

Queensland



MOTOR VEHICLES SAFETY AMENDMENT BILL 1993

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1993

A BILL

FOR

An Act to amend the Motor Vehicles Safety Act 1980

The Parliament of Queensland enacts—	1
Short title	2
<i>Clause1.</i> This Act may be cited as the <i>Motor Vehicles Safety Amendment Act 1993</i> .	3 4
Commencement	5
<i>Clause2.</i> This Act commences on a day to be fixed by proclamation.	6
Amended Act	7
<i>Clause3.</i> The <i>Motor Vehicles Safety Act 1980</i> is amended as set out in this Act.	8 9
Replacement of long title	10
<i>Clause4.</i> Long title—	11
<i>omit, insert—</i>	12
‘An Act to provide for matters in relation to the safety of motor vehicles, and for related purposes’.	13 14
Amendment of s.6 (Meaning of terms)	15
<i>Clause5.(1)</i> Section 6 (definitions “ accredited officer ”, “ approved examiner ”, “ approved inspection station ”, “ authorized officer ”, “ certificate of roadworthiness ”, “ Director-General ”, “ inspector ” and “ Minister ”)—	16 17 18 19
<i>omit.</i>	20
(2) Section 6—	21
<i>insert—</i>	22
‘ “ accredited officer ” means a person holding office as an accredited officer because of an appointment under section 9;	23 24

“address” means current place of residence;	1
“approved examiner” means—	2
(a) a Part 4 examiner; or	3
(b) a Part 5 examiner;	4
“approved form” means a form approved by the chief executive under section 50A;	5 6
“approved inspection station” or “AIS” means—	7
(a) a Part 4 approved inspection station; or	8
(b) a Part 5 approved inspection station;	9
“authorised officer” means a person holding office as an authorised officer because of an appointment under section 31D;	10 11
“category A vehicle” means a motor vehicle prescribed by regulation as a category A vehicle;	12 13
“category B vehicle” means a motor vehicle prescribed by regulation as a category B vehicle;	14 15
“certificate of roadworthiness” means a certificate, in the approved form, given—	16 17
(a) by a Part 5 examiner at a Part 5 AIS; or	18
(b) by the chief executive;	19
in relation to the roadworthiness of a motor vehicle;	20
“chief executive” means the chief executive of the department;	21
“driver” of a motor vehicle includes the person in command or control of the vehicle (or who appears to be in command or control of it);	22 23
“holder of an approval” means—	24
(a) in the case of an approval of premises—the proprietor of the premises; or	25 26
(b) in any other case—the person to whom the approval relates;	27
“inspector” means a person holding office as an inspector because of an appointment under section 7 or because of section 8;	28 29
“identity card” means—	30

(a) in relation to an inspector, or accredited officer, who is not a police officer—an identity card issued to the inspector or accredited officer under section 10; or	1 2 3
(b) in relation to an inspector, or accredited officer, who is a police officer—an identity card that identifies the person as a police officer and was issued to the person by the Commissioner of the Police Service;	4 5 6 7
“motor vehicle safety and performance requirements” means the requirements of the <i>State Transport Act 1960</i> , the <i>Traffic Act 1949</i> and the <i>Transport Infrastructure (Roads) Act 1991</i> relating to the construction, equipment and performance of motor vehicles;	8 9 10 11
“Part 4 approved inspection station” or “Part 4 AIS” means a place that is approved under this Act for inspection of motor vehicles for the purposes of Part 4;	12 13 14
“Part 4 examiner” means a person who is approved as a Part 4 examiner under section 39A;	15 16
“Part 5 approved inspection station” or “Part 5 AIS” means a place that is approved under this Act for the inspection of second-hand motor vehicles for the purposes of Part 5;	17 18 19
“Part 5 examiner” means a person who is approved as a Part 5 examiner under section 39A;	20 21
“registration law” means—	22
(a) the <i>Transport Infrastructure (Roads) Act 1991</i> or a corresponding Act of another State or a Territory; or	23 24
(b) an Act of a State or Territory for which an Act mentioned in paragraph (a) was substituted;’.	25 26
Replacement of ss.7–15	27
Clause 6. Sections 7 to 15—	28
omit, insert—	29
‘Appointment of inspectors	30
‘7.(1) The chief executive may appoint an officer or employee of the department as an inspector.	31 32

‘(2) The chief executive may appoint a person to be an inspector only if—	1 2
(a) in the chief executive’s opinion, the person has the necessary expertise or experience to be an inspector; or	3 4
(b) the person has satisfactorily completed a course of training approved by the chief executive.	5 6
‘(3) An inspector whose appointment is limited in its application may exercise a power under this Act only if the exercise of the power is permitted by the appointment.	7 8 9
‘Role of police officers	10
‘8. A police officer is, without further appointment, an inspector.	11
‘Accredited officers	12
‘9.(1) The chief executive may appoint an officer or employee of a unit of the public sector as an accredited officer.	13 14
‘(2) The chief executive may appoint a person to be an accredited officer only if—	15 16
(a) in the chief executive’s opinion, the person has the necessary expertise or experience to be an accredited officer; or	17 18
(b) the person has satisfactorily completed a course of training approved by the chief executive.	19 20
‘(3) An accredited officer whose appointment is limited in its application may exercise a power under this Act only if the exercise of the power is permitted by the appointment.	21 22 23
‘Identity cards for inspectors and accredited officers	24
‘10.(1) The chief executive must issue an identity card to each inspector and accredited officer (other than a police officer).	25 26
‘(2) The identity card must—	27
(a) contain a photograph of the inspector or accredited officer; and	28

