

Queensland



Subordinate Legislation 1998 No. 182

Justices Act 1886

Transport Operations (Road Use Management) Act 1995

**MOTOR VEHICLES SAFETY AMENDMENT
REGULATION (No. 1) 1998**

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AMENDMENT OF JUSTICES REGULATION 1993

Short title

1. This regulation may be cited as the *Motor Vehicles Safety Amendment Regulation (No. 1) 1998*.

Commencement

2. This regulation commences on 2 July 1998.

Regulation amended

3.(1) The schedule amends the *Justices Regulation 1993*.

(2) This regulation (other than the schedule) amends the *Motor Vehicles Safety Regulation 1994*.

Amendment of s 1 (Short title)

4. Section 1, ‘*Motor Vehicles Safety*’—
omit, insert—

‘*Transport Operations (Road Use Management—Motor Vehicles Safety) Transitional*’.

Insertion of new s 2A

5. Part 1, division 1—
insert—

‘Application of regulation

‘2A. Subject to section 14, this regulation applies to the inspection of all motor vehicles.’.

Amendment of s 3 (Definitions)

6. Section 3—
insert—

‘“address” means current place of residence.’

“approved examiner” means—

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

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

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

“approved person” means a person holding office as an approved person because of an appointment under section 15AC.

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

“certificate of roadworthiness” means a certificate, in the approved form, given in relation to the roadworthiness of a motor vehicle—

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

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

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

- (a) a delivery of possession to a bailee for the purpose of alteration, repair, renovation, garaging or other similar purpose that does not involve the use of the motor vehicle for the bailee’s benefit; or
- (b) a delivery of possession to a person because of the person being entitled to the motor vehicle as beneficiary in the estate of the last preceding owner of the vehicle; or
- (c) a passing of possession from 1 body corporate to another body corporate because—
 - (i) the name of the former body corporate has been changed according to law to the name of the latter body corporate; or

- (ii) the latter body corporate is a reconstruction of the former body corporate or is the result of an amalgamation of the former body corporate and 1 or more other bodies corporate, in any case effected accordingly to law; or
- (iii) the latter body corporate is a holding company or a subsidiary company of the former body corporate; or
- (d) a passing of possession occasioned only by the admission or retirement of 1 or more persons, into or from a partnership, being a partnership defined by the *Partnership Act 1891*; or
- (e) a passing of possession (other than a passing of possession of a commercial motor vehicle) by a person to his or her spouse.

“driver” of a motor vehicle means the person in control of the vehicle.

“holder of an approval” means—

- (a) for an approval of premises—the proprietor of the premises; or
- (b) otherwise—the person to whom the approval relates.

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

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

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

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

“part 4 examiner” means a person who is approved as a part 4 examiner under section 48B.

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

“part 5 examiner” means a person who is approved as a part 5 examiner under section 48B.

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

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

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

“registration law” means—

- (a) the *Transport Infrastructure (Roads) Regulation 1991* or the *Transport Operations (Road Use Management) Regulation 1995*; or
- (b) a corresponding law of another State.

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

“specified motor vehicle” means a motor vehicle or class of motor vehicle to which section 15AA(1)(b) applies.

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

Amendment of s 4 (Meaning of category A vehicles—Act, s 6)

7.(1) Section 4, heading ‘—Act, s 6’—

omit.

(2) Section 4, ‘the *Transport Infrastructure (Roads) Act 1991*’—

omit, insert—

‘a registration law’.

Amendment of s 5 (Meaning of category B vehicles—Act, s 6)

8. Section 5, heading ‘—Act, s 6’—

omit.

(2) Section 5(1), ‘the *Transport Infrastructure (Roads) Act 1991*’—
omit, insert—
‘a registration law’.

Omission of pt 2 (Inspectors’ powers and duties for stopping vehicles)

9. Part 2—
omit.

Insertion of new ss 11AA–11AD

10. Part 3, before section 11—
insert—

‘Inspection of motor vehicles

‘11AA. On inspecting a motor vehicle, an authorised officer must in every case determine whether the vehicle—

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

‘Procedure by authorised officers following inspection

‘11AB.(1) If an authorised officer considers a motor vehicle or a part of the vehicle or anything attached to the vehicle—

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

the authorised officer may give the owner of the vehicle (or, if the owner is a licensed motor dealer or a member of a firm that carries on the business

of a licensed motor dealer, to an agent of the owner) a written notice to that effect and the notice may require the owner—

- (c) to cease using the vehicle immediately, or after a date specified in the notice until the replacements, repairs or alterations as are specified in the notice have been carried out; or
- (d) to carry out the replacements, repairs or alterations to the vehicle within the time specified in the notice and to produce the vehicle for further inspection at a time and place specified in the notice; or
- (e) to produce and surrender to the officer any part of the vehicle, or anything attached to the vehicle, that appears to the officer to be faulty, defective or dangerous or that does not comply with applicable motor vehicle safety and performance requirements.

