

ภาคผนวก ข.



Transport Operations (Road Use Management) Act 1995

Current as at 31 March 2017

- (b) has not asked the chief executive (orally or in writing) to discontinue use of the address.

Examples of an electronic address—

an email address or mobile phone number

Part 2 **Authorised officers and accredited persons**

20 **Appointment of authorised officers**

- (1) Every police officer is an authorised officer.
- (2) The chief executive may appoint any of the following persons to be an authorised officer—
 - (a) officers and employees of the public service;
 - (b) other persons prescribed under a regulation.
- (3) The chief executive may appoint a person as an authorised officer only if satisfied the person has the necessary expertise to be an authorised officer.
- (4) A provision of part 3 that corresponds to a provision of the *Police Powers and Responsibilities Act 2000* does not apply to an authorised officer who is a police officer.

21 **Appointment of accredited persons**

- (1) The chief executive may appoint a person to be an accredited person to perform functions prescribed under a regulation only if satisfied the person has the necessary expertise to be an accredited person to perform the functions.
- (2) A regulation may provide for accreditation documents for accredited persons.

22 **Powers**

- (1) An authorised officer or accredited person—

- (a) has the powers given under this or another Act; and
 - (b) is subject to the directions of the chief executive or commissioner in exercising the powers.
- (2) The powers may be limited—
- (a) under a regulation; or
 - (b) under a condition of appointment; or
 - (c) by written notice given by the chief executive or commissioner to the authorised officer or accredited person.

23 Appointment conditions

- (1) An authorised officer or accredited person holds office on the conditions stated in the instrument of appointment.
- (2) An authorised officer or accredited person—
 - (a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and
 - (b) if the conditions of appointment provide—ceases holding office on ceasing to hold another office stated in the appointment conditions (the *main office*); and
 - (c) may resign by signed notice given to the chief executive or commissioner.
- (3) However, an authorised officer or accredited person may not resign from the office under this Act (the *secondary office*) if a term of employment to the main office requires the officer or person to hold the secondary office.

24 Identity cards

- (1) This section does not apply to an authorised officer who is a police officer.
- (2) The chief executive must give each authorised officer an identity card.

(Excerpt)

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Part 3 Powers of authorised officers and other persons

Division 1 Powers for places

26 Entry to places

- (1) An authorised officer may enter a place if—
 - (a) its occupier consents to the entry; or
 - (b) the entry is authorised by a warrant; or
 - (c) it is mentioned in a licence or other document prescribed under a regulation as a place of business, or another place, required to be open to inspection and the entry is made when the place is—
 - (i) open for the conduct of business or otherwise open for entry; or
 - (ii) required under the licence or document to be open for inspection; or
 - (d) for a place other than in a dwelling house—
 - (i) the officer reasonably believes—
 - (A) a vehicle is for sale in the place; and
 - (B) the place is open for entry to anyone interested in purchasing the vehicle; and
 - (ii) the entry is made between sunrise and sunset; or
 - (e) the officer reasonably believes a dangerous situation exists in the place and it is necessary for the officer to enter it to take action under section 161N to prevent the danger.
- (2) An authorised officer, without the occupier's consent or a warrant, may—
 - (a) enter a public place when the place is open to the public; or

(Excerpt)

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- (7) The court may presume that the occupier did not consent.

28 Warrants to enter

- (1) An authorised officer may apply to a magistrate for a warrant to enter a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

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

- (4) The magistrate may issue a warrant if satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against a transport Act; and
 - (b) the evidence is, or may be within the next 7 days, at the place.
- (4A) The magistrate may also issue a warrant if the magistrate is satisfied that—
 - (a) either of the following apply in relation to a particular place—
 - (i) a vehicle that has been or may have been involved in a dangerous situation is or has been located at the place; or
 - (ii) the place is or may be otherwise connected, directly or indirectly, with a vehicle that has been or may have been involved in a dangerous situation; and

- (b) there is evidence at the place (including for paragraph (a)(i), the vehicle itself) that is relevant to the exercise of powers under this Act relating to dangerous situations.
- (5) The warrant must state—
- (a) that an authorised officer may, with necessary and reasonable help and force, enter the place and exercise the officer's powers under this Act; and
 - (b) the offence for which the warrant is sought; and
 - (c) the evidence that may be seized under the warrant; and
 - (d) the hours when the place may be entered; and
 - (e) the date, within 7 days after the warrant's issue, the warrant ends.

29 Warrants—applications made other than in person

- (1) An authorised officer may apply for a warrant by phone, fax, radio or another form of communication if the officer considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the officer's remote location.
- (2) Before applying for the warrant, the officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The officer may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately fax a copy to the officer if it is reasonably practicable to fax a copy.
- (5) If it is not reasonably practicable to fax a copy to the officer—
 - (a) the magistrate must—
 - (i) tell the officer what the terms of the warrant are; and

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- (ii) tell the officer the date and time the warrant was issued; and
- (b) the officer must complete a form of warrant (*warrant form*) and write on it—
 - (i) the magistrate’s name; and
 - (ii) the date and time the magistrate issued the warrant; and
 - (iii) the warrant’s terms.
- (6) The facsimile warrant, or the warrant form properly completed by the officer, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.
- (7) The officer must, at the first reasonable opportunity, send the magistrate—
 - (a) the sworn application; and
 - (b) if the officer completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) Subsection (10) applies to a court if—
 - (a) a question arises, in a proceeding in or before the court, whether a power exercised by an authorised officer was not authorised by a warrant issued under this section; and
 - (b) the warrant is not produced in evidence.
- (10) The court must presume that the exercise of the power was not authorised by a warrant issued under this section, unless the contrary is proved.