(b) be in the approved form; and 1

(c) be signed by the inspector or accredited officer. 2

‘(3) A person (other than a police officer) who ceases to be an inspector 3
or accredited officer must return the person’s identity card to the chief 4
executive as soon as practicable after ceasing to be an inspector or accredited 5
officer. 6

Maximum penalty—10 penalty units. 7

‘(4) Subsection (3) does not apply to a person if the person has a 8
reasonable excuse for not complying with it. 9

‘Proof of authority by inspectors and accredited officers 10

‘11.(1) This section applies to— 11

(a) an inspector (other than a police officer) who is not wearing a 12
uniform approved by the chief executive; and 13

(b) an accredited officer (other than a police officer) who is not 14
wearing a uniform approved by the chief executive; and 15

(c) a police officer who is not wearing a police uniform. 16

‘(2) An inspector or accredited officer may exercise a power in relation to 17
a person only if the inspector or officer first produces his or her identity 18
card for inspection by the person. 19

‘(3) If, for any reason, it is not practicable to comply with subsection (2) 20
before exercising the power, the inspector or accredited officer must comply 21
with the subsection at the first reasonable opportunity. 22

‘Delegation by chief executive 23

‘12. The chief executive may delegate the chief executive’s powers under 24
this Act to an officer of the public service employed in the department. 25

‘Reports to be made 26

‘13.(1) An accredited officer who makes an inspection or examination 27
for the purposes of Part 4 must provide the chief executive with a written 28
report about the inspection or examination. 29

‘(2) A copy of the report must be kept in a way approved by the chief executive.	1 2
‘Inspection of reports	3
‘14. A person who pays the fee prescribed by regulation and satisfies the chief executive that—	4 5
(a) the person is the owner, or prospective buyer, of a motor vehicle that has been the subject of a report under section 13; or	6 7
(b) the solicitor of a person mentioned in paragraph (a);	8
is entitled to be given a copy of the report.	9
‘Protection from liability	10
‘15.(1) An inspector or accredited officer does not incur civil liability for an act or omission done honestly and without negligence under, or for the purposes of, this Act.	11 12 13
‘(2) A liability that, apart from subsection (1), would attach to the inspector or officer attaches instead to the State.	14 15
‘Inspectors and accredited officers to give notice of damage	16
‘15A.(1) An inspector or accredited officer who, in the exercise of a power under Part 2A, damages anything must immediately give written notice of the particulars of the damage.	17 18 19
‘(2) The notice must be given to the person who appears to the inspector or officer to be the owner of the thing.	20 21
‘(3) If, for any reason, it is not practicable to comply with subsection (2), the inspector or officer must—	22 23
(a) leave the notice on the thing that is damaged; and	24
(b) ensure that it is left—	25
(i) in a reasonably secure way; and	26
(ii) in a conspicuous position.	27

‘Compensation	1
‘15B.(1) A person may claim compensation from the State if the person incurs any loss or expense—	2 3
(a) because of the exercise or purported exercise of a power under Part 2A; or	4 5
(b) in complying with a requirement made of the person under Part 2A.	6 7
‘(2) A payment for compensation may be claimed and ordered—	8
(a) in a proceeding brought in a court of competent jurisdiction for the recovery of compensation; or	9 10
(b) during a proceeding for an offence against this Act brought against the person against whom the claim is made.	11 12
‘(3) A court may order the payment of compensation for the loss or expense only if it is just to make the order in the circumstances of the particular case.	13 14 15
‘(4) This section does not apply to the exercise of a power (including the making of a requirement) to which section 18B(3)(a) applies.	16 17

‘PART 2A—POWERS OF INSPECTORS 18

‘Division 1—General powers of inspectors 19

‘Application of Division 20

‘15C. The powers conferred by this Division are in addition to powers conferred by any other Division.’ 21
22

Insertion of new Divisions 2 and 3 of Part 2A 23

Clause 7. After section 18— 24

<i>insert—</i>	1
<i>‘Division 2—Power to stop vehicles at checkpoint or otherwise</i>	2
‘Approval of random inspection program	3
‘18A.(1) The chief executive may approve a program under which inspectors may set up checkpoints to inspect motor vehicles to ensure the compliance of the vehicles with applicable motor vehicle safety and performance requirements.	4 5 6 7
‘(2) A checkpoint may be on a road or elsewhere.	8
‘Power to stop motor vehicles at checkpoints	9
‘18B.(1) This section applies if an inspector has set up a checkpoint.	10
‘(2) An inspector at the checkpoint may require the driver of a motor vehicle to stop the vehicle at the checkpoint.	11 12
‘(3) The inspector may require the driver to stop the vehicle only if—	13
(a) the vehicle is a type of vehicle that the inspector is stopping at the checkpoint by reference to objective criteria that are part of a program approved under section 18A; or	14 15 16
(b) the inspector suspects on reasonable grounds that the vehicle does not comply in every respect with applicable motor vehicle safety and performance requirements.	17 18 19
‘Power to stop motor vehicles other than at checkpoints	20
‘18C.(1) An inspector may require the driver of a motor vehicle to stop the vehicle other than at a checkpoint.	21 22
‘(2) The inspector may require the driver to stop the vehicle only if the inspector suspects on reasonable grounds that the vehicle does not comply in every respect with applicable motor vehicle safety and performance requirements.	23 24 25 26