‘(2) A notice under subsection (1) may also require the owner of the motor vehicle not to hire or otherwise dispose of or part with possession of the vehicle until the requirements of the authorised officer as specified in the notice have been complied with.

‘(3) The owner must not hire, dispose of or part with possession of the vehicle in contravention of subsection (2).

Maximum penalty—15 penalty units.

‘(4) A person to whom a notice has been given under subsection (1) must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—15 penalty units.

‘(5) Subsection (3) does not apply to a disposal by an agent of the owner—

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

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

‘(7) Subsection (4) does not apply to an owner specified in subsection (1) or (2) if the owner disposes of the vehicle—

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

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

‘(8) An agent of a licensed motor dealer who knows that a notice has been given in relation to a motor vehicle must not dispose, for a purpose other than wrecking, of the motor vehicle before the repairs specified in the notice have been effected to the vehicle.

Maximum penalty—15 penalty units.

‘Reports to be made

‘11AC.(1) An authorised officer who makes an inspection or examination for the purposes of part 4 must provide the chief executive with a written report about the inspection or examination.

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

‘Inspection of reports

‘11AD. A person who pays the prescribed fee and satisfies the chief executive that—

- (a) the person is the owner, or prospective buyer, of a motor vehicle that has been the subject of a report under section 11AC; or

(b) the solicitor of a person mentioned in paragraph (a);
is entitled to be given a copy of the report.’.

Amendment of s 11 (Defective vehicle label)

11.(1) Section 11(1) and (3), ‘inspector or accredited’—

omit, insert—

‘authorised’.

(2) Section 11(1), from ‘section 20’ to ‘of the Act’—

omit, insert—

‘section 11AB’.

(3) Section 11(3), ‘accredited officer or inspector’—

omit, insert—

‘authorised officer’.

Insertion of new s 11A

12. Part 3—

insert—

‘Production of motor vehicle on demand

‘11A.(1) The chief executive or an authorised officer may, by written notice given to the owner of a motor vehicle (whether or not it is a vehicle to which this regulation applies), require the owner to produce the vehicle for inspection on a day, and at a time and place, specified in the notice.

‘(2) Unless the owner has a reasonable excuse, the owner—

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

Maximum penalty—15 penalty units.’.

Replacement of s 12 (Period for which certificates are in force—Act, s 24(5))**13. Section 12—***omit, insert—***‘Certain motor vehicles require certificate of inspection**

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

Maximum penalty—15 penalty units.

‘(2) This section does not apply to a new motor vehicle during the first year after it is first registered.

‘Certificate of inspection

‘12A.(1) A certificate of inspection is obtained from—

- (a) an authorised officer; or
- (b) a part 4 AIS.

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

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

‘(3) An authorised officer or part 4 examiner must not sign a certificate of inspection unless the person is satisfied the motor vehicle—

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

Maximum penalty—10 penalty units.

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

‘(5) A certificate remains in force—

- (a) for a bus, private hire-car or taxi—for 6 months; and
- (b) for a motor vehicle owned by a primary producer—for 2 years; and

(c) otherwise—for 1 year.

‘(6) However, a motor vehicle’s certificate of inspection ceases to be in force if the vehicle’s registration under a registration law is cancelled.

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

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

Maximum penalty—10 penalty units.

‘(8) In this section—

“**primary producer**” see the *Transport Infrastructure (Roads) Regulation 1991*.

‘Procedure by approved examiners following inspection

‘12B.(1) If an approved examiner considers a motor vehicle or a part of the vehicle or anything attached to the vehicle—

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

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

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

‘(3) If a motor vehicle is not returned for reinspection under subsection (2), a further complete inspection of the vehicle by the approved examiner is required.’.

Amendment of s 13 (Form of report—Act, s 24A(1))

14. Section 13, heading—

omit, insert—

‘Form of inspection report’.