29A Post-entry approval

- (1) As soon as reasonably practicable after exercising evidence preservation powers, an authorised officer must apply in

writing to a magistrate for an order approving the exercise of the powers (*post-entry approval order*).

- (2) The application must be sworn and state the grounds on which it is sought.
- (3) The authorised officer need not appear at the consideration of the application, unless the magistrate otherwise requires.
- (4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

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

29B Making of post-entry approval order

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

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

29C Appeal

- (1) Within 28 days after a magistrate refuses to make a post-entry approval order (the *appeal period*), the chief executive may appeal against the magistrate's order to the Supreme Court.

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- (2) If the chief executive appeals, the chief executive must retain any seized thing until the appeal is decided.
- (3) If the chief executive does not appeal, the chief executive must, immediately the appeal period ends, return any seized thing to the person from whom it was seized.
- (4) In this section—
seized thing means a thing seized by an authorised officer in the exercise of the evidence preservation powers for which the post-entry approval order was sought.

30 General powers after entering places

- (1) This section applies to an authorised officer if—
 - (a) the authorised officer enters a place under section 26(1); or
 - (b) the authorised officer is also an authorised officer under the Heavy Vehicle National Law (Queensland) and enters a place under that Law.
- (2) The officer may, for monitoring or enforcing compliance with this Act—
 - (a) search any part of the place; or
 - (b) inspect, measure, weigh, test, photograph or film the place or anything in the place; or
 - (c) take samples of anything in the place; or
 - (d) copy, or take an extract from, a document in the place; or
 - (e) take the persons, equipment and materials the officer reasonably requires for exercising a power under this Act into the place; or
 - (f) require a person in the place to give the officer reasonable help to exercise the powers mentioned in paragraphs (a) to (e).

Examples of requirements under paragraph (f)—

- a requirement to operate equipment or facilities

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- a requirement to give access, free of charge, to photocopying equipment
- (3) A person must comply with a requirement under subsection (2)(f), unless the person has a reasonable excuse.
- Maximum penalty—60 penalty units.
- (4) A requirement under subsection (2)(f) does not include—
- (a) a requirement to produce a document or give information; or
 - (b) a requirement to help the authorised officer find and gain access to a document or information.

Note—

See sections 49, 49A and 50AB for powers about requiring or directing a person to produce a document, provide information or help an authorised officer find and gain access to a document or information.

- (5) Subsection (6) applies for the exercise of a power under subsection (2) by an authorised officer, in relation to a heavy vehicle, the transport of dangerous goods or a prescribed dangerous goods vehicle to decide if anything found at the place may be seized under division 3.
- (6) The authorised officer may move the thing to another place if—
- (a) it is not practicable to exercise the power in relation to the thing at the place where it is found; or
 - (b) the occupier of the place where it is found consents in writing.
- (7) If the power to enter arose only because an occupier of the place consented to the entry under this Act or under the Heavy Vehicle National Law (Queensland), the authorised officer's powers under subsection (2) are subject to any conditions of the consent and end if the consent is withdrawn.
- (8) If the power to enter arose only because the entry was authorised under a warrant obtained under this Act or under the Heavy Vehicle National Law (Queensland), the authorised officer's powers under subsection (2) are subject to the terms of the warrant.

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

- (1) This section applies to an authorised officer who enters a place under section 26A or 26B.
- (2) If the authorised officer enters the place because the authorised officer has the suspicion mentioned in section 26A(2), the authorised officer may do either or both of the following—
 - (a) inspect—
 - (i) a document that is required to be kept under a transport Act or an alternative compliance scheme; or
 - (ii) a device that is required to be installed, used or maintained under a transport Act or an alternative compliance scheme;
 - (b) copy, or take an extract from, any or all of the following that are at the place—
 - (i) a document mentioned in paragraph (a)(i);
 - (ii) a readout or other data obtained from a device mentioned in paragraph (a)(ii).
- (3) Subsection (4) applies if the authorised officer enters the place to obtain evidence of an offence against a transport Act because—
 - (a) the authorised officer has the belief and suspicion mentioned in section 26A(3) in relation to the evidence; or
 - (b) the authorised officer has the belief mentioned in section 26B(1) in relation to the evidence.
- (4) The authorised officer may, for obtaining evidence of an offence against a transport Act, do any or all of the following—
 - (a) search any part of the place;
 - (b) inspect anything in the place, including, for example, dangerous goods or packaging at the place;