‘Way in which driver is to be required to stop	1
‘18D. An inspector may require the driver of a motor vehicle to stop the vehicle by indicating the requirement to the driver in a way prescribed by regulation.	2 3 4
‘Failure to obey requirement to stop	5
‘18E.(1) The driver of a motor vehicle must not, without reasonable excuse, fail to comply with a requirement to stop the vehicle made under—	6 7
(a) section 18B (Power to stop motor vehicles at checkpoints); or	8
(b) section 18C (Power to stop motor vehicles other than at checkpoints).	9 10
Maximum penalty—20 penalty units.	11
‘(2) It is a reasonable excuse if—	12
(a) to obey the requirement immediately would have endangered the person or another person; and	13 14
(b) the person stops the vehicle as soon as it is practicable to stop it.	15
‘Police officer may arrest if certain requirements disobeyed	16
‘18F.(1) This section applies if a police officer—	17
(a) finds a person committing an offence against section 18E; or	18
(b) finds a person who the officer believes on reasonable grounds has committed an offence against section 18E.	19 20
‘(2) The police officer may arrest the person if the officer believes on reasonable grounds that proceedings by way of complaint and summons against the person would be ineffective.	21 22 23

Division 3—Powers after vehicle is stopped**‘Application of Division**

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

‘General powers after vehicle is stopped

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

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

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

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

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

- (a) by moving the vehicle to a reasonable place specified by the inspector (but the place must not be more than 1 km from where the vehicle was stopped); and
- (b) by remaining in control of the vehicle at the place for a reasonable period.

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

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

(b) it is necessary for the inspector to inspect the document in order to decide whether the Act is being complied with;	1 2
the inspector may require the driver of the vehicle to produce the document to the inspector for inspection.	3 4
‘Failure to give assistance	5
‘18I.(1) A person who is required under section 18H (General powers after vehicle is stopped) to give reasonable assistance to an inspector must comply with the requirement.	6 7 8
Maximum penalty—20 penalty units.	9
‘(2) Subsection (1) does not apply if a person has a reasonable excuse for not complying with the requirement.	10 11
‘(3) If the assistance that is required to be given by the person is to answer a question, it is a reasonable excuse to fail to answer the question if complying with the requirement might tend to incriminate the person.	12 13 14
‘Failure to produce document	15
‘18J.(1) A person who is required under section 18H(5) (General powers after vehicle is stopped) to produce a document to an inspector for inspection must comply with the requirement.	16 17 18
Maximum penalty—20 penalty units.	19
‘(2) Subsection (1) does not apply if a person has a reasonable excuse for not complying with the requirement.	20 21
‘(3) It is a reasonable excuse for the person to fail to produce the document if complying with the requirement to produce might tend to incriminate the person.	22 23 24
‘(4) If—	25
(a) an inspector requires a person to produce a document under section 18H(5) on the basis of a reasonable belief about a document; and	26 27 28
(b) the document does not in fact relate to the use or condition of the vehicle;	29 30

the person does not commit an offence against this section by failing to comply with the requirement.	1 2
‘Power to require name and address for specified cause	3
‘18K.(1) This section applies if an inspector—	4
(a) finds a person committing an offence against this Act; or	5
(b) finds a person who the inspector has reasonable grounds for suspecting has committed an offence against this Act.	6 7
‘(2) The inspector may—	8
(a) require the person to state the person’s name and address; and	9
(b) if the inspector believes on reasonable grounds that the name or address given by the person is false—require evidence of its correctness.	10 11 12
‘(3) If the inspector makes a requirement under subsection (2), the inspector must warn the person that it is an offence against this Act to fail to comply with the requirement without reasonable cause.	13 14 15
‘Failure to provide name and address	16
‘18L.(1) A person who is required under section 18K to state the person’s name or address must not, without reasonable excuse, fail to comply with the requirement.	17 18 19
Maximum penalty—10 penalty units.	20
‘(2) A person who is required under section 18K to give evidence of the correctness of a name or address must not without reasonable excuse, fail to give the evidence.	21 22 23
Maximum penalty—10 penalty units.	24
‘(3) If—	25
(a) an inspector makes a requirement of a person under section 18K on a suspicion of the person having committed an offence; and	26 27
(b) the person is not proved to have committed the offence;	28
the person does not commit an offence against this section by failing to	29

comply with the requirement.	1
‘(4) A person must not state a false name or address, or give false evidence of a name or address, to an inspector.	2 3
Maximum penalty—20 penalty units.	4
‘Police officer may arrest for failure to provide identification	5
‘18M. A police officer may arrest a person if the officer believes on reasonable grounds that—	6 7
(a) the person has committed an offence against section 18L; and	8
(b) proceedings by way of complaint and summons against the person would be ineffective.	9 10
‘Power to require answers to questions for limited purposes	11
‘18N.(1) If an inspector believes on reasonable grounds that a person may be able to provide information relevant to the enforcement of this Act, the inspector may require the person to answer a question in relation to any of the following matters—	12 13 14 15
(a) the history of the ownership of the motor vehicle;	16
(b) if the vehicle does not comply in every respect with the applicable motor vehicle safety and performance requirements—	17 18
(i) any certificate of roadworthiness issued in relation to the vehicle; and	19 20
(ii) any modifications to the vehicle.	21
‘(2) If the inspector makes a requirement under subsection (1), the inspector must warn the person that it is an offence against this Act to fail to comply with the requirement without reasonable excuse.	22 23 24
‘Failure to answer question	25
‘18O.(1) A person who is required under section 18N to answer a question must not, without reasonable excuse—	26 27
(a) fail to comply with the requirement; or	28