Insertion of new ss 13A–13E

15. Part 4—

insert—

‘Requirements of approved examiner on inspection

‘13A. On inspecting a motor vehicle under this part, an approved examiner must in every case determine whether the vehicle—

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

Maximum penalty—15 penalty units.

‘Production of certificate of inspection

‘13B. An owner to whom a certificate of inspection is issued under section 12A must, on demand by an authorised officer, produce the certificate.

Maximum penalty—20 penalty units.

‘Cancellation etc. of certificates of inspection

‘13C.(1) A certificate of inspection has no force or effect if after inspection and without the prior written approval of the chief executive or of an authorised officer a material alteration or addition is made to the motor

vehicle specified in the certificate.

‘(2) The chief executive may at any time cancel or suspend a certificate of inspection if the chief executive considers it necessary for the safety of a person so to do, and after the cancellation, or during the suspension, the certificate has no force or effect.

‘Requirements for applications for renewal of registration

‘**13D.(1)** The owner of a category A motor vehicle must give the chief executive, with an application for renewal of the vehicle’s certificate of registration under a registration law, a current certificate of inspection or exemption that relates to the vehicle.

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

‘Procedure if certificate not given

‘**13E.(1)** If an application for registration of a category A motor vehicle is not accompanied by a current certificate of inspection or exemption, the chief executive may issue a certificate of registration and registration label for not longer than 2 months from the expiry date of the previous certificate of registration.

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

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

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

Amendment of s 14 (Exemptions—Act, s 30)

16.(1) Section 14, heading—

omit, insert—

‘Exemptions’.

(2) Section 14, from ‘following sections’ to ‘not given.’—

omit, insert—

‘sections 12, 13D and 13E.’.

(3) Section 14—

insert—

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

- (a) inspection under section 12; or
- (b) the payment of fees for an inspection carried out by an authorised officer under section 12.

‘(3) If an exemption has been granted by the Minister or chief executive, a certificate of exemption must be issued to the owner of the motor vehicle for the period specified in the certificate.

‘(4) A motor vehicle’s certificate of exemption ceases to be in force if the vehicle’s registration under a registration law is cancelled.’.

Insertion of new ss 15AA–15AC

17. Part 5, before section 15—

insert—

‘Application of part

‘15AA.(1) This part applies to alterations or modifications to—

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

‘(2) If the chief executive determines that a motor vehicle or class of motor vehicle is a specified motor vehicle or specified motor vehicles the chief executive must as soon as practicable publish details of the determination in the gazette.

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

‘**15AB.(1)** Subject to subsection (5), an owner must not use or allow or permit to be used on a road a commercial motor vehicle or a specified motor vehicle that has been altered or modified from the manufacturer’s specifications unless—

- (a) the alteration or modification has been carried out in accordance with the relevant motor vehicle safety standards or such other alternative standards as are approved by the chief executive; and
- (b) an approved person has certified the alteration or modification; and
- (c) an approved person has issued a certificate of modification in the approved form in relation to the alteration or modification and has stamped and issued the prescribed modification plate; and
- (d) the prescribed modification plate has been affixed to the vehicle in the manner prescribed in subsection (3) and is kept so affixed at all times.

Maximum penalty—15 penalty units.

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

Maximum penalty—15 penalty units.

‘(3) A person who alters or modifies a motor vehicle from the manufacturer’s specifications must—

- (a) obtain a certificate of modification from an approved person for the alteration or modification;

- (b) cause to be affixed, in accordance with the relevant code of practice on the motor vehicle, a prescribed modification plate that has been stamped.

Maximum penalty—15 penalty units.

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

Maximum penalty—15 penalty units.

‘(5) Despite subsection (1), the chief executive may exempt a motor vehicle from this part provided that the vehicle remains subject to part 3 unless a further exemption is granted for part 3.

‘(6) In this section—

“**code of practice**” means—

- (a) the Code of Practice—Light Vehicles, prepared by the department;¹ or
- (b) the Code of Practice—Commercial Motor Vehicle Modifications, prepared by the department;² or
- (c) the National Code of Practice—Heavy Vehicle Modifications, prepared by the Federal Office of Road Safety.³

‘**Appointment of approved persons**

‘**15AC.(1)** The chief executive may appoint a person as an approved person.

‘(2) The chief executive may appoint a person as an approved person only if—

- (a) the chief executive considers the person has the necessary expertise or experience to be an approved person; or

¹ The code is available from the department.

² The code is available from GOPRINT.

