



Queensland

# **Fair Trading Inspectors Bill 2011**





## Queensland

# Fair Trading Inspectors Bill 2011

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# 2011

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## A Bill

for

**An Act to provide for the powers of inspectors under legislation about fair trading, and to make consequential amendments, and other amendments for particular purposes, of the *Funeral Benefit Business Act 1982, Introduction Agents Act 2001, Land Sales Act 1984, Manufactured Homes (Residential Parks) Act 2003, Residential Services (Accreditation) Act 2002, Retirement Villages Act 1999, Second-hand Dealers and Pawnbrokers Act 2003, Security Providers Act 1993, Tourism Services Act 2003* and *Travel Agents Act 1988***

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[s 1]

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**The Parliament of Queensland enacts—** 1

## **Chapter 1 Preliminary** 2

### **1 Short title** 3

This Act may be cited as the *Fair Trading Inspectors Act 2011*. 4  
5

### **2 Commencement** 6

This Act commences on a day to be fixed by proclamation. 7

### **3 Act binds all persons** 8

(1) This Act binds all persons, including the State, and, so far as 9  
the legislative power of the Parliament permits, the 10  
Commonwealth and the other States. 11

(2) Nothing in this Act makes the State, the Commonwealth or 12  
another State liable to be prosecuted for an offence. 13

### **4 Operation of Act** 14

(1) This Act enacts common provisions for the following Acts 15  
(each a *primary Act*)— 16

(a) *Funeral Benefit Business Act 1982*; 17

(b) *Introduction Agents Act 2001*; 18

(c) *Land Sales Act 1984*; 19

(d) *Manufactured Homes (Residential Parks) Act 2003*; 20

(e) *Residential Services (Accreditation) Act 2002*; 21

(f) *Retirement Villages Act 1999*; 22

(g) *Second-hand Dealers and Pawnbrokers Act 2003*; 23

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(h)	<i>Security Providers Act 1993</i> ;	1
(i)	<i>Tourism Services Act 2003</i> ;	2
(j)	<i>Travel Agents Act 1988</i> .	3
(2)	The common provisions mostly concern—	4
(a)	the appointment and powers of inspectors for primary Acts; and	5 6
(b)	the procedures relating to the exercise of the powers.	7
<b>5</b>	<b>Modifying operation of Act</b>	8
(1)	The common provisions are modified, for the following primary Acts, by the provisions (the <b><i>modifying provisions</i></b> ) stated in schedule 1 for the primary Act—	9 10 11
(a)	<i>Manufactured Homes (Residential Parks) Act 2003</i> ;	12
(b)	<i>Residential Services (Accreditation) Act 2002</i> ;	13
(c)	<i>Retirement Villages Act 1999</i> ;	14
(d)	<i>Tourism Services Act 2003</i> ;	15
(e)	<i>Travel Agents Act 1988</i> .	16
(2)	A word defined in a primary Act and used in a modifying provision for that Act has the same meaning in the modifying provision as it has in the primary Act.	17 18 19
<b>6</b>	<b>Definitions</b>	20
	The dictionary in schedule 2 defines particular words used in this Act.	21 22

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[s 7]

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<b>Chapter 2</b>	<b>Inspectors</b>	1
<b>Part 1</b>	<b>General matters about inspectors</b>	2
		3
<b>Division 1</b>	<b>Functions</b>	4
<b>7</b>	<b>Functions of inspectors</b>	5
(1)	For this Act or a primary Act, an inspector has the following functions—	6 7
(a)	to investigate, monitor and enforce compliance with this Act or the primary Act;	8 9
(b)	to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act or the primary Act;	10 11 12
(c)	to facilitate the exercise of powers under this Act or the primary Act.	13 14
(2)	Subject to this Act, an inspector may exercise the powers under this Act for the purpose of these functions.	15 16
(3)	Subject to the modifying provisions for a primary Act and any provisions of the primary Act, the functions are in addition to and do not limit any functions the inspector has under the primary Act.	17 18 19 20
(4)	It is unnecessary for the inspector to hold a separate appointment for this Act.	21 22



<b>Division 2</b>	<b>Appointment</b>	1
<b>8</b>	<b>Appointment and qualifications</b>	2
(1)	The chief executive may, by instrument in writing, appoint any of the following persons as an inspector for a primary Act—	3 4 5
(a)	a public service employee;	6
(b)	a person prescribed by the primary Act;	7
(c)	a person prescribed under a regulation.	8
(2)	However, the chief executive may appoint a person as an inspector only if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.	9 10 11 12
(3)	The instrument must state the primary Act for which the person is appointed as an inspector.	13 14
(4)	A person may be appointed as an inspector for more than 1 primary Act.	15 16
<b>9</b>	<b>Appointment conditions and limit on powers</b>	17
(1)	An inspector holds office on any conditions stated in—	18
(a)	the inspector's instrument of appointment; or	19
(b)	a signed notice given to the inspector; or	20
(c)	a regulation.	21
(2)	The instrument of appointment, a signed notice given to the inspector or a regulation may limit the inspector's powers.	22 23
(3)	In this section—	24
	<i>signed notice</i> means a notice signed by the chief executive.	25

[s 10]

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<b>10</b>	<b>When office ends</b>	1
(1)	The office of a person as an inspector ends if any of the following happens—	2
(a)	the term of office stated in a condition of office ends;	3
(b)	under another condition of office, the office ends;	4
(c)	the inspector’s resignation under section 11 takes effect.	5
(2)	Subsection (1) does not limit the ways the office of a person as an inspector ends.	6
(3)	In this section—	7
	<i>condition of office</i> means a condition under which the inspector holds office.	8
		9
<b>11</b>	<b>Resignation</b>	10
(1)	An inspector may resign by signed notice given to the chief executive.	11
(2)	However, if holding office as an inspector is a condition of the inspector holding another office, the inspector may not resign as an inspector without resigning from the other office.	12
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<b>Division 3</b>	<b>Identity cards</b>	18
<b>12</b>	<b>Issue of identity card</b>	19
(1)	The chief executive must issue an identity card to each inspector.	20
(2)	The identity card must—	21
(a)	contain a recent photo of the inspector; and	22
(b)	contain a copy of the inspector’s signature; and	23
(c)	identify the person as an inspector under this Act or a primary Act; and	24
(d)	state an expiry date for the card.	25
		26
		27

(3)	This section does not prevent the issue of a single identity card to a person for this Act, or a primary Act, and other purposes.	1 2 3
<b>13</b>	<b>Production or display of identity card</b>	4
(1)	In exercising a power in relation to a person in the person's presence, an inspector must—	5 6
(a)	produce the inspector's identity card for the person's inspection before exercising the power; or	7 8
(b)	have the identity card displayed so it is clearly visible to the person when exercising the power.	9 10
(2)	However, if it is not practicable to comply with subsection (1), the inspector must produce the identity card for the person's inspection at the first reasonable opportunity.	11 12 13
(3)	For subsection (1), an inspector does not exercise a power in relation to a person only because the inspector has entered a place as mentioned in section 17(1)(b) or (d).	14 15 16
<b>14</b>	<b>Return of identity card</b>	17
	If the office of a person as an inspector ends, the person must return the person's identity card to the chief executive within 21 days after the office ends unless the person has a reasonable excuse.	18 19 20 21
	Maximum penalty—20 penalty units.	22
<b>Division 4</b>	<b>Miscellaneous provisions</b>	23
<b>15</b>	<b>References to exercise of powers</b>	24
	If—	25
(a)	a provision of this chapter refers to the exercise of a power by an inspector; and	26 27

[s 16]

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	(b) there is no reference to a specific power;	1
	the reference is to the exercise of all or any inspectors' powers	2
	under this chapter or a warrant, to the extent the powers are	3
	relevant.	4
<b>16</b>	<b>Reference to document includes reference to reproductions from electronic document</b>	5
		6
	A reference in this chapter to a document includes a reference	7
	to an image or writing—	8
	(a) produced from an electronic document; or	9
	(b) not yet produced, but reasonably capable of being	10
	produced, from an electronic document, with or without	11
	the aid of another article or device.	12
<b>Part 2</b>	<b>Entry to places by inspectors</b>	13
<b>Division 1</b>	<b>Power to enter</b>	14
<b>17</b>	<b>General power to enter places</b>	15
	(1) An inspector may enter a place if—	16
	(a) an occupier of the place consents under division 2 to the	17
	entry and section 20 has been complied with for the	18
	occupier; or	19
	(b) it is a public place and the entry is made when it is open	20
	to the public; or	21
	(c) the entry is authorised under a warrant and, if there is an	22
	occupier of the place, division 3, subdivision 2 has been	23
	complied with for the occupier; or	24

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- |   |                     |
|---|---------------------|
| (d) it is a place of business that is regulated under a primary Act and is—   | 1<br>2              |
| (i) open for carrying on the business; or   | 3                   |
| (ii) otherwise open for entry; or   | 4                   |
| (iii) required to be open for inspection under the primary Act.   | 5<br>6              |
| (2) For subsection (1)(d), a <i>place of business</i> does not include a part of the place where a person resides.  | 7<br>8              |
| (3) If the power to enter arose only because an occupier of the place consented to the entry, the power is subject to any conditions of the consent and ceases if the consent is withdrawn. | 9<br>10<br>11<br>12 |
| (4) If the power to enter is under a warrant, the power is subject to the terms of the warrant.   | 13<br>14            |
| (5) The consent may provide consent for re-entry and is subject to the conditions of consent.   | 15<br>16            |
| (6) If the power to enter is under a warrant, the re-entry is subject to the terms of the warrant.  | 17<br>18            |
| (7) In this section—  | 19                  |
| <i>authority</i> , under a primary Act, means a licence, registration, permit or other authority, however called, issued under the primary Act.   | 20<br>21<br>22      |
| <i>regulated under a primary Act</i> , for a place of business, means—  | 23<br>24            |
| (a) the person who carries on business at the place holds, or is required to hold, an authority under a primary Act to carry on the business; or  | 25<br>26<br>27      |
| (b) the place of business is, or is required to be, mentioned in an authority under a primary Act.  | 28<br>29            |