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- (c) copy, or take an extract from, any or all of the following in the place—
 - (i) a document mentioned in subsection (2)(a)(i);
 - (ii) transport documentation;
 - (iii) a document, or a readout or other data obtained from anything, that the authorised officer reasonably believes provides, or on further inspection may provide, evidence of the offence.
 - (5) For exercising a power under subsection (2)(b) or (4)(c), the authorised officer may use photocopying equipment in the place free of charge.
 - (6) Also, for exercising a power under subsection (2) or (4), the authorised officer may—
 - (a) take the persons, equipment and materials the authorised officer reasonably requires for exercising the power into the place; or
 - (b) if the exercising of the power is because of a suspicion mentioned in section 26A(2) or a belief and suspicion mentioned in section 26A(3)—require a person involved in the transport of dangerous goods in relation to which the power is to be exercised to give the authorised officer reasonable help to exercise the power, whether or not the person is in or at the place.
 - (7) A person must comply with a requirement made under subsection (6)(b), unless the person has a reasonable excuse.
Maximum penalty—60 penalty units.
 - (8) A requirement under subsection (6)(b) does not include—
 - (a) a requirement to produce a document or give information; or
 - (b) a requirement to help the authorised officer find and gain access to a document or information.

Note—

See sections 49, 49A and 50AB for powers about requiring or directing a person to produce a document, provide information or help an authorised officer find and gain access to a document or information.

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

30B Using equipment for exercising power

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

- (ii) taken onto the place under section 30(2)(e) or 30A(6)(a); or
- (iii) in another place to which the thing has been moved under section 30(6) or 30A(10); and
- (b) includes electronic equipment for accessing information contained on a thing found in or at the place.

Example of information contained on a thing—

information contained on a disk, tape or other device

Division 2 Powers for vehicles

Subdivision 1 Stopping vehicles

31 Power to stop private vehicles

- (1) An authorised officer, who is not a police officer, may require the person in control of a private vehicle to stop the vehicle—
 - (a) at a checkpoint—only if the vehicle is a type of vehicle that the officer is stopping at the checkpoint by reference to objective criteria that are part of a program approved under section 47; or
 - (b) if the officer reasonably believes the vehicle does not comply with a transport Act; or
 - (c) if the officer reasonably believes the driver has just committed, or is committing, an offence against the Queensland Road Rules, section 154(1) or 156(1); or
 - (d) if the officer reasonably believes—
 - (i) the driver has just committed, is committing, or is about to commit an offence against the *Transport Infrastructure Act 1994*, section 46 or the Queensland Road Rules, section 100; and
 - (ii) the officer reasonably believes making the requirement is necessary to prevent damage to road

transport infrastructure or ensure the safety of road users or other persons.

- (2) In addition, an authorised officer may require the person in control of a private vehicle to stop the vehicle to find out whether the vehicle is carrying explosives within the meaning of the *Explosives Act 1999* if—
- (a) the officer is also an inspector under the *Explosives Act 1999*; and
 - (b) the officer reasonably believes the vehicle is carrying explosives within the meaning of the *Explosives Act 1999*.
- (2A) However, an authorised officer who is not a police officer may make a requirement under subsection (1)(a) or (b) or (2) during the day only.
- (2AA) In addition, an authorised officer who is not a police officer may only make a requirement under subsection (1)(c) on a business day during the period between 6a.m. and 7p.m.
- (2B) Also, an authorised officer who is not a police officer and is not wearing a uniform approved by the chief executive may only exercise the powers of an authorised officer in relation to a private vehicle if the officer reasonably believes the vehicle is so dangerous as to be likely to cause the death of, or injury to, a person.
- (3) A requirement may be made under subsection (1) or (2) in a way prescribed under a regulation.
- (4) A person must comply with a requirement under subsection (1) or (2), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

Example of a reasonable excuse—

It is a reasonable excuse for a person not to comply with a requirement if—

- (a) the person reasonably believes that to immediately comply would endanger the person or someone else; and

- (b) the person complies with the requirement at the first reasonable opportunity.
- (5) A regulation may impose restrictions on the stopping of private vehicles by authorised officers who are not police officers.
- (6) In this section—
day means the period between sunrise and sunset on the same day.

32 Power to stop heavy vehicles or prescribed vehicles

- (1) An authorised officer may require the person in control of a heavy vehicle or prescribed vehicle to stop the vehicle to check whether the vehicle or person is complying with a transport Act.
- (2) In addition, an authorised officer who is also an inspector under the *Explosives Act 1999* may require the person in control of a heavy vehicle or prescribed vehicle to stop the vehicle to check whether the vehicle is carrying explosives within the meaning of the *Explosives Act 1999*.
- (3) The requirement may be made in a way prescribed under a regulation.
- (4) Without limiting subsection (3), the requirement may require the person to move the vehicle in preparation for stopping it.

Examples—

- a requirement to change lanes
 - a requirement to exit a motorway at a particular exit
 - a requirement to enter a vehicle inspection site
- (5) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—90 penalty units.

- (6) Without limiting section 31, a power under this section may be exercised in relation to a suspected dangerous goods vehicle as if it were a prescribed vehicle.