³ The code is available from the Australian Government Publishing Service (AGPS) Commonwealth Government Bookshop.

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

‘(3) An approved person whose appointment is limited in its application may exercise a power under this regulation only if the exercise of the power is permitted by the appointment.’.

Amendment of s 15 (Authorised officers issuing certificates of modification)

18.(1) Section 15, heading, ‘Authorised officers’—

omit, insert—

‘Approved persons’.

(2) Section 15, ‘authorised officer’—

omit, insert—

‘approved person’.

(3) Section 15, ‘officer’—

omit, insert—

‘person’.

Insertion of new s 15A

19. Part 5—

insert—

‘Alteration to and modification of motor vehicles

‘15A.(1) An owner must not use or allow or permit to be used on a road a motor vehicle that has been altered or modified from the manufacturer’s specifications, unless the alteration or modification has been approved by the chief executive.

Maximum penalty—15 penalty units.

‘(2) An owner must not, in relation to a motor vehicle for which approval has been granted under subsection (1), further alter or modify the

vehicle from the manufacturer's specifications unless the further alteration or modification has been approved under subsection (1).

Maximum penalty—15 penalty units.

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

‘(4) If a prescribed modification plate is required to be affixed under subsection (3), the owner must—

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

Maximum penalty—15 penalty units.

‘(5) If the chief executive requires a fresh modification plate to be affixed under this section in relation to a motor vehicle, the fresh plate must not be affixed to the vehicle until the previous plate required to be affixed under this section has been removed or defaced by an authorised officer.

‘(6) Despite subsection (1), the chief executive may exempt an owner from the requirement under subsection (1) of affixing a modification plate to a motor vehicle and the exemption must be endorsed by the chief executive on the relevant certificate of modification.

‘(7) If an alteration or modification of a motor vehicle has been carried out in accordance with part 4A or the *Traffic Regulation 1962* the alteration or modification is, for the purposes of this section, taken to have been approved by the chief executive.’.

Amendment of s 16 (Maintaining equipment)

20.(1) Section 16, ‘authorised officer’—

omit, insert—

‘approved person’.

(2) Section 16, ‘officer’s’—

omit, insert—

‘person’s’.

(3) Section 16, ‘part 4A of the Act’—

omit, insert—

‘this part’.

Amendment of s 17 (Keeping records)

21. Section 17, ‘authorised officer’—

omit, insert—

‘approved person’.

Amendment of s 18 (Returning unused forms of certificates and modification plates)

22.(1) Section 18(1) and (3), ‘authorised officer’—

omit, insert—

‘approved person’.

(2) Section 18(2), ‘authorised officers’—

omit, insert—

‘approved persons’.

Amendment of s 19 (Prescribed modification plate—Act, s 31C(1))

23.(1) Section 19, heading—

omit, insert—

‘Modification plates’.

(2) Section 19, ‘authorised officer’—

omit, insert—

‘approved person’.

Insertion of new ss 20A–20D

24. Part 6, before section 20—

insert—

‘Requirements for disposal of second-hand motor vehicles

‘20A.(1) For this section and section 20D, motor vehicles are divided into the following categories—

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

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

- (a) the person has properly obtained a certificate of roadworthiness for the vehicle; or
- (b) a certificate of inspection under section 12A is in force for the vehicle.

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

‘(4) A person who disposes of a second-hand motor vehicle must—

- (a) give the person to whom delivery of possession is made, at the time of the delivery, the prescribed duplicate copy of the

certificate of roadworthiness obtained or the certificate of inspection in force under section 12A, that relates to the vehicle; and

- (b) if an application under the *Transport Infrastructure (Roads) Regulation 1991* for transfer of registration of the vehicle is made—submit together with the application, the prescribed original copy of the certificate of roadworthiness obtained or the certificate of inspection in force under section 12A, that relates to the vehicle.

Maximum penalty—20 penalty units.

‘(5) If the duplicate copy of a certificate that is required by subsection (4) to be given to a person has been lost or destroyed, the person required to give the copy must, instead of giving the copy as prescribed, give the person to whom the copy should have been given his or her statutory declaration declaring the particulars contained in the certificate of roadworthiness or certificate of inspection under section 12A.

Maximum penalty—20 penalty units.

‘(6) This section does not apply to a disposal of a motor vehicle—

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

‘Requirements for registration of second-hand motor vehicle

‘20B. A person applying for registration of a second-hand motor vehicle must give the chief executive the application for registration, the original copy of a certificate of roadworthiness properly obtained or a certificate of inspection in force under section 12A, that relates to the vehicle.