[s 18]

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<b>Division 2</b>	<b>Entry by consent</b>	1
<b>18</b>	<b>Application of div 2</b>	2
	This division applies if an inspector intends to ask an occupier of a place for consent to the inspector or another inspector entering the place under section 17(1)(a).	3 4 5
<b>19</b>	<b>Incidental entry to ask for access</b>	6
	For the purpose of asking the occupier for the consent, the inspector may, without the occupier's consent or a warrant—	7 8
	(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or	9 10
	(b) enter part of the place the inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.	11 12 13 14
<b>20</b>	<b>Matters inspector must tell occupier</b>	15
	Before asking for the consent, the inspector must give a reasonable explanation to the occupier—	16 17
	(a) about the purpose of the entry, including the powers intended to be exercised; and	18 19
	(b) that the occupier is not required to consent; and	20
	(c) that the consent may be given subject to conditions and may be withdrawn at any time.	21 22
<b>21</b>	<b>Consent acknowledgement</b>	23
	(1) If the consent is given, the inspector may ask the occupier to sign an acknowledgement of the consent.	24 25
	(2) The acknowledgement must state—	26

[s 22]

- 
- (a) the purpose of the entry, including the powers intended to be exercised; and
1  
2
  - (b) the following has been explained to the occupier—
3

    - (i) the purpose of the entry, including the powers intended to be exercised;
4  
5
    - (ii) that the occupier is not required to consent; and
6
  - (c) the occupier gives the inspector or another inspector consent to enter the place and exercise the powers; and
7  
8
  - (d) the time and day the consent was given; and
9
  - (e) any conditions of the consent.
10
  - (3) If the occupier signs the acknowledgement, the inspector must immediately give a copy to the occupier.
11  
12
  - (4) However, if it is impractical for the inspector to give the occupier a copy of the acknowledgement immediately, the inspector must give the copy as soon as practicable.
13  
14  
15
  - (5) If—
16

    - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
17  
18
    - (b) an acknowledgement complying with subsection (2) for the entry is not produced in evidence;
19  
20
- the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

## **Division 3** **Entry under warrant** 23

### **Subdivision 1** **Obtaining warrant** 24

#### **22** **Application for warrant** 25

- (1) An inspector may apply to a magistrate for a warrant for a place.
26  
27

[s 23]

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- (2) The inspector must prepare a written application that states the grounds on which the warrant is sought. 1 2
- (3) The written application must be sworn. 3
- (4) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires. 4 5 6 7
- Example—* 8
- The magistrate may require additional information supporting the written application to be given by statutory declaration. 9 10

## **23 Issue of warrant** 11

- (1) The magistrate may issue a warrant for the place only under subsection (2) or (3). 12 13
- (2) The magistrate may issue a warrant for the place if the magistrate is satisfied there are reasonable grounds for suspecting that there is at the place, or will be at the place within the next 7 days, a particular thing or activity that may provide evidence of an offence against this Act or a primary Act. 14 15 16 17 18 19
- (3) Also, the magistrate may issue a warrant for the place for the purpose of the inspector's performance of the function mentioned in section 7(1)(a) at the place if— 20 21 22
  - (a) the place is a place mentioned in section 17(1)(b) or (d); and 23 24
  - (b) the magistrate is satisfied it is reasonably necessary that the inspector should have access to the place for the purpose of effectively performing the function at the place. 25 26 27 28
- Example for paragraph (b)—* 29
- The magistrate may be satisfied under paragraph (b) if the inspector has made a reasonable attempt to perform the function at the place without a warrant, but because of obstruction has been unsuccessful. 30 31 32 33



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|---|----|
| (4) The warrant must state—   | 1  |
| (a) the place to which the warrant applies; and   | 2  |
| (b) that a stated inspector or any inspector may with necessary and reasonable help and force—  | 3  |
| (i) enter the place and any other place necessary for entry to the place; and   | 4  |
| (ii) exercise the inspector's powers; and   | 5  |
| (c) particulars of the offence or other circumstances that the magistrate considers appropriate; and  | 6  |
| (d) if the warrant is issued under subsection (2)—the name of the person suspected of having committed the offence unless the name is unknown or the magistrate considers it inappropriate to state the name; and | 7  |
| (e) the evidence that may be seized under the warrant; and  | 8  |
| (f) the hours of the day or night when the place may be entered; and  | 9  |
| (g) the magistrate's name; and  | 10 |
| (h) the day and time of the warrant's issue; and  | 11 |
| (i) the day, within 14 days after the warrant's issue, the warrant ends.  | 12 |
| (5) Subsection (3) does not limit the powers that an inspector can exercise in the absence of a warrant.  | 13 |
|   | 14 |

<b>24</b>	<b>Electronic application</b>	15
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|---|----|
| (1) An application under section 22 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the inspector reasonably considers it necessary because of— | 16 |
| (a) urgent circumstances; or  | 17 |
| (b) other special circumstances, including, for example, the inspector's remote location.   | 18 |

[s 25]

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- (2) The application— 1
  - (a) may not be made before the inspector prepares the 2  
written application under section 22(2); but 3
  - (b) may be made before the written application is sworn. 4
  
- 25 Additional procedure if electronic application 5**
  - (1) For an application made under section 24, the magistrate may 6  
issue the warrant (the *original warrant*) only if the magistrate 7  
is satisfied— 8
    - (a) it was necessary to make the application under section 9  
24; and 10
    - (b) the way the application was made under section 24 was 11  
appropriate. 12
  - (2) After the magistrate issues the original warrant— 13
    - (a) if there is a reasonably practicable way of immediately 14  
giving a copy of the warrant to the inspector, including, 15  
for example, by sending a copy by fax or email, the 16  
magistrate must immediately give a copy of the warrant 17  
to the inspector; or 18
    - (b) otherwise— 19
      - (i) the magistrate must tell the inspector the 20  
information mentioned in section 23(4); and 21
      - (ii) the inspector must complete a form of warrant, 22  
including by writing on it the information 23  
mentioned in section 23(4) provided by the 24  
magistrate. 25
  - (3) The copy of the warrant mentioned in subsection (2)(a), or the 26  
form of warrant completed under subsection (2)(b) (in either 27  
case the *duplicate warrant*), is a duplicate of, and as effectual 28  
as, the original warrant. 29
  - (4) The inspector must, at the first reasonable opportunity, send to 30  
the magistrate— 31

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<ul style="list-style-type: none"> <li>(a) the written application complying with section 22(2) and (3); and</li> <li>(b) if the inspector completed a form of warrant under subsection (2)(b)—the completed form of warrant.</li> </ul>	<p>1 2</p>
<p>(5) The magistrate must keep the original warrant and, on receiving the documents under subsection (4)—</p>	<p>5 6</p>
<ul style="list-style-type: none"> <li>(a) attach the documents to the original warrant; and</li> <li>(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.</li> </ul>	<p>7 8 9</p>
<p>(6) Despite subsection (3), if—</p>	<p>10</p>
<ul style="list-style-type: none"> <li>(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and</li> <li>(b) the original warrant is not produced in evidence;</li> </ul>	<p>11 12 13</p>
<p>the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.</p>	<p>15 16 17</p>
<p>(7) This section does not limit section 22.</p>	<p>18</p>
<p>(8) In this section—</p>	<p>19</p>
<p><i>relevant magistrates court</i>, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the <i>Magistrates Act 1991</i>.</p>	<p>20 21 22</p>
<p><b>26 Defect in relation to a warrant</b></p>	<p>23</p>
<p>(1) A warrant is not invalidated by a defect in—</p>	<p>24</p>
<ul style="list-style-type: none"> <li>(a) the warrant; or</li> <li>(b) compliance with this subdivision;</li> </ul>	<p>25 26</p>
<p>unless the defect affects the substance of the warrant in a material particular.</p>	<p>27 28</p>
<p>(2) In this section—</p>	<p>29</p>

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[s 27]

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*warrant* includes a duplicate warrant mentioned in section 1  
25(3). 2

**Subdivision 2      Entry procedure** 3

**27      Procedure** 4

- (1) This section applies if an inspector is intending to enter a 5  
place under a warrant issued under this division. 6
- (2) Before entering the place, the inspector must do or make a 7  
reasonable attempt to do the following things— 8
- (a) identify himself or herself to a person who is an 9  
        occupier of the place and is present by producing the 10  
        inspector's identity card or another document 11  
        evidencing the inspector's appointment; 12
- (b) give the person a copy of the warrant; 13
- (c) tell the person the inspector is permitted by the warrant 14  
        to enter the place; 15
- (d) give the person an opportunity to allow the inspector 16  
        immediate entry to the place without using force. 17
- (3) However, the inspector need not comply with subsection (2) if 18  
the inspector believes on reasonable grounds that entry to the 19  
place is required to ensure the execution of the warrant is not 20  
frustrated. 21
- (4) In this section— 22
- warrant* includes a duplicate warrant mentioned in section 23  
25(3). 24

<b>Part 3</b>	<b>Other inspectors' powers and related matters</b>	1 2
<b>Division 1</b>	<b>Stopping or moving vehicles</b>	3
<b>28</b>	<b>Application of div 1</b>	4
	This division applies if an inspector reasonably suspects, or is aware, that a thing in or on a vehicle may provide evidence of the commission of an offence against this Act or a primary Act.	5 6 7 8
<b>29</b>	<b>Power to stop or move</b>	9
(1)	If the vehicle is moving, the inspector may, to exercise his or her powers, signal or otherwise direct the person in control of the vehicle to stop the vehicle and to bring the vehicle to, and keep it at, a convenient place within a reasonable distance to allow the inspector to exercise the powers.	10 11 12 13 14
(2)	If the vehicle is stopped, the inspector may direct the person in control of the vehicle—	15 16
(a)	not to move it until the inspector has exercised the inspector's powers; or	17 18
(b)	to move the vehicle to, and keep it at, a stated reasonable place to allow the inspector to exercise the powers.	19 20
(3)	When giving the direction under subsection (2), the inspector must give the person in control an offence warning for the direction.	21 22 23
<b>30</b>	<b>Identification requirements if vehicle moving</b>	24
(1)	This section applies if the inspector proposes to give a direction under section 29(1) and the vehicle is moving.	25 26