(b) give false or misleading information to an inspector (whether or not the person is required to give the information).	1 2
Maximum penalty—20 penalty units.	3
‘(2) It is a reasonable excuse for a person to fail to answer a question if answering the question might tend to incriminate the person.	4 5
‘(3) If—	6
(a) an inspector requires a person to answer a question under section 18N on the basis of a reasonable belief about information; and	7 8
(b) the information is not in fact relevant to the enforcement of this Act;	9 10
the person does not commit an offence against this section by failing to comply with the requirement.’.	11 12
Replacement of ss.23 and 24	13
Clause 8. Sections 23 and 24—	14
<i>omit, insert—</i>	15
‘Certain motor vehicles require certificate of inspection	16
‘23.(1) An owner of a category A vehicle must not use the vehicle, or permit it to be used, unless a certificate of inspection is in force for the vehicle.	17 18 19
Maximum penalty—15 penalty units.	20
‘(2) This section applies to a new motor vehicle during the first year after it is first registered only if a regulation provides that this section applies to the vehicle.	21 22 23
‘Certificate of inspection	24
‘24.(1) A certificate of inspection is obtained from—	25
(a) an accredited officer; or	26
(b) a Part 4 AIS.	27
‘(2) A certificate of inspection from a Part 4 AIS must be signed by—	28

(a) the Part 4 examiner who examined the vehicle; and	1
(b) the proprietor or nominee of the Part 4 AIS.	2
‘(3) An accredited officer or Part 4 examiner must not sign a certificate of inspection unless the person is satisfied that the motor vehicle—	3
	4
(a) is in good repair; and	5
(b) has no defect that would affect its safe use on the road.	6
Maximum penalty—10 penalty units.	7
‘(4) A certificate of inspection must be in the approved form.	8
‘(5) A certificate remains in force for 1 year unless a regulation provides that another period applies to the vehicle.	9
	10
‘(6) However, a motor vehicle’s certificate of inspection ceases to be in force if the vehicle’s registration under the <i>Transport Infrastructure (Roads) Act 1991</i> is cancelled.	11
	12
	13
‘(7) The proprietor or nominee of a Part 4 AIS must not sign a certificate of inspection unless the proprietor or nominee is satisfied that the motor vehicle—	14
	15
	16
(a) is a type of vehicle that the Part 4 AIS may inspect under its approval; and	17
	18
(b) was inspected at the premises specified in the approval of the Part 4 AIS; and	19
	20
(c) was inspected by a Part 4 examiner.	21
Maximum penalty—10 penalty units.’.	22
Replacement of ss.38–42	23
Clause9. Sections 38 to 42—	24

omit, insert—

‘PART 5AA—APPROVALS UNDER INSPECTION SCHEME

‘Division 1—Matters relevant to all applications for approval

‘Application of Part

‘38. This Part applies to the following approvals—

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

‘Requirements for applications

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

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

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

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

Examples of paragraph (b)—

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

‘More than 1 approval may be granted	1
‘38B. A person may apply for, and be granted, more than 1 approval, whether of the same kind or different kinds.	2 3
‘Form of approvals	4
‘38C.(1) An approval must be in a form approved by the chief executive.	5
‘(2) An approval is subject to any conditions that are—	6
(a) specified in the approval; or	7
(b) prescribed by regulation.	8
‘(3) Without limiting the generality of subsection (2), the conditions that may be specified in the approval or prescribed by regulation include conditions relating to—	9 10 11
(a) the method of inspecting motor vehicles; and	12
(b) the equipment to be used in an inspection.	13
‘(4) If a condition specified in the approval is inconsistent with a condition specified in a regulation in relation to the approval, the condition specified in the regulation prevails to the extent of the inconsistency.	14 15 16
 <i>‘Division 2—Applicant must be a fit and proper person</i>	 17
‘Approval only if applicant is a fit and proper person	18
‘38D.(1) The chief executive may grant an application under this Part only if the chief executive is satisfied that the applicant is a fit and proper person.	19 20 21
‘(2) Subsection (1) is in addition to any other limitation on the chief executive’s power to grant an application.	22 23
‘Determining whether applicant is a fit and proper person	24
‘38E.(1) In deciding whether a person is a fit and proper person, the chief executive must have regard to—	25 26

- | | |
|---|-------------|
| (a) whether the person demonstrates knowledge and understanding of the obligations of an approved person of the relevant kind under this Act; and | 1
2
3 |
| (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. | 4
5
6 |

Examples of behaviour that would render an applicant unsuitable— 7

- | | |
|--------------------------------|---|
| 1. Involvement in car theft. | 8 |
| 2. Receiving a stolen vehicle. | 9 |

‘(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— 10
11
12
13

- | | |
|---|----------|
| (a) each person in a position of authority or influence in relation to the body corporate; or | 14
15 |
| (b) each person who is a member of the partnership; | 16 |

as if each person were an applicant. 17

‘Reports needed before approval 18

‘38F.(1) The chief executive may obtain— 19

- | | |
|--|----------------------|
| (a) a report from the Commissioner of Police about the criminal history of— | 20
21 |
| (i) an applicant for approval; and | 22 |
| (ii) each person to whom section 38E, 38I or 39A applies as if the person were the applicant; and | 23
24 |
| (b) if the applicant or person holds or previously held in another State or a Territory a relevant licence, permit, authority, interest or position—a report from the appropriate authority in the State or Territory. | 25
26
27
28 |

‘(2) Section 6 of the *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to a report under subsection (1)(a). 29
30

‘Division 3—Approval of premises

1

‘Application of Division

2

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

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‘Who may apply for approval?