‘Refusal to issue certificates of registration for second-hand vehicles

‘20C.(1) The chief executive may refuse to issue a certificate of registration for a second-hand motor vehicle if the application for the

certificate is not accompanied by the original copy of a certificate of roadworthiness or inspection in force for the vehicle.

‘(2) Subsection (1) does not apply to an application made by a licensed motor dealer for the issue of a certificate of registration in the name of the dealer for a motor vehicle that is to be disposed of by the dealer by sale.

‘(3) If the vehicle is disposed of by sale by the dealer after the issue of the certificate of registration, section 20A applies to the disposal.

‘Licensed motor dealer restricted in use of vehicles

‘**20D.(1)** A licensed motor dealer must not use or allow or permit to be used on a road a second-hand motor vehicle that is in his or her custody in the course of his or her conduct of the business as a licensed motor dealer unless there exists a certificate of roadworthiness properly obtained that relates to the vehicle.

Maximum penalty—10 penalty units.

‘(2) Subsection (1) does not apply to the use of a second-hand motor vehicle on a road—

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

Insertion of new ss 21A and 21B

25. Part 6—

insert—

‘When certificate obtained

‘**21A.** A certificate of roadworthiness is not taken to have been properly obtained unless—

- (a) it is issued or granted consequent on an examination that is conducted within 30 days before the date of disposal or use of the motor vehicle or, if a certificate is required under section 20C,

before the date the application referred to in section 20C is made;
and

- (b) there has been no significant change in the condition and construction of the motor vehicle between the date of issue or grant of the certificate and the date of the disposal, use or making of the application.

‘Certificate valid for 1 transaction only

‘**21B.** A certificate of roadworthiness is valid for the purpose of effecting only 1 disposal of the motor vehicle for which it was issued or granted.’.

Amendment of s 24 (Areas exempted—Act, s 37(2))

26.(1) Section 24, heading—

omit, insert—

‘Areas excluded’.

(2) Section 24, from ‘following sections’ to ‘use of vehicles’—

omit, insert—

‘sections 20A, 20C and 20D’.

Insertion of pt 7, divs 1A and 1B

27. Part 7, before division 1—

insert—

‘Division 1A—Application of part

‘Application of part

‘**25A.** This part applies to the following approvals—

- (a) an approval of a part 4 AIS;
(b) an approval of a part 5 AIS;
(c) an approval of an individual as a part 4 examiner;

- (d) an approval of an individual as a part 5 examiner;
- (e) an approval of an individual as a nominee.

‘Division 1B—Applications for approval generally

‘Requirements for applications

‘25B.(1) An application for an approval under part 4 or 5 must—

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

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

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

Examples of paragraph (b)—

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

‘More than 1 approval may be granted

‘25C. A person may apply for, and be granted, more than 1 approval, whether of the same kind or different kinds.

‘Form of approvals

‘25D.(1) An approval must be in the approved form.

‘(2) An approval is subject to any conditions specified—

- (a) in the approval; or
- (b) in this regulation.

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

‘Approval only if applicant is a fit and proper person

‘25E.(1) The chief executive may grant an application under this part only if the chief executive is satisfied the applicant is a fit and proper person.

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

‘Determining whether applicant is a fit and proper person

‘25F.(1) In deciding whether a person is a fit and proper person, the chief executive must have regard to—

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

Examples of behaviour that would render an applicant unsuitable—

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

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

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

as if each person were an applicant.

‘Amendment of approval on application

‘**25G.(1)** The holder of an approval may apply to the chief executive for an amendment of the approval.

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

- (a) amending the approval in the way sought; or
- (b) refusing to amend the approval.

‘(3) The chief executive must amend the approval unless the chief executive is satisfied on reasonable grounds that the amendment is not desirable for the effective administration of this regulation.

‘Surrender of approvals

‘**25H.(1)** The holder of an approval may surrender the approval by written notice given to the chief executive.

‘(2) The approval must accompany the notice.

‘(3) A surrender of an approval takes effect—

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

‘Review of chief executive’s decisions

‘**25I.(1)** A person whose interests are affected by 1 of the following decisions may apply for a review of the decision as if the decision were stated in schedule 2A of the Act—

- (a) a decision that an applicant is not a fit and proper person;
- (b) a decision not to approve premises as a part 4 AIS or part 5 AIS;
- (c) a decision not to approve a person as a part 4 examiner or part 5 examiner;
- (d) a decision to refuse to amend an approval sought by the holder of the approval;
- (e) a decision to issue a motor mechanic’s certificate under section 53A;

(f) a decision to cancel or suspend an approval on a ground mentioned in section 53B.