[s 31]

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|--|-------------|
| (2) The inspector must clearly identify himself or herself as an inspector exercising the inspector's powers.                                      | 1<br>2      |
| <i>Examples—</i>   | 3           |
| 1 If the inspector is in a moving vehicle, he or she may use a loud hailer to identify himself or herself as an inspector exercising powers.       | 4<br>5<br>6 |
| 2 If the inspector is standing at the side of the road, he or she may use a sign to identify himself or herself as an inspector exercising powers. | 7<br>8<br>9 |
| (3) When the vehicle stops, the inspector must—  | 10          |
| (a) have with him or her the inspector's identity card; and  | 11          |
| (b) immediately produce the identity card for the inspection of the person in control of the vehicle.  | 12<br>13    |
| (4) Subsection (3) applies despite section 13.   | 14          |

### **31 Failure to comply with direction** 15

- |   |                |
|---|----------------|
| (1) The person in control of the vehicle must comply with a direction under section 29 unless the person has a reasonable excuse.                                 | 16<br>17<br>18 |
| Maximum penalty—165 penalty units.  | 19             |
| (2) It is a reasonable excuse for the person not to comply with a direction if—   | 20<br>21       |
| (a) the vehicle was moving and the inspector did not comply with section 30; or   | 22<br>23       |
| (b) to comply immediately would have endangered someone else or caused loss or damage to property, and the person complies as soon as it is practicable to do so. | 24<br>25<br>26 |
| (3) Subsection (2) does not limit subsection (1).   | 27             |
| (4) A person does not commit an offence against subsection (1) if—  | 28<br>29       |
| (a) the direction the person fails to comply with is given under section 29(2); and   | 30<br>31       |

- |   |        |
|---|--------|
| (b) the person is not given an offence warning for the direction. | 1<br>2 |
|---|--------|

<b>Division 2</b>	<b>General powers after entering places</b>	3 4
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<b>32</b>	<b>Application of div 2</b>	5
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|--|----------------|
| (1) The powers under this division may be exercised if an inspector enters a place under—  | 6<br>7         |
| (a) section 17(1)(a); or   | 8              |
| (b) section 17(1)(c); or   | 9              |
| (c) section 17(1)(d).  | 10             |
| (2) However, if the inspector enters under section 17(1)(a) or (c), the powers under this division are subject to any conditions of the consent or terms of the warrant. | 11<br>12<br>13 |

<b>33</b>	<b>General powers</b>	14
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- |   |                |
|---|----------------|
| (1) The inspector may do any of the following (each a <i>general power</i> )—   | 15<br>16       |
| (a) search any part of the place;   | 17             |
| (b) inspect, examine or film any part of the place or anything at the place;  | 18<br>19       |
| (c) take for examination a thing, or a sample of or from a thing, at the place;   | 20<br>21       |
| (d) place an identifying mark in or on anything at the place;   | 22             |
| (e) take an extract from, or copy, a document at the place, or take the document to another place to copy;  | 23<br>24       |
| (f) produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic | 25<br>26<br>27 |

[s 34]

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document to another place to produce an image or writing;	1 2
(g) take to, into or onto the place and use any person, equipment and materials the inspector reasonably requires for exercising the inspector's powers under this division;	3 4 5 6
(h) remain at the place for the time necessary to achieve the purpose of the entry.	7 8
(2) The inspector may take a necessary step to allow the exercise of a general power.	9 10
(3) If the inspector takes a document from the place to copy it, the inspector must copy and return the document to the place as soon as practicable.	11 12 13
(4) If the inspector takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the inspector must produce the document and return the article or device to the place as soon as practicable.	14 15 16 17 18
(5) In this section—	19
<i>examine</i> includes analyse, test, account, measure, weigh, grade, gauge and identify.	20 21
<i>film</i> includes photograph, videotape and record an image in another way.	22 23
<i>inspect</i> , a thing, includes open the thing and examine its contents.	24 25
<b>34 Power to require reasonable help</b>	26
(1) The inspector may make a requirement (a <i>help requirement</i> ) of an occupier of the place or a person at the place to give the inspector reasonable help to exercise a general power, including, for example, to produce a document or to give information.	27 28 29 30 31



(2)	When making the help requirement, the inspector must give the person an offence warning for the requirement.	1 2
<b>35</b>	<b>Offence to contravene help requirement</b>	3
(1)	A person of whom a help requirement has been made must comply with the requirement unless the person has a reasonable excuse.	4 5 6
	Maximum penalty—200 penalty units or 1 year's imprisonment.	7 8
(2)	It is a reasonable excuse for an individual not to comply with a help requirement if complying might tend to incriminate the individual or expose the individual to a penalty.	9 10 11
(3)	However, subsection (2) does not apply if a document or information the subject of the help requirement (the <i>subject</i> ) is required to be held or kept by the defendant under this Act or a primary Act.	12 13 14 15
	<i>Note—</i>	16
	See, however, section 71.	17
<b>Division 3</b>	<b>Seizure and forfeiture</b>	18
<b>Subdivision 1</b>	<b>Power to seize</b>	19
<b>36</b>	<b>Seizing evidence at a place that may be entered without consent or warrant</b>	20 21
(1)	An inspector who enters a place the inspector may enter under this Act without the consent of an occupier of the place and without a warrant under section 23(2) may seize a thing at the place if the inspector reasonably believes the thing is evidence of an offence against this Act or a primary Act.	22 23 24 25 26
(2)	Subsection (1) applies even if the entry is under a warrant issued under section 23(3).	27 28

[s 37]

<b>37</b>	<b>Seizing evidence at a place that may be entered only with consent or warrant</b>	1 2
(1)	This section applies if—	3
(a)	an inspector is authorised to enter a place only with the consent of an occupier of the place or a warrant; and	4 5
(b)	the inspector enters the place after obtaining the consent or under a warrant issued under section 23(2).	6 7
(2)	If the inspector enters the place with the occupier's consent, the inspector may seize a thing at the place only if—	8 9
(a)	the inspector reasonably believes the thing is evidence of an offence against this Act or a primary Act; and	10 11
(b)	seizure of the thing is consistent with the purpose of entry as explained to the occupier when asking for the occupier's consent.	12 13 14
(3)	If the inspector enters the place under a warrant issued under section 23(2), the inspector may seize the evidence for which the warrant was issued.	15 16 17
(4)	The inspector may also seize anything else at the place if the inspector reasonably believes—	18 19
(a)	the thing is evidence of an offence against this Act or a primary Act; and	20 21
(b)	the seizure is necessary to prevent the thing being—	22
(i)	hidden, lost or destroyed; or	23
(ii)	used to continue, or repeat, the offence.	24
(5)	The inspector may also seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against this Act or a primary Act.	25 26 27
<b>38</b>	<b>Seizure of property subject to security</b>	28
(1)	An inspector may seize a thing, and exercise powers relating to the thing, despite a lien or other security over the thing claimed by another person.	29 30 31

(2)	However, the seizure does not affect the other person's claim to the lien or other security against a person other than the inspector or a person acting for the inspector.	1 2 3
<b>Subdivision 2</b>	<b>Powers to support seizure</b>	4
<b>39</b>	<b>Requirement of person in control of thing to be seized</b>	5
(1)	To enable a thing to be seized, an inspector may require the person in control of it—	6 7
(a)	to take it to a stated reasonable place by a stated reasonable time; and	8 9
(b)	if necessary, to remain in control of it at the stated place for a stated reasonable time.	10 11
(2)	The requirement—	12
(a)	must be made by notice; or	13
(b)	if for any reason it is not practicable to give a notice, may be made orally and confirmed by notice as soon as practicable.	14 15 16
<b>40</b>	<b>Offence to contravene seizure requirement</b>	17
	A person of whom a requirement is made under section 39 must comply with the requirement unless the person has a reasonable excuse.	18 19 20
	Maximum penalty—50 penalty units.	21
<b>41</b>	<b>Power to secure seized thing</b>	22
(1)	Having seized a thing under this division, an inspector may—	23
(a)	leave it at the place where it was seized (the <i>place of seizure</i> ) and take reasonable action to restrict access to it; or	24 25 26
(b)	move it from the place of seizure.	27

[s 42]

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(2)	For subsection (1)(a), the inspector may, for example—	1
(a)	seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or	2 3 4
(b)	for equipment—make it inoperable; or	5
	<i>Example—</i>	6
	make it inoperable by dismantling it or removing a component without which the equipment can not be used	7 8
(c)	require a person the inspector reasonably believes is in control of the place or thing to do an act mentioned in paragraph (a) or (b) or anything else an inspector could do under subsection (1)(a).	9 10 11 12
<b>42</b>	<b>Offence to contravene other seizure requirement</b>	13
	A person must comply with a requirement made of the person under section 41(2)(c) unless the person has a reasonable excuse.	14 15 16
	Maximum penalty—50 penalty units.	17
<b>43</b>	<b>Offence to interfere</b>	18
(1)	If access to a seized thing is restricted under section 41, a person must not tamper with the thing or with anything used to restrict access to the thing without—	19 20 21
(a)	an inspector's approval; or	22
(b)	a reasonable excuse.	23
	Maximum penalty—50 penalty units.	24
(2)	If access to a place is restricted under section 41, a person must not enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without—	25 26 27 28
(a)	an inspector's approval; or	29

- |                                   |   |
|-----------------------------------|---|
| (b) a reasonable excuse.          | 1 |
| Maximum penalty—50 penalty units. | 2 |