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

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‘Nomination of individuals to be nominees

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‘38I.(1) If the applicant—

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(a) is a body corporate or a member of a partnership; or

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(b) is already approved under this Act for other premises; or

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(c) will not be present at the premises to supervise work at the premises on a daily basis;

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

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

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

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‘(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.

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22

‘(5) If—

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(a) subsection (1) requires an applicant to nominate an individual to be the nominee for an approval; and

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(b) at any time after the approval is granted, the individual is the only nominee and ceases to hold the position in which the person is charged with responsibility for the conduct of the business for

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which approval was granted;	1
the proprietor must nominate another individual to be the nominee for the approval.	2 3
‘(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.	4 5 6 7
‘Role of nominee etc.	8
‘38J.(1) If an application for an adult individual to be the nominee in relation to the approval of premises is granted, the individual becomes the nominee for the approval.	9 10 11
‘(2) In the conduct of business on the premises to which the approval relates, the nominee—	12 13
(a) is responsible for ensuring that the functions of the proprietor of the premises are properly performed; and	14 15
(b) is subject to the obligations imposed by this Act on the proprietor; and	16 17
(c) is liable as the proprietor for an offence against this Act, or for failure to perform an obligation of the proprietor, in relation to the premises.	18 19 20
‘(3) The nominee’s liability to be punished for a contravention of this Act does not affect the liability of the proprietor to be punished for the contravention.	21 22 23
‘Approval of premises	24
‘38K. The chief executive may grant an application in relation to premises only if the chief executive is satisfied that—	25 26
(a) the premises are equipped and will be maintained in accordance with the regulations; and	27 28
(b) the proprietor of the premises is a fit and proper person.	29

‘Notice of approval of premises	1
‘38L. The proprietor of a Part 4 AIS or Part 5 AIS must exhibit the approval at the premises as required by regulation.	2 3
Maximum penalty—5 penalty units.	4
 <i>‘Division 4—Approval of approved examiners</i>	 5
 ‘Who may apply?	 6
‘39. An adult individual may apply for approval as a Part 4 examiner or a Part 5 examiner.	7 8
 ‘Approval of examiners	 9
‘39A. The chief executive may approve of a person as an examiner of the type specified in the application if the chief executive is satisfied—	10 11
(a) that the person is a fit and proper person for approval as an examiner of the specified type; or	12 13
(b) that the person has the qualifications prescribed by regulation for an examiner of the specified type.	14 15
 <i>‘Division 5—Variation, cancellation and suspension of approvals</i>	 16
 ‘Variation of approval on application	 17
‘40.(1) The holder of an approval may apply to the chief executive for a variation of the approval.	18 19
‘(2) The chief executive must determine the application by—	20
(a) varying the approval in the way sought; or	21
(b) refusing to vary the approval.	22
‘(3) The chief executive must vary the approval unless the chief executive is satisfied on reasonable grounds that the variation is not desirable for the effective administration of this Act.	23 24 25

‘Variation of approvals without application

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

‘(2) The notice must—

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

‘(3) After the end of the specified period, the chief executive must—

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

‘Procedure for effecting variations

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

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

‘Cancellation and suspension of approvals—grounds

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

(a) that the holder of the approval has contravened a provision of this Act, a regulation or the approval concerning the examination of motor vehicles (whether or not the holder has been prosecuted for the contravention);	1 2 3 4
(b) that the AIS does not comply with a provision of this Act, a regulation or the approval concerning the equipment to be used for examining motor vehicles;	5 6 7
(c) that the holder of the approval has been convicted of an offence against this Act;	8 9
(d) that the holder of the approval is no longer a fit and proper person because of behaviour that has rendered that person unsuitable, for example, involvement in car theft or receiving a stolen vehicle;	10 11 12
(e) that the holder of an approval has failed to respond to a request under section 40B(a);	13 14
(f) that the approval was obtained by fraud or misrepresentation.	15
‘Cancellation and suspension of approvals—procedures	16
‘41A.(1) If the chief executive believes on reasonable grounds that a ground for the cancellation or suspension of an approval exists, the chief executive must give the holder of the approval a notice under this section.	17 18 19
‘(2) The notice must—	20
(a) be in writing; and	21
(b) specify the grounds for cancellation or suspension; and	22
(c) specify the administration matter involved; and	23
(d) outline the facts and circumstances that form the basis for the chief executive’s beliefs mentioned in subsection (1); and	24 25
(e) invite the holder to show cause within a specified period (not less than 14 days) why the approval should not be cancelled or suspended.	26 27 28
‘(3) After the specified period, the chief executive must—	29
(a) consider any representations properly made by the person; and	30
(b) if the chief executive is satisfied on reasonable grounds that a	31

ground for cancellation or suspension of an approval exists—take	1
the appropriate action and serve the holder of the approval with	2
notice of the decision to cancel or suspend.	3
‘(4) The appropriate action is—	4
(a) if the notice was a notice of intention to cancel the approval—	5
(i) cancel the approval; or	6
(ii) suspend the approval for a period that the chief executive	7
considers is appropriate; or	8
(b) if the notice was a notice of intention to suspend the approval for	9
a specified period—suspend the approval for—	10
(i) the period; or	11
(ii) a shorter period that the chief executive considers	12
appropriate.	13
‘(5) A cancellation or suspension of an approval takes effect—	14
(a) on the day on which notice mentioned in subsection (3) is given	15
to the holder; or	16
(b) if a later day is specified on the notice—on the later day.	17
 ‘Surrender of approvals	18
‘41B.(1) The holder of an approval may surrender the approval by	19
written notice given to the chief executive.	20
‘(2) The approval must accompany the notice.	21
‘(3) A surrender of an approval takes effect—	22
(a) on the day on which the notice is given; or	23
(b) if a later day is specified in the notice—on the later day.	24