‘(2) The person is entitled to receive a notice stating—

- (a) the reasons for the decision; and
- (b) that the person may apply within 28 days after the giving of the notice to have the decision reviewed; and
- (c) how the person may apply for the review.

‘(3) Chapter 4⁴ of the Act applies to the review.

‘(4) The court for an appeal against a decision on the review is the Magistrates Court.’.

Insertion of new ss 25J–25N

28. Part 7, division 1, before section 25—

insert—

‘Application of division

‘**25J.** This division applies to an application for approval of premises as a part 4 AIS or part 5 AIS.

‘Who may apply for approval

‘**25K.** An application must be made by the proprietor of the premises the subject of the application.

‘Nomination of individuals to be nominees

‘**25L.(1)** If the applicant—

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

⁴ Chapter 4 (Review of and appeals against decisions) of the Act.

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

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

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

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

‘(5) If—

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

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

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

‘Role of nominee etc.

‘25M.(1) If an application for an adult to be the nominee in relation to the approval of premises is granted, the adult becomes the nominee for the approval.

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

- (a) is responsible for ensuring the functions of the proprietor of the premises are properly performed; and
- (b) is subject to the obligations imposed by this regulation on the proprietor; and

- (c) is liable as the proprietor for an offence against this regulation, or for failure to perform an obligation of the proprietor, in relation to the premises.

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

‘Approval of premises

‘25N. The chief executive may grant an application in relation to premises only if satisfied—

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

Amendment of s 25 (Purpose of divs 1–4—Act, s 38C(2)(b))

29. Section 25, heading—

omit, insert—

‘Purpose of divs 1–4’.

Amendment of s 29 (Duties of proprietors regarding approved examiners and other employees)

30. Section 29(b) and (c), ‘the Act’—

omit, insert—

‘this regulation’.

Amendment of s 31 (Issuing a certificate of inspection or roadworthiness)

31.(1) Section 31(3)(a), ‘required under the Act’—

omit.

(2) Section 31(3)(c), ‘under the Act’—
omit.

Amendment of s 35 (Keeping certain records)

32. Section 35(b), ‘—Act, s 24A(1)’—
omit.

Amendment of s 36 (Certain records must be given on request of chief executive or an inspector)

33.(1) Section 36, heading, ‘or an inspector’—
omit.

(2) Section 36, ‘or an inspector,’—
omit.

Amendment of s 40 (Only certain vehicles to be examined at a part 4 AIS)

34. Section 40(a) and (b), ‘the *Transport Infrastructure (Roads) Act 1991*’—
omit, insert—
‘a registration law’.

Amendment of s 45 (Fleet maintenance management programs)

35. Section 45(5), ‘section 37’—
omit, insert—
‘section 43’.

Insertion of new ss 48A and 48B

36. Part 7, division 5, before section 48—
insert—

‘Who may apply

‘48A. An adult may apply for approval as a part 4 examiner or a part 5 examiner.

‘Approval of examiners

‘48B. The chief executive may approve of a person as an examiner of the type specified in the application if satisfied—

- (a) the person is a fit and proper person for approval as an examiner of the specified type; or
- (b) the person has the qualifications mentioned in sections 48, 49 and 50 for an examiner of the specified type.’.

Amendment of s 48 (Qualifications for examination of motor vehicles—Act, s 39A)

37.(1) Section 48, heading—

omit, insert—

‘Qualifications for examination of motor vehicles’.

(2) Section 48(c), from ‘section 42A’ to ‘of the Act’—

omit, insert—

‘section 53A’.

Amendment of s 49 (Qualifications for examination of motorcycles—Act, s 39A)

38. Section 49, heading—

omit, insert—

‘Qualifications for examination of motorcycles’.

Amendment of s 50 (Qualifications for examination of trailers—Act, s 39A)

39. Section 50, heading—

omit, insert—

‘Qualifications for examination of trailers’.