<b>Subdivision 3</b>	<b>Safeguards for seized things</b>	3
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<b>44</b>	<b>Receipt and information notice for seized thing</b>	4
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|--|----------------------------|
| (1) This section applies if an inspector seizes anything under this division unless—   | 5<br>6                     |
| (a) the inspector reasonably believes there is no-one apparently in possession of the thing or the thing has been abandoned; or  | 7<br>8<br>9                |
| (b) because of the condition, nature and value of the thing it would be unreasonable to require the inspector to comply with this section.   | 10<br>11<br>12             |
| (2) The inspector must, as soon as practicable after seizing the thing, give an owner or person in control of the thing before it was seized—  | 13<br>14<br>15             |
| (a) a receipt for the thing that generally describes the thing and its condition; and  | 16<br>17                   |
| (b) an information notice about the decision to seize it.  | 18                         |
| (3) However, if an owner or person from whom the thing is seized is not present when it is seized, the receipt and information notice may be given by leaving them in a conspicuous position and in a reasonably secure way at the place at which the thing is seized. | 19<br>20<br>21<br>22<br>23 |
| (4) The receipt and information notice may—  | 24                         |
| (a) be given in the same document; and   | 25                         |
| (b) relate to more than 1 seized thing.  | 26                         |
| (5) The inspector may delay giving the receipt and information notice if the inspector reasonably suspects giving them may frustrate or otherwise hinder an investigation by the inspector under this Act.   | 27<br>28<br>29<br>30       |

[s 45]

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- (6) However, the delay may be only for so long as the inspector continues to have the reasonable suspicion and remains in the vicinity of the place at which the thing was seized to keep it under observation.
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#### 45      **Access to seized thing** 5

- (1) Until a seized thing is forfeited or returned, the inspector who seized the thing must allow an owner of the thing—
  - 6
  - 7
  - (a) to inspect it at any reasonable time and from time to time; and 8
  - 9
  - (b) if it is a document—to copy it. 10
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying. 11
- 12
- (3) The inspection or copying must be allowed free of charge. 13

#### 46      **Return of seized thing** 14

- (1) This section applies if a seized thing has some intrinsic value and is not—
  - 15
  - 16
  - (a) forfeited or transferred under subdivision 4 or 5; or 17
  - (b) subject to a disposal order under division 4. 18
- (2) The inspector must return the seized thing to an owner—
  - 19
  - (a) generally—at the end of 1 year after the seizure; or 20
  - (b) if a proceeding for an offence involving the thing is started within the 1 year—at the end of the proceeding and any appeal from the proceeding. 21
  - 22
  - 23
- (3) Despite subsection (2), if the thing was seized as evidence, the inspector must return the thing seized to an owner as soon as practicable after the inspector is satisfied—
  - 24
  - 25
  - 26
  - (a) its continued retention as evidence is no longer required; 27
  - and 28

[s 47]

- (b) its continued retention is not necessary to prevent it being used to continue, or repeat, an offence against this Act or a primary Act; and
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- (c) it is lawful for the owner to possess it.
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- (4) Nothing in this section affects a lien or other security over the seized thing.
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## Subdivision 4 Forfeiture 7

### 47 Forfeiture by chief executive decision 8

- (1) The chief executive may decide a seized thing is forfeited to the State if an inspector—
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  - (a) after making reasonable inquiries, can not find an owner; or
11  
12
  - (b) after making reasonable efforts, can not return it to an owner; or
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14
  - (c) reasonably believes it is necessary to keep the thing to prevent it being used to commit the offence for which it was seized.
15  
16  
17
- (2) However, the inspector is not required to—
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  - (a) make inquiries if it would be unreasonable to make inquiries to find an owner; or
19  
20
  - (b) make efforts if it would be unreasonable to make efforts to return the thing to an owner.
21  
22

*Example for paragraph (b)—*
23

the owner of the thing has migrated to another country
24
- (3) Regard must be had to the thing's condition, nature and value in deciding—
25  
26

  - (a) whether it is reasonable to make inquiries or efforts; and
27

[s 48]

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- (b) if inquiries or efforts are made—what inquiries or efforts, including the period over which they are made, are reasonable. 1  
2  
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#### **48 Information notice about forfeiture decision** 4

- (1) If the chief executive decides under section 47(1) to forfeit a thing, the chief executive must as soon as practicable give a person who owned the thing immediately before the forfeiture (the *former owner*) an information notice about the decision. 5  
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7  
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- (2) If the decision was made under section 47(1)(a) or (b), the information notice may be given by leaving it at the place where the thing was seized, in a conspicuous position and in a reasonably secure way. 9  
10  
11  
12
- (3) The information notice must state that the former owner may apply for a stay of the decision if he or she appeals against the decision. 13  
14  
15
- (4) However, subsections (1) to (3) do not apply if— 16
  - (a) the decision was made under section 47(1)(a) or (b); and 17
  - (b) the place where the thing was seized is— 18
    - (i) a public place; or 19
    - (ii) a place where the notice is unlikely to be read by the former owner. 20  
21

#### **49 Dealing with forfeited things** 22

- (1) On the forfeiture of a thing to the State, the chief executive may deal with it as the chief executive considers appropriate, including, for example, by destroying it or giving it away. 23  
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- (2) However, the chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal under this Act, or a primary Act, of which the chief executive is aware. 26  
27  
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|---|-------------|
| (3) If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the former owner of the thing. | 1<br>2<br>3 |
| (4) This section is subject to any disposal order made for the thing.   | 4<br>5      |

<b>50</b>	<b>Forfeiture on conviction</b>	6
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|--|----------|
| (1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of— | 7<br>8   |
| (a) anything used to commit the offence; or  | 9        |
| (b) anything else the subject of the offence.  | 10       |
| (2) The court may make the order—  | 11       |
| (a) whether or not the thing has been seized; and  | 12       |
| (b) if the thing has been seized—whether or not the thing has been returned to the former owner of the thing.          | 13<br>14 |
| (3) The court may make any order to enforce the forfeiture it considers appropriate.                                   | 15<br>16 |
| (4) This section does not limit the court's powers under another law.  | 17<br>18 |

<b>51</b>	<b>Procedure and powers for making forfeiture order</b>	19
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|--|----------------|
| (1) A forfeiture order may be made on a conviction on the court's initiative or on an application by the prosecution.  | 20<br>21       |
| (2) In deciding whether to make a forfeiture order for a thing, the court—   | 22<br>23       |
| (a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and | 24<br>25<br>26 |
| (b) must hear any submissions that any person claiming to have any property in the thing may wish to make.   | 27<br>28       |

[s 52]

<b>Subdivision 5</b>	<b>Dealing with property forfeited or transferred to State</b>	1 2
<b>52</b>	<b>When thing becomes property of the State</b>	3
	A thing becomes the property of the State if—	4
	(a) the thing is forfeited to the State under section 47(1) or 50; or	5 6
	(b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.	7 8
<b>53</b>	<b>How property may be dealt with</b>	9
	(1) This section applies if, under section 52, a thing becomes the property of the State.	10 11
	(2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.	12 13 14
	(3) The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.	15 16 17
	(4) If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the former owner of the thing.	18 19 20
	(5) This section is subject to any disposal order made for the thing.	21 22
<b>Division 4</b>	<b>Disposal orders</b>	23
<b>54</b>	<b>Disposal order</b>	24
	(1) This section applies if a person is convicted of an offence against this Act.	25 26

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|---|----------------|
| (2) The court may make an order (a <i>disposal order</i> ), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person— | 1<br>2<br>3    |
| (a) anything that was the subject of, or used to commit, the offence;   | 4<br>5         |
| (b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.  | 6<br>7<br>8    |
| (3) The court may make a disposal order for a thing—  | 9              |
| (a) whether or not it has been seized under this Act; and   | 10             |
| (b) if the thing has been seized—whether or not it has been returned to the former owner.   | 11<br>12       |
| (4) In deciding whether to make a disposal order for a thing, the court—  | 13<br>14       |
| (a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and                                    | 15<br>16<br>17 |
| (b) must hear any submissions that any person claiming to have any property in the thing may wish to make.  | 18<br>19       |
| (5) The court may make any order to enforce the disposal order that it considers appropriate.   | 20<br>21       |
| (6) This section does not limit the court's powers under another law.   | 22<br>23       |

## **Division 5                      Other information-obtaining powers                      24**

### **55              Power to require name and address                      25**

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|--|----------|
| (1) This section applies if an inspector—                                      | 26       |
| (a) finds a person committing an offence against this Act or a primary Act; or | 27<br>28 |

[s 56]

(b)	finds a person in circumstances that lead the inspector to reasonably suspect the person has just committed an offence against this Act or a primary Act; or	1 2 3
(c)	has information that leads the inspector to reasonably suspect a person has just committed an offence against this Act or a primary Act.	4 5 6
(2)	The inspector may require the person to state the person's name and address.	7 8
(3)	The inspector may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—	9 10 11 12
(a)	be in possession of evidence of the correctness of the stated name or address; or	13 14
(b)	otherwise be able to give the evidence.	15
(4)	When making a personal details requirement, the inspector must give the person an offence warning for the requirement.	16 17
(5)	A requirement under this section is a <i>personal details requirement</i> .	18 19
(6)	In this section—	20
	<i>address</i> , of a person, includes the person's residential and business address and, for a person temporarily in Queensland, includes the place where the person is living in Queensland.	21 22 23
<b>56</b>	<b>Offence to contravene personal details requirement</b>	24
(1)	A person of whom a personal details requirement has been made must comply with the requirement unless the person has a reasonable excuse.	25 26 27
	Maximum penalty—50 penalty units.	28
(2)	A person may not be convicted of an offence under subsection (1) unless the person is found guilty of the offence in relation to which the personal details requirement was made.	29 30 31