‘Division 6—Appeals	1
‘Appeals concerning decisions of chief executive	2
‘42. A person who is aggrieved by any of the following decisions of the chief executive under this Part may appeal to the Tribunal—	3
(a) a decision that an applicant is not a fit and proper person;	4
(b) a decision not to approve premises as a Part 4 AIS or Part 5 AIS;	5
(c) a decision not to approve a person as a Part 4 examiner or Part 5 examiner;	6
(d) a decision to refuse to vary an approval sought by the holder of the approval;	7
(e) a decision to vary an approval under section 40A(3)(b);	8
(f) a decision to cancel or suspend an approval under section 41A(3)(b).’.	9
Insertion of new s.50A	10
Clause10. After section 50—	11
<i>insert—</i>	12
‘Chief executive may approve forms	13
‘50A.(1) The chief executive may, by Gazette notice, approve a form for use under this Act.	14
‘(2) If the chief executive approves a form for a purpose, the form must be used for that purpose.’.	15
Amendment of s.51 (Regulations)	16
Clause11. Section 51(2)—	17
<i>omit, insert—</i>	18
‘(2) The regulation may prescribe—	19
(a) offences against this Act as offences in relation to which a notice may be given or posted to an offender or affixed to a motor	20
	21

- vehicle advising that a specified penalty may be paid for the offence within a specified period without involving court proceedings; and
- (b) amounts (not more than 10 penalty units) that are payable by way of penalties in relation to offences mentioned in paragraph (a); and
- (c) the particulars to be contained in the notice; and
- (d) the way the notice may be given to a person or affixed to a vehicle.
- ‘(3)** A regulation made for the purposes of subsection (2) may prescribe that a notice may also advise that an amount (determined by the chief executive) not more than double the amount of any fee payable for any purpose under this Act may be paid within the period mentioned in subsection (2)(a), without involving court proceedings.
- ‘(4)** A notice mentioned in subsection (2) may be given in relation to a matter in addition to another notice given under this Act in relation to the matter.’.

SCHEDULE 1	1
CONSEQUENTIAL AND STATUTE LAW AMENDMENTS	2 3
section 3	4
1. Section 4—	5
<i>omit.</i>	6
2. Section 5(1)—	7
<i>omit, insert—</i>	8
‘5.(1) Subject to subsection (3) and section 30, this Act applies to the inspection of all motor vehicles.’.	9 10
3. Section 5(3)—	11
<i>omit, insert—</i>	12
‘(3) This Act applies to a motor vehicle associated with, or engaged in or about, a mine to which an Act prescribed by regulation applies only if the vehicle is used above ground or in a place where open-cut mining is carried on.’.	13 14 15 16
4. Section 6 (definition “owner”, paragraph (b))—	17
<i>omit, insert—</i>	18
‘(b) in respect of a motor vehicle registered under a registration law—every person registered as the owner; and’.	19 20
5. Section 16(1) and (2)—	21
<i>omit ‘or accredited officer’.</i>	22

SCHEDULE 1 (continued)

6. Section 16(2)—	1
<i>omit ‘, accredited officer’.</i>	2
7. Section 17(1)—	3
<i>omit ‘or accredited officer’.</i>	4
8. Section 17(1)—	5
<i>omit ‘, accredited officer’.</i>	6
9. After subsection 17(1)—	7
<i>insert—</i>	8
‘Maximum penalty—20 penalty units.’	9
10. Section 17(2)—	10
<i>omit ‘or accredited officer’.</i>	11
11. Section 17(2)—	12
<i>omit ‘, accredited officer’.</i>	13
12. After subsection 17(2)—	14
<i>insert—</i>	15
‘Maximum penalty—20 penalty units.’	16
13. After subsection 18(1)—	17
<i>insert—</i>	18
‘Maximum penalty—20 penalty units.’	19

SCHEDULE 1 (continued)

14. Section 19(b)—	1
<i>omit, insert—</i>	2
‘(b) complies in every respect with applicable motor vehicle safety and performance requirements.’.	3
	4
15. Section 20(1)(b)—	5
<i>omit, insert—</i>	6
‘(b) does not comply in every respect with applicable motor vehicle safety and performance requirements;’.	7
	8
16. Section 20(1)(e)—	9
<i>omit, insert—</i>	10
‘(e) to produce and surrender to the inspector or officer any part of the vehicle, or anything attached to the vehicle, that appears to the inspector or officer to be faulty, defective or dangerous or that does not comply with applicable motor vehicle safety and performance requirements.’.	11
	12
	13
	14
	15
17. After section 20(2)—	16
<i>insert—</i>	17
‘Maximum penalty—15 penalty units.’.	18
18. After section 20(3)—	19
<i>insert—</i>	20
‘Maximum penalty—15 penalty units.’.	21
19. Section 21(1)—	22
<i>omit, insert—</i>	23

SCHEDULE 1 (continued)

