Notice of dispute about traffic control device or sign)

Section 119—

insert—

‘(2) A notice under subsection (1) must be in the approved form and must also state the grounds on which the person intends to rely to dispute that a traffic control device or sign was functioning without defect or was visible.’.

82 Amendment of s 124 (Facilitation of proof)

Section 124(5)—

omit, insert—

‘(5) The notice must be in the approved form and must—

(a) be signed by the defendant; and

- (b) state the grounds on which the defendant intends to rely to challenge a matter mentioned in subsection (4)(a) or (b); and
- (c) be given at least 14 days before the day fixed for the hearing.’.

83 Insertion of new s 124A

After section 124—

insert—

‘124A Additional ground of challenge not stated in written notice required under particular provisions

- ‘(1) This section applies to a hearing in relation to which a person has given a written notice under section 61E(2), 61F(5), 61G(4), 80(27), 118(4), 119(1) or 124(4).
- ‘(2) The requirement mentioned in section 61E(3), 61F(6), 61G(5), 80(27)(c), 118(5), 119(2) or 124(5) to state in the written notice the grounds on which the person intends to challenge the evidence mentioned in that subsection does not prevent the person from raising a ground at the hearing to challenge the evidence if—
 - (a) the person did not know the ground before the hearing; and
 - (b) as far as the ground was able to be found out by the person—the person took all reasonable steps to find out the ground before the hearing.
- ‘(3) If a person raises a ground at the hearing that was not stated in a written notice under section 61E(2), 61F(5), 61G(4), 80(27), 118(4), 119(1) or 124(4), the court may adjourn the hearing to the time, and on the terms as to costs, the court considers appropriate.
- ‘(4) Subsection (3) does not limit the powers of the court.’.

84 Amendment of s 171 (Regulation-making power)

Section 171(4)—

omit, insert—

- ‘(4) A regulation may enact provisions for the State that are the same as, or substantially similar to, model legislation or road transport legislation within the meaning of the *National Transport Commission Act 2003* (Cwlth).’.

85 Amendment of ch 7 hdg (Transitional provisions)

Chapter 7, heading, after ‘Transitional’—

insert—

‘**and validation**’.

86 Insertion of new ch 7, pt 11

Chapter 7—

insert—

‘Part 11 Validating provisions

‘213 Validation provision for section 171(4)

- ‘(1) A regulation made under section 171(4) that was in force immediately before the commencement of this section, including a regulation made after the repeal of the *National Road Transport Commission Act 1991* (Cwlth), is, and always has been, as effective as it would be if the *National Road Transport Commission Act 1991* (Cwlth) had not been repealed.

- ‘(2) From the commencement of this section, a regulation that is effective under subsection (1) is taken to be the same as, or substantially similar to, model legislation or road transport legislation within the meaning of the *National Transport Commission Act 2003* (Cwlth).

‘214 Validation of particular codes of practice

- ‘(1) The Code of Practice—Light Vehicles as originally made is, and is taken to have always been, as valid as it would be if the Code of Practice had been approved by the chief executive on 1 January 1992.

- ‘(2) The Code of Practice—Commercial Motor Vehicle Modifications as originally made is, and is taken to have always been, as valid as it would be if the Code of Practice had been approved by the chief executive on 1 July 1990.
- ‘(3) The National Code of Practice—Heavy Vehicle Modifications as originally made is, and is taken to have always been, as valid as it would be if the Code of Practice had been approved by the chief executive on 1 December 1993.

‘215 Validation of amendments of particular codes of practice

‘To remove any doubt, it is declared that an amendment of a code of practice mentioned in section 214 that was made after 1 July 1990 and before 26 July 2006 and was not approved by the chief executive is, and is taken to have always been, as valid as it would be if the amendment had been approved by the chief executive on the date the amendment was made.

‘216 Validation of certain acts etc.

‘To remove any doubt, it is declared that all acts, matters and things done in reliance on a code of practice mentioned in section 214 or an amendment of a code of practice mentioned in section 215, are taken to be, and always to have been, as valid and effective as they would be if the code of practice or amendment had been approved by the chief executive on the date as mentioned in section 214 or 215.’.

87 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definition *bicycle*—

omit.