<b>57</b>	<b>Power to require production of document</b>	<b>1</b>
(1)	An inspector may require a person to make available for inspection by an inspector, or to produce to the inspector for inspection, at a reasonable time and place nominated by the inspector—	2 3 4 5
(a)	a document issued to the person under a primary Act; or	6
(b)	a document required to be kept by the person under a primary Act; or	7 8
(c)	if a document or information required to be kept by the person under a primary Act is stored or recorded by means of a device—a document that is a clear written reproduction of the stored or recorded document or information.	9 10 11 12 13
(2)	A requirement under subsection (1) is a <b><i>document production requirement</i></b> .	14 15
(3)	For an electronic document, compliance with the document production requirement requires the making available or production of a clear written reproduction of the electronic document.	16 17 18 19
(4)	The inspector may keep the document to copy it.	20
(5)	If the inspector copies the document, or an entry in the document, the inspector may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.	21 22 23 24
(6)	A requirement under subsection (5) is a <b><i>document certification requirement</i></b> .	25 26
(7)	The inspector must return the document to the person as soon as practicable after copying it.	27 28
(8)	However, if a document certification requirement is made of a person, the inspector may keep the document until the person complies with the requirement.	29 30 31

[s 58]

<b>58</b>	<b>Offence to contravene document production requirement</b>	1
(1)	A person of whom a document production requirement has been made must comply with the requirement unless the person has a reasonable excuse.	2 3 4
	Maximum penalty—200 penalty units.	5
(2)	It is not a reasonable excuse for a person to fail to comply with a document production requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.	6 7 8 9
	<i>Note—</i>	10
	See, however, section 71.	11
(3)	The inspector must inform the person, in a way that is reasonable in the circumstances—	12 13
(a)	that the person must comply with the document production requirement even though complying might tend to incriminate the person or expose the person to a penalty; and	14 15 16 17
(b)	that, under section 71, there is a limited immunity against the future use of the information or document given in compliance with the requirement.	18 19 20
(4)	If the person fails to comply with the document production requirement when the inspector has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).	21 22 23 24
(5)	If a court convicts a person of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the document production requirement.	25 26 27 28
<b>59</b>	<b>Offence to contravene document certification</b>	29
(1)	A person of whom a document certification requirement has been made must comply with the requirement unless the person has a reasonable excuse.	30 31 32

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Maximum penalty—200 penalty units.	1
(2) It is not a reasonable excuse for a person to fail to comply with a document certification requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.	2 3 4 5
<i>Note—</i>	6
See, however, section 71.	7
(3) The inspector must inform the person, in a way that is reasonable in the circumstances—	8 9
(a) that the person must comply with the document certification requirement even though complying might tend to incriminate the person or expose the person to a penalty; and	10 11 12 13
(b) that, under section 71, there is a limited immunity against the future use of the information or document given in compliance with the requirement.	14 15 16
(4) If the person fails to comply with the document certification requirement when the inspector has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).	17 18 19 20
<b>60 Power to require information</b>	21
(1) This section applies if an inspector reasonably believes—	22
(a) an offence against this Act or a primary Act has been committed; and	23 24
(b) a person may be able to give information about the offence.	25 26
(2) The inspector may, by notice given to the person, require the person to give the inspector information related to the offence at a stated reasonable time and place.	27 28 29
(3) A requirement under subsection (2) is an <i>information requirement</i> .	30 31

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[s 61]

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(4)	For information that is an electronic document, compliance with the information requirement requires the giving of a clear image or written version of the electronic document.	1 2 3
(5)	In this section— <i>information</i> includes a document.	4 5
<b>61</b>	<b>Offence to contravene information requirement</b>	6
(1)	A person of whom an information requirement is made must comply with the requirement unless the person has a reasonable excuse.  Maximum penalty—200 penalty units or 1 year’s imprisonment.	7 8 9 10 11
(2)	It is a reasonable excuse for an individual not to give the information if giving the information might tend to incriminate the individual or expose the individual to a penalty.	12 13 14 15
<b>Part 4</b>	<b>Obtaining criminal history reports</b>	16 17
<b>62</b>	<b>Purpose of pt 4</b>  The purpose of this part is to help an inspector to decide whether the inspector’s unaccompanied entry of a place under part 2 would create an unacceptable level of risk to the inspector’s safety.	18 19 20 21 22
<b>63</b>	<b>Chief executive’s power to obtain criminal history report</b>	23
(1)	The chief executive may ask the commissioner of the police service for a written report about the criminal history of a person if an inspector reasonably suspects the person—	24 25 26



[s 64]

- 
- (a) may be present at a place when the inspector enters the place under part 2; and
      - (b) may create an unacceptable level of risk to the inspector's safety.
    - (2) The commissioner of the police service must give the report to the chief executive.
    - (3) However, the report is required to contain only criminal history that is in the commissioner's possession or to which the commissioner has access.
    - (4) The chief executive must examine the report and identify, to the extent it is reasonably practicable to do so, offences involving the use of a weapon or violence against a person.
    - (5) The chief executive may give the inspector information in the report about the offences identified under subsection (4).

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## **64 Criminal history is confidential document** 15

- (1) A person must not, directly or indirectly, disclose to anyone else a report about a person's criminal history, or information contained in the report, given under section 63.
  - Maximum penalty—100 penalty units.
  - (2) However, the person does not contravene subsection (1) if—
      - (a) the disclosure of the report or information is for the purpose of the other person performing a function in relation to this Act; or
      - (b) the disclosure of the report or information is for the purpose of the other person performing a function in relation to a primary Act and the function is substantially the same as a function under this Act; or
      - (c) the disclosure of the report or information is otherwise required or permitted by law.
    - (3) The chief executive or an inspector to whom the report or written information in the report is provided must destroy the

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[s 65]

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report as soon as practicable after the inspector considers the 1  
risk mentioned in section 62. 2

## **Part 5** **Miscellaneous provisions** 3

### **Division 1** **Damage** 4

#### **65** **Duty to avoid inconvenience and minimise damage** 5

In exercising a power, an inspector must take all reasonable 6  
steps to cause as little inconvenience, and do as little damage, 7  
as possible. 8

*Note—* 9

See also section 67. 10

#### **66** **Notice of damage** 11

(1) This section applies if— 12

(a) an inspector damages something when exercising, or 13  
purporting to exercise, a power; or 14

(b) a person (the *assistant*) acting under the direction or 15  
authority of an inspector damages something. 16

(2) However, this section does not apply to damage the inspector 17  
reasonably considers is trivial or if the inspector reasonably 18  
believes— 19

(a) there is no-one apparently in possession of the thing; or 20

(b) the thing has been abandoned. 21

(3) The inspector must give notice of the damage to the person 22  
who appears to the inspector to be an owner, or person in 23  
control, of the thing. 24

- 
- (4) However, if for any reason it is not practicable to comply with subsection (3), the inspector must—
- (a) leave the notice at the place where the damage happened; and
- (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (5) The inspector may delay complying with subsection (3) or (4) if the inspector reasonably suspects complying with the subsection may frustrate or otherwise hinder the performance of the inspector's functions.
- (6) The delay may be only for so long as the inspector continues to have the reasonable suspicion and remains in the vicinity of the place.
- (7) If the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the control of the inspector or the assistant the inspector may state the belief in the notice.
- (8) The notice must state—
- (a) particulars of the damage; and
- (b) that the person who suffered the damage may claim compensation under section 67.

## **Division 2                      Compensation**

### **67                      Compensation**

- (1) A person may claim compensation from the State if the person incurs loss because of the exercise, or purported exercise, of a power by or for an inspector including a loss arising from compliance with a requirement made of the person under this chapter.
- (2) However, subsection (1) does not include loss arising from a lawful seizure.

[s 68]

- (3) The compensation may be claimed and ordered in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for an alleged offence against this Act or a primary Act the investigation of which gave rise to the claim for compensation.
- (4) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (5) In considering whether it is just to order compensation, the court must have regard to any relevant offence committed by the claimant.
- (6) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.
- (7) Section 65 does not provide for a statutory right of compensation other than is provided by this section.
- (8) In this section—  
*loss* includes costs and damage.

## **Division 3                      Other offences relating to inspectors**

### **68                      Giving inspector false or misleading information**

- (1) A person must not, in relation to the administration of this Act or a primary Act, give an inspector information, or a document containing information, that the person knows is false or misleading in a material particular.  
  
Maximum penalty—200 penalty units or 2 years imprisonment.

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(2)	Subsection (1) applies to information or a document given in relation to the administration of this Act or a primary Act whether or not the information or document was given in response to a specific power under this Act or the primary Act.	1 2 3 4 5
<b>69</b>	<b>Obstructing inspector</b>	6
(1)	A person must not obstruct an inspector, or someone helping an inspector, exercising a power under this Act or a primary Act unless the person has a reasonable excuse.	7 8 9
	Maximum penalty—200 penalty units or 1 year’s imprisonment.	10 11
(2)	If a person has obstructed an inspector, or someone helping an inspector, and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—	12 13 14 15
(a)	it is an offence to cause an obstruction unless the person has a reasonable excuse; and	16 17
(b)	the inspector considers the person’s conduct an obstruction.	18 19
(3)	In this section—	20
	<i>obstruct</i> includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.	21 22
<b>70</b>	<b>Impersonating inspector</b>	23
	A person must not impersonate an inspector.	24
	Maximum penalty—80 penalty units.	25

[s 71]

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<b>Division 4</b>	<b>Other provisions</b>	1
<b>71</b>	<b>Evidential immunity for individuals complying with particular requirements</b>	2 3
(1)	Subsection (2) applies if an individual gives or produces information or a document to an inspector under section 34 or 60.	4 5 6
(2)	Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.	7 8 9 10 11
(3)	Subsection (2) does not apply to a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence.	12 13 14 15
<b>Chapter 3</b>	<b>Appeals, evidence and legal proceedings</b>	16 17
<b>Part 1</b>	<b>Reviews and appeals</b>	18
<b>Division 1</b>	<b>Right of appeal</b>	19
<b>72</b>	<b>Right of appeal</b>	20
	A person who has a right to be given an information notice about a decision made under this Act has a right to appeal against the decision.	21 22 23