‘21.(1) The chief executive or an inspector or accredited officer may, by	1
written notice given to the owner of a motor vehicle (whether or not it is a	2
vehicle to which this Act applies), require the owner to produce the vehicle	3
for inspection on a day, and at a time and place, specified in the notice.’.	4
 20. After section 21(2)—	5
<i>insert—</i>	6
‘Maximum penalty—15 penalty units.’.	7
 21. After section 22(1)—	8
<i>insert—</i>	9
‘Maximum penalty—15 penalty units.’.	10
 22. After section 22(2)—	11
<i>insert—</i>	12
‘Maximum penalty—15 penalty units.’.	13
 23. Section 22(3)—	14
<i>omit</i> ‘prescribed form’, <i>insert</i> ‘approved form’.	15
 24. After section 22(4)—	16
<i>insert—</i>	17
‘Maximum penalty—15 penalty units.’.	18
 25. Section 24A(1)(b)—	19
<i>omit, insert—</i>	20
‘(b) does not comply in every respect with applicable motor vehicle	21
safety and performance requirements;’.	22

SCHEDULE 1 (continued)

26. Section 25(b)—	1
<i>omit, insert—</i>	2
‘(b) complies in every respect with applicable motor vehicle safety	3
and performance requirements.’.	4
27. After section 25—	5
<i>insert—</i>	6
‘Maximum penalty—15 penalty units.’.	7
28. After section 26—	8
<i>insert—</i>	9
‘Maximum penalty—20 penalty units.’.	10
29. Section 28(1)—	11
<i>omit, insert—</i>	12
‘ 28.(1) The owner of a category A motor vehicle must give to the chief	13
executive, with an application for renewal of the vehicle’s certificate of	14
registration under the <i>Transport Infrastructure (Roads) Act 1991</i> , a current	15
certificate of inspection or exemption that relates to the vehicle.’.	16
30. Section 29—	17
<i>omit, insert—</i>	18
‘Procedure where certificate not given	19
‘ 29.(1) If an application for registration of a category A motor vehicle is	20
not accompanied by a current certificate of inspection or exemption, the	21
chief executive may issue a certificate of registration and registration label	22
for not longer than 2 months from the expiry date of the previous certificate	23
of registration.	24
‘ (2) If a current certificate of inspection or exemption is not received by	25

SCHEDULE 1 (continued)

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.’.

31. Section 30(1)—

omit, insert—

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

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

(b) for any other reason, it is unnecessary or undesirable that sections 23, 28 and 29 should apply to a class of motor vehicles;

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

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

32. Section 30(4)—

omit, insert—

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

SCHEDULE 1 (continued)

33. Section 31B(a)—	1
<i>omit, insert—</i>	2
‘(a) a commercial motor vehicle if the alterations or modifications are	3
or have been carried out before the first registration of the vehicle	4
under a registration law; and’.	5
34. Section 31C(1)(e)—	6
<i>omit</i> ‘prescribed form’, <i>insert</i> ‘approved form’.	7
35. After section 31C(1), (2), (3) and (4)—	8
<i>insert—</i>	9
‘Maximum penalty—15 penalty units.’.	10
36. Section 32(1)(a) and (b)—	11
<i>omit, insert—</i>	12
‘(a) category A vehicles;	13
(b) category B vehicles.’.	14
37. Section 32(2)—	15
<i>omit, insert—</i>	16
‘(2) A person must not dispose of a second-hand category A vehicle	17
unless—	18
(a) the person has properly obtained a certificate of roadworthiness	19
for the vehicle; or	20
(b) a certificate of inspection under section 24 is in force for the	21
vehicle.	22
Maximum penalty—20 penalty units.	23
‘(2A) A person must not dispose of a second-hand category B vehicle	24

SCHEDULE 1 (continued)

unless the person has properly obtained a certificate of roadworthiness for the vehicle.	1 2
Maximum penalty—20 penalty units.’.	3
38. Section 32(3)(b)—	4
<i>omit ‘Main Roads Act 1920–1983’,</i>	5
<i>insert ‘Transport Infrastructure (Roads) Act 1991’.</i>	6
39. After section 32(3)—	7
<i>insert—</i>	8
‘Maximum penalty—20 penalty units.’.	9
40. Section 32A—	10
<i>omit ‘Commissioner of Main Roads’, insert ‘chief executive’.</i>	11
41. Section 32A—	12
<i>omit ‘prescribed’.</i>	13
42. Section 32A—	14
<i>omit ‘duly’, insert ‘properly’.</i>	15
43. Section 33—	16
<i>omit, insert—</i>	17
‘Refusal to issue certificates of registration for second-hand vehicles	18
‘33.(1) The chief executive may refuse to issue a certificate of registration	19
for a second-hand motor vehicle if the application for the certificate is not	20
accompanied by the original copy of a certificate of roadworthiness or	21
inspection in force for the vehicle.	22

SCHEDULE 1 (continued)

‘(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.	1 2 3
‘(3) If the vehicle is disposed of by sale by the dealer after the issue of the certificate of registration, section 32 applies to the disposal.’.	4 5
44. Section 34(1)—	6
<i>omit ‘duly’, insert ‘properly’.</i>	7
45. After section 34(1)—	8
<i>insert—</i>	9
‘Maximum penalty—10 penalty units.’.	10
46. Section 35—	11
<i>omit ‘duly’, insert ‘properly’.</i>	12
47. Section 37(1)(b)—	13
<i>omit ‘Main Roads Act 1920–1983’,</i>	14
<i>insert ‘Transport Infrastructure (Roads) Act 1991’.</i>	15
48. Section 37(2)—	16
<i>omit, insert—</i>	17
‘(2) If it appears to the Governor in Council that, because of circumstances affecting a particular area of the State, it is unnecessary or undesirable that section 32, 33 or 34 should apply within the area, the Governor in Council may, by regulation, exclude the area from the application of the section and, while the regulation is in force, the section does not apply to the disposal of a motor vehicle within the area.	18 19 20 21 22 23