- (2) Schedule 4—

insert—

‘*bicycle* means a vehicle with 2 or more wheels that is built to be propelled by human power through a belt, chain or gears, whether or not it has an auxiliary motor, and—

- (a) includes a pedicab, penny-farthing and tricycle; but

-
- (b) does not include a wheelchair, wheeled recreational device, wheeled toy, or any vehicle with—
- (i) an auxiliary motor capable of generating a power output over 200 watts, whether or not the motor is operating; or
 - (ii) an auxiliary motor that is an internal combustion engine.’.
- (3) Schedule 4—
- insert—*
- ‘**motorised scooter** means a scooter that is propelled by 1 or more electric motors and complies with the requirements in paragraph (e) of the definition *scooter*.
- scooter** means a device that—
- (a) has 2 or more wheels and a footboard supported by the wheels; and
 - (b) is steered by handlebars; and
 - (c) is designed to be used by a single person; and
 - (d) is propelled by any 1 or more of the following—
 - (i) gravity;
 - (ii) the user pushing 1 foot against the ground;
 - (iii) an electric motor or motors; and
 - (e) if it is fitted with an electric motor or motors (whether the motor or motors are part of, or attached to, the device), complies with the following requirements—
 - (i) the maximum power output of the motor, or the combined maximum power output of the motors, is not more than 200 watts;
 - (ii) when propelled only by the motor or motors, the scooter is not capable of going faster than 10 km/h on level ground.’.
- (4) Schedule 4, definition *scooter*, paragraph (e), subparagraphs (i) and (ii)—
- omit, insert—*

- (i) its maker certifies (either by means of a plate attached to the motor or each motor, or by means of engraving on the motor or each motor) the ungoverned power output of the motor, or each motor;
- (ii) the maximum power output of the motor, or the combined maximum power output of the motors, is not more than 200 watts;
- (iii) when propelled only by the motor or motors, the scooter is not capable of going faster than 10 km/h on level ground.’.
- (5) Schedule 4, definition *motor vehicle*, after ‘a vehicle’—
insert—
‘, other than a motorised scooter,’.
- (6) Schedule 4, definition *transport Act*, paragraph (c)—
insert—
- section 40 (Power to seize evidence)
 - section 43 (Forfeiture of seized things)’.
- (7) Schedule 4, definition *wheeled recreational device*, paragraph (b), from ‘(whether’ to ‘operating)’—
omit, insert—
‘(other than a motorised scooter) whether or not the motor is operating’.
- (8) Schedule 4, definition *wheeled toy*, after ‘scooter’—
insert—
‘(other than a motorised scooter)’.

Part 7 **Amendment of Transport Planning and Coordination Act 1994**

88 **Act amended in pt 7**

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

89 **Amendment of s 3 (Definitions)**

(1) Section 3—

insert—

‘franchised road see the *Transport Infrastructure Act 1994*, schedule 6.

toll road see the *Transport Infrastructure Act 1994*, section 92.’.

(2) Section 3, definition *transport land*, paragraph (b)(ii)—

omit, insert—

‘(ii) franchised road or toll road purposes; or’.

90 **Amendment of s 27 (Power of chief executive to lease, sell or otherwise dispose of land)**

(1) Section 27(1)—

insert—

‘(aa) if the land is for franchised road or toll road purposes—to any person for franchised road or toll road purposes; or’.

(2) Section 27(1)(c), from ‘paragraph (a)’ to ‘franchisee’—

omit, insert—

‘paragraph (aa), (a) or (b)—to a transport GOC’.

(3) Section 27—

insert—

- ‘(3) To remove any doubt, it is declared that the power of the chief executive to acquire land by resumption or otherwise under this part applies even if the acquisition is carried out with the intention of disposing of land—
- (a) under subsection (1); or
 - (b) as mentioned in subsection (1)(aa) to (c) under the *Transport Infrastructure Act 1994*, section 84C, 240 or 355.
- ‘(4) Subsection (3) does not limit the power to acquire land under this part.’.

91 Amendment of s 28B (Busway land acquisition)

Section 28B(4) to (6)—

omit.