<b>Division 2</b>	<b>Internal review of decisions</b>	1
<b>73</b>	<b>Appeal process starts with internal review</b>	2
(1)	Every appeal against a decision must be, in the first instance, by way of an application for an internal review.	3 4
(2)	A person who has a right to appeal against a decision may apply to the chief executive for a review of the decision.	5 6
<b>74</b>	<b>How to apply for review</b>	7
(1)	An application for review of a decision must be—	8
(a)	in the approved form; and	9
(b)	supported by enough information to enable the chief executive to decide the application.	10 11
(2)	The application must be made within 20 business days after—	12
(a)	the day the person is given the information notice about the decision; or	13 14
(b)	if the person is not given an information notice about the decision—the day the person otherwise becomes aware of the decision.	15 16 17
(3)	The chief executive may extend the period for applying for the review.	18 19
(4)	The application must not be dealt with by—	20
(a)	the person who made the decision; or	21
(b)	a person in a less senior office than the person who made the decision.	22 23
(5)	Subsection (4)—	24
(a)	applies despite the <i>Acts Interpretation Act 1954</i> , section 27A; and	25 26
(b)	does not apply to a decision made by the chief executive.	27 28

[s 75]

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<b>75</b>	<b>Stay of operation of decision</b>	1
(1)	An application for review of a decision does not stay the decision.	2 3
(2)	However, the applicant may immediately apply for a stay of the decision to the court.	4 5
(3)	The court may stay the decision to secure the effectiveness of the review and a later appeal to the court.	6 7
(4)	The stay—	8
(a)	may be given on conditions the court considers appropriate; and	9 10
(b)	operates for the period fixed by the court; and	11
(c)	may be amended or revoked by the court.	12
(5)	The period of the stay must not extend past the time when the chief executive makes a review decision about the decision and any later period the court allows the applicant to enable the applicant to appeal against the review decision.	13 14 15 16
(6)	An application for review of a decision affects the decision, or carrying out of the decision, only if the decision is stayed.	17 18
<b>76</b>	<b>Review decision</b>	19
(1)	The chief executive must, within 30 business days after receiving the application—	20 21
(a)	review the decision (the <i>original decision</i> ); and	22
(b)	make a decision (the <i>review decision</i> ) to—	23
(i)	confirm the original decision; or	24
(ii)	amend the original decision; or	25
(iii)	substitute another decision for the original decision; and	26 27
(c)	give the applicant notice (the <i>review notice</i> ) of the review decision.	28 29



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| (2) If the review decision is not the decision sought by the applicant, the review notice must state the following—  | 1<br>2         |
| (a) the day the notice is given to the applicant (the <i>review notice day</i> );  | 3<br>4         |
| (b) the reasons for the decision;  | 5              |
| (c) that the applicant may appeal against the decision to the court within 28 days after the review notice day;  | 6<br>7         |
| (d) how to appeal;   | 8              |
| (e) that the applicant may apply to the court for a stay of the decision.  | 9<br>10        |
| (3) If the chief executive does not give the review notice within the 30 days, the chief executive is taken to have made a review decision confirming the original decision. | 11<br>12<br>13 |

<b>Division 3</b>	<b>Appeals</b>	14
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<b>77</b>	<b>Who may appeal</b>	15
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A person who has applied for review of an original decision and is dissatisfied with the review decision may appeal to the court against the decision.	16 17 18
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<b>78</b>	<b>Procedure for an appeal to the court</b>	19
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| (1) | An appeal to the court is started by filing notice of appeal with the clerk of the court.  | 20<br>21       |
| (2) | A copy of the notice must be served on the chief executive.  | 22             |
| (3) | The notice of appeal must be filed within 28 days after the review notice day.   | 23<br>24       |
| (4) | The court may, whether before or after the time for filing the notice of appeal ends, extend the period for filing the notice of appeal. | 25<br>26<br>27 |

[s 79]

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| (5) The notice of appeal must state fully the grounds of the appeal. | 1 |
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<b>79</b>	<b>Stay of operation of review decision</b>	<b>3</b>
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| (1) The court may grant a stay of the operation of a review decision appealed against to secure the effectiveness of the appeal. | 4  |
|  | 5  |
|  | 6  |
| (2) A stay—  | 7  |
| (a) may be granted on conditions the court considers appropriate; and  | 8  |
|  | 9  |
| (b) operates for the period fixed by the court; and  | 10 |
| (c) may be amended or revoked by the court.  | 11 |
| (3) The period of a stay stated by the court must not extend past the time when the court decides the appeal.                    | 12 |
|  | 13 |
| (4) An appeal against a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.      | 14 |
|  | 15 |

<b>80</b>	<b>Powers of court on appeal</b>	<b>16</b>
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| (1) In deciding an appeal, the court—  | 17 |
| (a) has the same powers as the chief executive in making the review decision appealed against; and | 18 |
|  | 19 |
| (b) is not bound by the rules of evidence; and   | 20 |
| (c) must comply with natural justice.  | 21 |
| (2) An appeal is by way of rehearing.  | 22 |
| (3) The court may—   | 23 |
| (a) confirm the review decision; or  | 24 |
| (b) set aside the review decision and substitute another decision; or                              | 25 |
|  | 26 |

	(c) set aside the review decision and return the matter to the chief executive with directions the court considers appropriate.	1 2 3
<b>81</b>	<b>Effect of decision of court on appeal</b>	4
	(1) If the court acts to set aside the review decision and return the matter to the chief executive with directions the court considers appropriate, and the chief executive makes a new decision, the new decision is not subject to review or appeal under this part.	5 6 7 8 9
	(2) If the court substitutes another decision, the substituted decision is taken to be the decision of the chief executive, and the chief executive may give effect to the decision as if the decision was the original decision of the chief executive and no application for review or appeal had been made.	10 11 12 13 14
<b>Part 2</b>	<b>Evidence and legal proceedings</b>	15 16
<b>Division 1</b>	<b>Evidentiary provisions</b>	17
<b>82</b>	<b>Application of div 1</b>	18
	This division applies to a proceeding under this Act.	19
<b>83</b>	<b>Authority</b>	20
	The power of the chief executive or an inspector to do anything under this Act must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it.	21 22 23

[s 84]

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<b>84</b>	<b>Signatures</b>	1
	A signature purporting to be the signature of the chief executive or an inspector is evidence of the signature it purports to be.	2 3 4
<b>85</b>	<b>Other evidentiary aids</b>	5
	A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—	6 7 8
	(a) that a stated document of any of the following types is a document given, issued, kept or made under this Act—	9 10
	(i) an appointment, approval or decision;	11
	(ii) a direction or requirement;	12
	(iii) a notice or other document given under this Act;	13
	(b) that a stated document is another document kept under this Act;	14 15
	(c) that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);	16 17
	(d) that on a stated day—	18
	(i) a stated person was given a stated decision, direction or notice under this Act; or	19 20
	(ii) a stated requirement under this Act was made of a stated person;	21 22
	(e) that a stated amount is payable under this Act by a stated person and has not been paid.	23 24

<b>Division 2</b>	<b>Offence proceedings</b>	25
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<b>86</b>	<b>Offences under Act are summary</b>	26
	(1) An offence against this Act is a summary offence.	27

[s 87]

- (2) A proceeding for an offence against this Act must start within the later of the following periods to end—
  - (a) 1 year after the commission of the offence;
  - (b) 6 months after the offence comes to the complainant's knowledge but within 2 years after the commission of the offence.

- 87 Statement of complainant's knowledge**
- In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

## Chapter 4 Miscellaneous provisions

- 88 Supervision by inspector**
- If a direction or requirement under this Act allows or requires a person to take action, the direction or requirement may also require the person to take the action under an inspector's supervision.

- 89 Reasonable excuse defences**
- A provision of this Act that states what is or is not a reasonable excuse for a provision of this Act does not limit the reasonable excuses that may be relied on in relation to the provision.

- 90 Protection from liability for particular persons**
- (1) A person as follows (a *designated person*) does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act—

[s 91]

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(a)	the chief executive;	1
(b)	an inspector;	2
(c)	a person acting under the authority or direction of an inspector.	3 4
(2)	If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.	5 6
(3)	In this section—	7
	<i><b>civil liability</b></i> includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.	8 9 10
<b>91</b>	<b>Delegation by chief executive</b>	11
(1)	The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified public service employee.	12 13 14
(2)	In this section—	15
	<i><b>appropriately qualified</b></i> includes having the qualifications, experience or standing appropriate for the functions.	16 17
	<i>Example of standing—</i>	18
	a person's classification level in the public service	19
<b>92</b>	<b>Confidentiality of information</b>	20
(1)	An inspector must not, whether directly or indirectly, disclose confidential information.	21 22
	Maximum penalty—100 penalty units.	23
(2)	However, subsection (1) does not apply if—	24
(a)	the confidential information is disclosed—	25
(i)	in the performance of functions under this Act; or	26
(ii)	with the written consent of the person to whom the information relates; or	27 28
(iii)	to the person to whom the information relates; or	29

	(iv) in a form that could not identify any person; or	1
	(b) the disclosure of the confidential information is authorised under an Act or another law.	2 3
	(3) In this section—	4
	<i>confidential information</i> means information that has become known to an inspector in the course of performing the inspector's functions for this Act.	5 6 7
<b>93</b>	<b>Approved forms</b>	8
	The chief executive may approve forms for use under this Act.	9
<b>94</b>	<b>Regulation-making power</b>	10
	(1) The Governor in Council may make regulations under this Act.	11 12
	(2) A regulation may impose a penalty of no more than 20 penalty units for a contravention of a regulation.	13 14
<b>Chapter 5</b>	<b>Transitional provisions</b>	15
<b>Part 1</b>	<b>Purposes, definitions and general approach</b>	16 17
<b>95</b>	<b>Main purposes of ch 5</b>	18
	The main purposes of this chapter are—	19
	(a) to provide for provisions of this Act that are substantially the same as repealed provisions of a primary Act to be dealt with as replacements of the repealed provisions; and	20 21 22 23

[s 96]

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- (b) without limiting paragraph (a), if matters relating to the  
appointment and powers of inspectors for a primary Act,  
and the procedures relating to the exercise of the  
powers, were dealt with in a primary Act, to provide for  
the continuation of the matters under this Act.