SCHEDULE 1 (continued)

‘(3) In a proceeding, it must be presumed that sections 32, 33 and 34 apply throughout the State until the contrary is proved.’.	1 2
49. Section 42A—	3
omit ‘prescribed form’, insert ‘approved form’.	4
50. Section 42C(1)—	5
omit ‘\$1 000’, insert ‘20 penalty units’.	6
51. After section 42C(3)—	7
insert—	8
‘Maximum penalty—20 penalty units.’.	9
52. Section 42D(2)—	10
omit ‘\$1 000’, insert ‘20 penalty units’.	11
53. Section 42D(2)—	12
omit ‘\$25’, insert ‘1 penalty unit’.	13
54. Section 42F(2)(a)—	14
omit ‘Order in Council’, insert ‘Governor in Council’.	15
55. Section 42F(2)(a)(ii)—	16
omit, insert—	17
‘(ii) 1 must be an officer of the department;’.	18

SCHEDULE 1 (continued)

56. Section 42F(3)—	1
<i>omit</i> ‘Order in Council appointing’, <i>insert</i> ‘appointment of’.	2
57. Section 42F(4)—	3
<i>omit</i> ‘Order in Council’, <i>insert</i> ‘instrument’.	4
58. Section 42I—	5
<i>omit</i> .	6
59. Section 42M—	7
<i>omit, insert—</i>	8
‘Secretary to Tribunal	9
‘42M. The secretary of the Tribunal is to be an officer of the	10
department.’.	11
60. After section 43—	12
<i>insert—</i>	13
‘Maximum penalty—20 penalty units.’.	14
61. Section 44(1)—	15
<i>omit</i> .	16
62. Section 46(g)—	17
<i>omit</i> ‘Main Roads Act 1920–1990’,	18
<i>insert</i> ‘Transport Infrastructure (Roads) Act 1991’.	19

SCHEDULE 1 (continued)

63. Section 46(g)—	1
omit ‘Commissioner of Main Roads’, insert ‘chief executive’.	2
64. Section 46(l) and (m)—	3
omit ‘Commissioner of Main Roads within the meaning of the <i>Main Roads Act 1920–1983</i> ’,	4
insert ‘chief executive’.	5
	6
65. Section 47(2)—	7
omit ‘\$25’, insert ‘1 penalty unit’.	8
66. Section 50—	9
omit, insert—	10
‘Recovery of fees	11
‘50. A summary proceeding under the <i>Justices Act 1886</i> to recover an unpaid fee under this Act may be started and determined—	12
(a) within any division of the metropolitan district appointed under the <i>Justices Act 1886</i> for the purposes of Magistrates Courts; or	13
(b) with the Magistrates Courts district in which, or within 35 km of the boundaries of which, the inspection or other service for which the fee is payable was made or provided.’.	14
	15
	16
	17
	18
67. Section 51(1)(a)—	19
omit, insert—	20
‘51.(1) The Governor in Council may make regulations for the purposes of this Act.	21
‘(2) A regulation may make provision with respect to—’.	22
	23

SCHEDULE 1 (continued)

68. Section 51(1)(b)—	1
<i>renumber</i> as section 51(2)(a).	2
69. Section 51(1)(c)—	3
<i>omit.</i>	4
70. Section 51(1)(d) to (j)—	5
<i>renumber</i> as section 51(2)(b) to (h) respectively.	6
71. Section 51(1)(h)—	7
<i>omit</i> ‘\$1 000’, <i>insert</i> ‘20 penalty units’.	8
72. Section 51(1)(h)—	9
<i>omit</i> ‘\$25’, <i>insert</i> ‘1 penalty unit’.	10
73. Section 51(1)(k)—	11
<i>omit.</i>	12
74. Section 51(1)(l) to (n)—	13
<i>renumber</i> as section 51(2)(i) to (k) respectively.	14
75. Section 51(2)—	15
<i>omit.</i>	16
76. Section 52—	17
<i>omit.</i>	18

SCHEDULE 1 (continued)

77. After Part 6—

insert—

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

‘Reference to Chief Inspector of Motor Vehicle etc.

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

‘Existing instruments

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

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

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

(a) a Part 4 examiner for motor vehicles not in excess of 8 t; and

(b) a Part 5 examiner in relation to all Category B vehicles except caravans and motor cycles.

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

(a) a Part 4 AIS for motor vehicles not in excess of 8 t; and

(b) a Part 5 AIS in relation to all Category B vehicles except caravans and motor cycles.

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

SCHEDULE 1 (continued)

78. Schedules 1, 2 and 3—

1

omit.

2

SCHEDULE 2

AMENDMENT OF REFERENCES FROM 'DIRECTOR-GENERAL' TO 'CHIEF EXECUTIVE' ETC.

section 3

1. Sections 16, 17, 20(5), 22(1), (3), (4), (5), (6) and (7), 26, 27, 30(2)
and (3), 31B, 31C(1)(c), (4) and (5), 31D(2) and (3), 31E(2), (3) and
(5), 34(2)(b), 42A, 42B, 42C, 42D, 42E, 42N(1), 42O(1), 42P(1) and (4),
42Q, 42R(3), 44(2), 46, 48 and 51(1)(b)—

omit 'Director-General', insert 'chief executive'.

2. Section 22(4)(a)(i), 42N(1) and 42Q—

omit 'Director-General's', insert 'chief executive's'.