92 Insertion of new s 28BA

After section 28B—

insert—

‘28BA Further provisions relating to land acquisitions for busways on or after 13 October 2000

- ‘(1) This section applies to a land acquisition that—
- (a) happened on or after 13 October 2000 and before the relevant date; or
 - (b) happens after the relevant date if—
 - (i) the notice of intention to resume for the land acquisition was served on or after 13 October 2000 and before the relevant date; or
 - (ii) the date of the agreement for the land acquisition was on or after 13 October 2000 and earlier than the relevant date.
- ‘(2) It is declared that the validity and effectiveness of the land acquisition was not, and is not, affected by—
- (a) whether the constructing authority was or is, or purported or purports to be—

- (i) the chief executive with administrative responsibilities concerning matters connected with transport infrastructure; or
 - (ii) the chief executive with administrative responsibilities concerning matters connected with roads; or
 - (b) for the application of the Acquisition Act, section 9 or 15—whether the person assuming the role of Minister was or is the Minister mentioned in the Acquisition Act, section 9(1), definition *Minister*, paragraph (b) or another Minister.
- ‘(3) It is declared that, despite anything done for the land acquisition, the constructing authority for the acquisition is taken to be, and always to have been, the chief executive with administrative responsibilities concerning matters connected with roads.
- ‘(4) In this section—
- relevant date* means the date of the commencement of this section.’.

Schedule **Minor amendments of
Transport Operations (Road
Use Management) Act 1995**

section 33

1 Section 18—

insert—

‘(2) In this section—

operator see section 15(1).’.

2 Section 20(4), ‘person’—

omit, insert—

‘officer’.

3 Chapter 3, part 3, heading, after ‘officers’—

insert—

‘and other persons’.

4 Chapter 3, part 3, division 2, before section 31—

insert—

‘Subdivision 1 Stopping vehicles’.

**5 Sections 32, 33(4)(b) and (5), 35(1)(b) and (e), 37(2),
penalty, paragraph (b), 37(3), penalty, paragraph (b),
38(3), penalty, paragraph (b), 39(3), penalty, paragraph
(b), 50(1), definition *information offence*, paragraph (a)(i),
148, example, paragraph (a) and 150(1)(g)(i) and schedule
4, definition *transport Act*, entry for section 32, before
‘heavy’—**

insert—

‘prescribed’.

Schedule (continued)

6 Section 32(4), examples—*omit, insert—**‘Examples—*

- a requirement to change lanes
- a requirement to exit a motorway at a particular exit
- a requirement to enter a prescribed heavy vehicle inspection site’.

7 Before section 33—*insert—***‘Subdivision 2 Moving vehicles’.****8 Before section 34—***insert—***‘Subdivision 3 Other powers for vehicles’.****9 Section 35(2)(c), after ‘measure,’—***insert—**‘weigh,’.***10 Section 35(2)(e), ‘copy’—***omit, insert—**‘copy, or take an extract from,’.***11 Section 37(1)(b), examples—***omit, insert—**‘Examples of action that may be reasonable for paragraph (b)—*

- adjusting or moving the vehicle’s load
- carrying out stated repairs to the vehicle and having the vehicle inspected at a stated place to ensure it complies with this Act’.

Schedule (continued)

12 Section 41(1)(b), examples—*omit, insert—**‘Examples of restricting access to a thing—*

- sealing a thing and marking it to show access to it is restricted
- sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted’.

13 Section 48(1)(b), ‘suspect, on reasonable grounds,’—*omit, insert—**‘reasonably suspect’.***14 Section 48(4), ‘suspects, on reasonable grounds,’—***omit, insert—**‘reasonably suspects’.***15 Section 50, heading—***omit, insert—***‘50 Authorised officer’s power to require information for information offence’.****16 Chapter 3, part 5, division 1, before section 52—***insert—***‘Subdivision 1 General’.****17 Sections 57(4)(a) and 57A(3)(a), ‘exercised reasonable diligence and took’—***omit, insert—**‘took all’.*

Schedule (continued)

- 18 Section 57B(2A), ‘driver or other person’—**
omit, insert—
‘person in control’.
- 19 Section 63(1)(b), after ‘direction’—**
insert—
‘or authorisation’.
- 20 Section 80(2), (2A) and (6)(aa), ‘suspects on reasonable grounds’—**
omit, insert—
‘reasonably suspects’.
- 21 Section 100(1)—**
insert—
Editor’s note—
See also section 51G which deals with the chief executive’s power to move a vehicle on a prescribed road.’.
- 22 Chapter 5B, heading—**
omit, insert—
- ‘Chapter 5B Severe risk breach of mass, dimension or loading requirement for heavy vehicle’.**
- 23 Section 167(1)(f), after ‘direction’—**
insert—
‘or authorisation’.

Schedule (continued)

24 Section 170(1)—*insert—**‘Editor’s note—*

See chapter 5, part 7, division 2 for other provisions about camera-detected offences.’

25 Section 170(2), ‘operator’, second mention—*omit, insert—**‘operator,’.***26 Chapter 7, part 8, heading, ‘provisions’—***omit, insert—**‘provision’.*