## 96 Definitions for ch 5 6

In this chapter— 7

*commencement* means the day this section commences. 8

*corresponding provision*, for a previous provision of a  
primary Act, means a provision of this Act that is  
substantially the same as the previous provision of the  
primary Act. 9  
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*made* includes given and issued. 13

*obligation* includes duty. 14

*previous*, in relation to a stated provision of a primary Act that  
includes a number, means the provision of the primary Act  
with that number immediately before the commencement, if  
the provision is repealed under this Act. 15  
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*previous provision*, of a primary Act, means a provision of the  
primary Act, as in force immediately before the  
commencement, if the provision is repealed under this Act. 19  
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*protection* includes a statement to the effect of any of the  
following— 22  
23

- (a) that there is no liability; 24
- (b) that there is no invalidity; 25
- (c) that a person has an entitlement. 26

## 97 Document, action, obligation or protection under previous provision of primary Act 27 28

- (1) This section applies to any of the following— 29



- 
- (a) a document made or kept under a previous provision of a primary Act (the *relevant previous provision* for the document) if the document continued to have effect or was in force immediately before the commencement;
    - (b) an action done under a previous provision of a primary Act (the *relevant previous provision* for the action) if the action continued to have effect immediately before the commencement;
    - (c) an entity's obligation under a previous provision of a primary Act (the *relevant previous provision* for the obligation) if the obligation applied to the entity immediately before the commencement;
    - (d) an entity's protection under a previous provision of a primary Act (the *relevant previous provision* for the protection) that applied to the entity immediately before the commencement.

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  - (2) Subject to a specific provision of this Act in relation to the document, action, obligation or protection, if there is a corresponding provision for the relevant previous provision for the document, action, obligation or protection, the document, action, obligation or protection—
    - (a) continues in force or to have effect according to its terms; and
    - (b) may be taken to have been made, kept or done under the corresponding provision.

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  - (3) Subsection (2)(b) applies whether or not the relevant previous provision refers to the document, action, obligation or protection by reference to a provision of the primary Act.

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  - (4) Other provisions of this part include examples of the operation of this section.

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**98 Terminology in things mentioned in s 97(1)**

- (1) This section applies to a document (the *relevant document*) that is—

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[s 99]

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(a)	a document as mentioned in section 97(1); or	1
(b)	evidence of a document, action, obligation or protection as mentioned in section 97(1).	2 3
(2)	A reference in the relevant document to a document, action, obligation or protection as mentioned in section 97(1) is to be read, if the context permits and with the necessary changes to terminology, as if the document, action, obligation or protection were made, kept or done under this Act.	4 5 6 7 8
	<i>Example for subsection (2)—</i>	9
	An instrument of appointment given under a primary Act by the chief executive to an inspector limiting the powers of the inspector is to be read as if the instrument limited the powers of the inspector under this Act.	10 11 12 13
<b>99</b>	<b>Period stated in previous provision</b>	14
(1)	This section applies if, in a previous provision of a primary Act, there is a period for doing something, and the period for doing the thing started but did not finish before the commencement.	15 16 17 18
(2)	If there is a corresponding provision to the previous provision of the primary Act and both the corresponding provision and the previous provision provide for the same period, the period for doing the thing continues to have started from when the period started under the previous provision but ends under the corresponding provision.	19 20 21 22 23 24
<b>100</b>	<b>Period or date stated in document given under previous provision</b>	25 26
(1)	This section applies if—	27
(a)	there was a previous provision of a primary Act that provided for a document to be made under it; and	28 29
(b)	there is a corresponding provision to the previous provision of the primary Act; and	30 31

- (c) under the previous provision and before the commencement, a document was given to a person, whether or not the person had received the document before the commencement.

*Example for paragraph (c)—*

a notice under the *Residential Services (Accreditation) Act 2002*, previous section 127, that states a period within which a person who is in control of a thing to be seized must take the thing to a place stated in the notice

- (2) If the document stated a period for doing something—
- (a) the stated period continues to apply for doing the thing; and
- (b) the period continues to have started from when the period started under the previous provision of the primary Act.
- (3) If the document stated a day before which, or by which, a thing is to be done (however expressed), the thing must be done by the stated day.

## 101 **Action happening before commencement may be relevant to proceeding for particular acts or omissions**

- (1) An action as mentioned in section 97(1) happening before the commencement may be relevant to a proceeding relating to a contravention of a provision of this Act involving an act or omission that happened after the commencement.
- (2) This section does not limit the *Acts Interpretation Act 1954*, section 20C.
- (3) In this section—  
***contravention*** includes an alleged contravention.

## 102 **Acts Interpretation Act 1954, s 20 not limited**

This chapter does not limit the *Acts Interpretation Act 1954*, section 20.

[s 103]

<b>Part 2</b>	<b>Transitional provisions relating to particular provisions of primary Acts</b>	1
		2
		3
<b>Division 1</b>	<b>Examples for chapter 2</b>	4
<b>103</b>	<b>Examples for ch 2 of documents under s 97</b>	5
	For the operation of chapter 2, the following are examples of documents as mentioned in section 97(1)(a) in relation to matters dealt with under a primary Act—	6
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		8
	(a) an acknowledgement given under a previous provision of a primary Act of consent for an inspector to enter a place;	9
		10
		11
	<i>Examples of previous provisions—</i>	12
	• the <i>Residential Services (Accreditation) Act 2002</i> , previous section 114	13
		14
	• the <i>Second-hand Dealers and Pawnbrokers Act 2003</i> , previous section 83	15
		16
	• the <i>Travel Agents Act 1988</i> , previous section 45I	17
	(b) a warrant issued under a previous provision of a primary Act;	18
		19
	<i>Examples of previous provisions—</i>	20
	• the <i>Residential Services (Accreditation) Act 2002</i> , previous section 116	21
		22
	• the <i>Retirement Villages Act 1999</i> , previous section 142	23
	• the <i>Second-hand Dealers and Pawnbrokers Act 2003</i> , previous section 85	24
		25
	• the <i>Travel Agents Act 1988</i> , previous section 45B	26
	(c) a notice under a previous provision of a primary Act requiring a person to take a thing to be seized to a stated place;	27
		28
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<i>Example of previous provision—</i>	1
the <i>Residential Services (Accreditation) Act 2002</i> , previous section 127	2 3
(d) a notice under the <i>Residential Services (Accreditation) Act 2002</i> , previous section 133 requiring a person to give information;	4 5 6
(e) a receipt for a seized thing under a previous provision of a primary Act;	7 8
<i>Examples of previous provisions—</i>	9
• the <i>Second-hand Dealers and Pawnbrokers Act 2003</i> , previous section 91	10 11
• the <i>Tourism Services Act 2003</i> , previous section 55	12
(f) an information notice under a previous provision of a primary Act;	13 14
<i>Example of previous provision—</i>	15
a QCAT information notice under the <i>Tourism Services Act 2003</i> , previous section 56	16 17
 <b>104 Examples for ch 2 of obligations under s 97</b>	 18
For the operation of chapter 2, the following are examples of an obligation as mentioned in section 97(1)(c) in relation to matters dealt with under a primary Act—	19 20 21
(a) an obligation under a previous provision of a primary Act for an inspector to give notice of the particulars of damage to anything;	22 23 24
<i>Examples of previous provisions—</i>	25
• the <i>Manufactured Homes (Residential Parks) Act 2003</i> , previous section 123	26 27
• the <i>Residential Services (Accreditation) Act 2002</i> , previous section 137	28 29
• the <i>Tourism Services Act 2003</i> , previous section 63	30

[s 104]

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| (b) | an obligation under a previous provision of a primary Act to return a seized thing to the person from whom it is seized or its owner;                | 1<br>2<br>3    |
|     | <i>Examples of previous provisions—</i>  | 4              |
|     | • the <i>Land Sales Act 1984</i> , previous section 30H(3)   | 5              |
|     | • the <i>Manufactured Homes (Residential Parks) Act 2003</i> , previous section 120  | 6<br>7         |
|     | • the <i>Residential Services (Accreditation) Act 2002</i> , previous section 130  | 8<br>9         |
|     | • the <i>Security Providers Act 1993</i> , previous section 39   | 10             |
| (c) | an obligation under a previous provision of a primary Act to allow an owner of a seized thing to inspect the thing;                                  | 11<br>12<br>13 |
|     | <i>Examples of previous provisions—</i>  | 14             |
|     | • the <i>Land Sales Act 1984</i> , previous section 30H(2)   | 15             |
|     | • the <i>Manufactured Homes (Residential Parks) Act 2003</i> , previous section 121  | 16<br>17       |
|     | • the <i>Residential Services (Accreditation) Act 2002</i> , previous section 131  | 18<br>19       |
| (d) | a requirement under a previous provision of a primary Act to make a particular document available for inspection;                                    | 20<br>21<br>22 |
|     | <i>Examples of previous provisions—</i>  | 23             |
|     | • the <i>Manufactured Homes (Residential Parks) Act 2003</i> , previous section 122  | 24<br>25       |
|     | • the <i>Residential Services (Accreditation) Act 2002</i> , previous section 134  | 26<br>27       |
| (e) | a requirement under the <i>Residential Services (Accreditation) Act 2002</i> , previous section 127, to take a thing to be seized to a stated place. | 28<br>29<br>30 |

<b>105</b>	<b>Examples for ch 2 of protections under s 97</b>	1
	For the operation of chapter 2, the following are examples of a protection as mentioned in section 97(1)(d) in relation to matters dealt with under a primary Act—	2
	(a) the statement in the <i>Land Sales Act 1984</i> , previous section 30F(5), that particular information or a particular document is not admissible in evidence against an individual in any criminal proceedings;	3
	(b) a right for a person to claim compensation under a previous provision of a primary Act.	4
	<i>Examples of previous provisions—</i>	5
	• the <i>Land Sales Act 1984</i> , previous section 30J	6
	• the <i>Manufactured Homes (Residential Parks) Act 2003</i> , previous section 124	7
	• the <i>Residential Services (Accreditation) Act 2002</i> , previous section 138	8
	• the <i>Retirement Villages Act 1999</i> , previous section 152	9
	• the <i>Security Providers Act 1993</i> , previous section 46	10
	• the <i>Travel Agents Act 1988</i> , previous section 45H	11
<b>Division 2</b>	<b>General matters</b>	12
<b>106</b>	<b>Existing authorised officers</b>	20
	(1) This section applies to a person who—	21
	(a) before the commencement, was appointed under a primary Act as an authorised officer; and	22
	(b) still held the appointment immediately before the commencement.	23
	<i>Note—</i>	24
	The relevant primary Acts are the <i>Residential Services (Accreditation) Act 2002</i> , the <i>Second-hand Dealers and Pawnbrokers Act 2003</i> and the <i>Travel Agents Act 1988</i> .	25
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[s 107]