Insertion of new ss 53A–53D

40. Part 8, before section 53—

insert—

‘Motor mechanic’s certificate

‘53A.(1) On the application of a person in the approved form for a motor mechanic’s certificate and on payment of the prescribed fee, the chief executive must grant the application if satisfied—

- (a) except in the case of a person for whom the assessment criteria provide that a certificate may be granted without examination, the applicant has passed the examination for the certificate; and
- (b) the applicant has complied in all respects with the assessment criteria.

‘(2) If the chief executive grants the application, the chief executive must issue to the person a certificate in the approved form.

‘(3) In this section—

“assessment criteria” means the assessment criteria for A and B grade motor mechanics approved by the chief executive.

‘Ground for amending, suspending or cancelling motor mechanic’s certificate

‘53B. For section 18 of the Act, it is a ground for amending, suspending or cancelling a motor mechanic’s certificate if the holder has ceased to be a fit and proper person to hold a motor mechanic’s certificate.

‘Using cancelled certificate

‘53C. A person whose motor mechanic’s certificate has been cancelled must not use the certificate after receipt by the person of a written notice from the chief executive that the certificate has been cancelled.

Maximum penalty—20 penalty units.

‘Surrender of cancelled or suspended certificates

‘53D. On the cancellation or suspension of a motor mechanic’s certificate, the person to whom the certificate was issued must surrender to the chief executive the certificate and any copy of the certificate issued to the person for exhibition purposes after receipt by the person of a written notice from the chief executive that the certificate has been cancelled or suspended, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.’.

Replacement of pt 9 (Appeals tribunal)

41. Part 9—

omit, insert—

‘PART 9—SAVINGS AND TRANSITIONAL PROVISIONS**‘Approved persons**

‘57. A person who, immediately before the commencement of this section, was an authorised officer under the repealed *Motor Vehicles Safety Act 1980* is taken to be an approved person on the commencement.

‘Approvals

‘58.(1) This section applies if, immediately before the commencement of this section, a matter was authorised by an approval under the repealed *Motor Vehicles Safety Act 1980*.

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

‘(3) The approval—

- (a) is, to the greatest practicable extent, subject to the same conditions that applied to the matter immediately before the commencement; and
- (b) despite paragraph (a), expires at the earlier of—
 - (i) when it would otherwise expire; or
 - (ii) 1 July 2000.

‘(4) Despite subsection (3)(b), an approval under the repealed *Motor Vehicles Safety Act 1980*, section 22, that was in force immediately before the commencement continues in force as if it were an approval under this regulation.

‘(5) In this section—

“**approval**” includes an accreditation, appointment, certificate, consent, determination or exemption given, granted or made by the chief executive under the repealed *Motor Vehicles Safety Act 1980*.

‘Notices

‘59. A notice given under the repealed *Motor Vehicles Safety Act 1980* is, to the greatest practicable extent, taken to be a notice given under this regulation.’.

Amendment of sch 1 (Fees)

42.(1) Schedule 1, item 3, ‘inspector’—

omit, insert—

‘authorised officer’.

(2) Schedule 1, items 4 to 12, 16 and 17, from ‘(’ to ‘)’—

omit.

Repeal

43. The instrument made as an order in council under the repealed *Motor Vehicles Safety Act 1980*, section 37 and published in the industrial gazette on 31 January 1981 at page 175 is repealed.

SCHEDULE

AMENDMENT OF JUSTICES REGULATION 1993

section 3(1)

1. Section 7, ‘Motor Vehicles Safety Act 1980’—

omit, insert—

‘Transport Operations (Road Use Management) Act 1995’.

2. Part 24—

omit.

3. Part 25, heading—

omit, insert—

**‘PART 25—TRANSPORT OPERATIONS (ROAD USE
MANAGEMENT—MOTOR VEHICLES SAFETY)
TRANSITIONAL REGULATION 1984’.**

4. Part 25—

insert—

‘s 11AB(3) or (4)	3
s 11A(2)(a)	3
s 12(1)	2
s 12A(7)	2
s 13B	1
s 15AB(1), (2) or (4)	4
s 15AB(3)	2
s 15A(1) or (2)	4
s 15A(4)	2
s 20A(2) or (3)	5

 SCHEDULE (continued)

s 20A(4)	1
s 20D(1)	2
s 53C	2'.

5. Part 25, section 2, from ‘accredited officer’ to ‘Act 1980’—

omit, insert—

‘authorised officer under the *Transport Operations (Road Use Management) Act 1995*’.

ENDNOTES

1. Made by the Governor in Council on 11 June 1998.
2. Notified in the gazette on 12 June 1998.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Transport.