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(2) On the commencement—	1
(a) the person’s appointment as an authorised officer under the primary Act ends; and	2 3
(b) the person is taken to hold office under this Act as an inspector for the primary Act on the conditions stated in the person’s instrument of appointment under the primary Act.	4 5 6 7
<b>107 Existing inspectors</b>	8
(1) This section applies to a person who—	9
(a) before the commencement, was appointed under a primary Act as an inspector; and	10 11
(b) still held the appointment immediately before the commencement.	12 13
<i>Note—</i>	14
The relevant primary Acts are the <i>Introduction Agents Act 2001</i> , the <i>Manufactured Homes (Residential Parks) Act 2003</i> and the <i>Security Providers Act 1993</i> , but not the <i>Tourism Services Act 2003</i> or the <i>Travel Agents Act 1988</i> which adopted inspectors appointed under the <i>Fair Trading Act 1989</i> .	15 16 17 18 19
(2) On the commencement, the person is taken to hold office under this Act as an inspector for the primary Act on the conditions stated in the person’s instrument of appointment under the primary Act.	20 21 22 23
<b>108 Reviews and appeals</b>	24
Previous provisions of any primary Act that provide for review or appeal of a decision made under the primary Act continue to apply after the commencement in relation to a decision made before the commencement as if the primary Act had not been amended by this Act.	25 26 27 28 29



<b>109</b>	<b>References in Acts and documents</b>	1
	A reference in an Act or document to a previous provision of a primary Act may, if the context permits, be taken as a reference to the corresponding provision of the previous provision.	2 3 4 5
<b>Chapter 6</b>	<b>Amendment of Acts</b>	6
<b>Part 1</b>	<b>Amendment of Funeral Benefit Business Act 1982</b>	7 8
<b>110</b>	<b>Act amended</b>	9
	This part amends the <i>Funeral Benefit Business Act 1982</i> .	10
<b>111</b>	<b>Insertion of new s 3</b>	11
	After section 2—	12
	<i>insert—</i>	13
<b>‘3</b>	<b>Relationship with Fair Trading Inspectors Act 2011</b>	14
	‘(1) The <i>Fair Trading Inspectors Act 2011</i> (the <b>FTI Act</b> ) enacts common provisions for this Act and particular other Acts about fair trading.	15 16 17
	‘(2) Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition to and do not limit any powers the inspector has under this Act.’.	18 19 20 21
<b>112</b>	<b>Amendment of s 5 (Definitions)</b>	22
	(1) Section 5, definition <i>inspector</i> —	23

[s 113]

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	<i>omit.</i>	1
(2)	Section 5—	2
	<i>insert—</i>	3
	<b>‘disposal order</b> see section 81D(2).	4
	<b>FTI Act</b> see section 3(1).	5
	<b>inspector</b> means a person who holds office under the FTI Act as an inspector for this Act.’.	6 7
<b>113</b>	<b>Replacement of pt 2, hdg (Appointment of officers)</b>	8
	Part 2, heading—	9
	<i>omit, insert—</i>	10
<b>‘Part 2</b>	<b>The registrar’.</b>	11
<b>114</b>	<b>Omission of ss 6B–6D</b>	12
	Sections 6B to 6D—	13
	<i>omit.</i>	14
<b>115</b>	<b>Amendment of s 52 (Cancellation of registration by QCAT)</b>	15 16
	Section 52(14), ‘whether as registrar or as an inspector under this Act,’—	17 18
	<i>omit.</i>	19
<b>116</b>	<b>Replacement of s 81 (Powers of inspectors)</b>	20
	Section 81—	21
	<i>omit, insert—</i>	22

<b>‘Division 1</b>	<b>Forfeiture and disposal orders</b>	<b>1</b>
<b>‘81</b>	<b>Forfeiture on conviction</b>	<b>2</b>
‘(1)	On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—	3
	(a) anything used to commit the offence; or	4
	(b) anything else the subject of the offence.	5
‘(2)	The court may make any order to enforce the forfeiture it considers appropriate.	6
‘(3)	This section does not limit the court’s powers under another law.	7
		8
		9
		10
<b>‘81A</b>	<b>Procedure and powers for making forfeiture order</b>	<b>11</b>
‘(1)	A forfeiture order may be made on a conviction on the court’s initiative or on an application by the prosecution.	12
		13
‘(2)	In deciding whether to make a forfeiture order for a thing, the court—	14
	(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	15
		16
	(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	17
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		19
		20
<b>‘81B</b>	<b>When thing becomes property of the State</b>	<b>21</b>
	‘A thing becomes the property of the State if—	22
	(a) the thing is forfeited to the State under a forfeiture order; or	23
		24
	(b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.	25
		26

[s 116]

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<b>‘81C</b>	<b>How property may be dealt with</b>	1
‘(1)	This section applies if, under section 81B, a thing becomes the property of the State.	2 3
‘(2)	The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.	4 5 6
‘(3)	The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.	7 8 9
‘(4)	If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the person who was the thing’s owner immediately before the thing became the property of the State.	10 11 12 13
‘(5)	This section is subject to any disposal order made for the thing.	14 15
<b>‘81D</b>	<b>Disposal order</b>	16
‘(1)	This section applies if a person is convicted of an offence against this Act.	17 18
‘(2)	The court may make an order (a <i>disposal order</i> ), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—	19 20 21
(a)	anything that was the subject of, or used to commit, the offence;	22 23
(b)	another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.	24 25 26
‘(3)	In deciding whether to make a disposal order for a thing, the court—	27 28
(a)	may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	29 30 31

(b)	must hear any submissions that any person claiming to have any property in the thing may wish to make.	1 2
‘(4)	The court may make any order to enforce the disposal order that it considers appropriate.	3 4
‘(5)	This section does not limit the court’s powers under another law.	5 6
<b>‘Division 2</b>	<b>Evidence and legal proceedings’.</b>	7
<b>117</b>	<b>Insertion of new pt 8, div 3, hdg</b>	8
	After section 85—	9
	<i>insert—</i>	10
<b>‘Division 3</b>	<b>Miscellaneous provisions’.</b>	11
<b>Part 2</b>	<b>Amendment of Introduction Agents Act 2001</b>	12 13
<b>118</b>	<b>Act amended</b>	14
	This part amends the <i>Introduction Agents Act 2001</i> .	15
<b>119</b>	<b>Insertion of new s 4A</b>	16
	Part 1—	17
	<i>insert—</i>	18
<b>‘4A</b>	<b>Relationship with Fair Trading Inspectors Act 2011</b>	19
‘(1)	The <i>Fair Trading Inspectors Act 2011</i> (the <b><i>FTI Act</i></b> ) enacts common provisions for this Act and particular other Acts about fair trading.	20 21 22

[s 120]

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‘(2)	Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition to and do not limit any powers the inspector may have under this Act.	1 2 3 4
‘(3)	In this section—  <i>inspector</i> means a person who holds office under the FTI Act as an inspector for this Act.’.	5  6 7
<b>120</b>	<b>Amendment of pt 2, div 1, hdg (Definitions and notes)</b>  Part 2, division 1, heading, ‘and notes’—  <i>omit.</i>	8  9  10
<b>121</b>	<b>Omission of s 6 (Notes in text)</b>  Section 6—  <i>omit.</i>	11  12  13
<b>122</b>	<b>Replacement of pt 6 (Enforcement)</b>  Part 6—  <i>omit, insert—</i>	14  15  16
<b>‘Part 6</b>	<b>Forfeiture and disposal orders</b>	17
<b>‘61</b>	<b>Forfeiture on conviction</b>	18
‘(1)	On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—	19 20
(a)	anything used to commit the offence; or	21
(b)	anything else the subject of the offence.	22
‘(2)	The court may make any order to enforce the forfeiture it considers appropriate.	23 24

‘(3)	This section does not limit the court’s powers under another law.	1 2
<b>‘62</b>	<b>Procedure and powers for making forfeiture order</b>	3
‘(1)	A forfeiture order may be made on a conviction on the court’s initiative or on an application by the prosecution.	4 5
‘(2)	In deciding whether to make a forfeiture order for a thing, the court—	6 7
	(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	8 9 10
	(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	11 12
<b>‘63</b>	<b>When thing becomes property of the State</b>	13
	‘A thing becomes the property of the State if—	14
	(a) the thing is forfeited to the State under a forfeiture order; or	15 16
	(b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.	17 18
<b>‘64</b>	<b>How property may be dealt with</b>	19
‘(1)	This section applies if, under section 63, a thing becomes the property of the State.	20 21
‘(2)	The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.	22 23 24
‘(3)	The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.	25 26 27

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‘(4) If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the person who was the thing’s owner immediately before the thing became the property of the State.

‘(5) This section is subject to any disposal order made for the thing.

## ‘65 Disposal order

‘(1) This section applies if a person is convicted of an offence against this Act.

‘(2) The court may make an order (a *disposal order*), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—

(a) anything that was the subject of, or used to commit, the offence;

(b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.

‘(3) In deciding whether to make a disposal order for a thing, the court—

(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and

(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.

‘(4) The court may make any order to enforce the disposal order that it considers appropriate.

‘(5) This section does not limit the court’s powers under another law.’.

## 123 Amendment of s 91 (Evidence)

(1) Section 91(2)—



	<i>omit.</i>	1
(2)	Section 91(3), ‘or an inspector’—	2
	<i>omit.</i>	3
(3)	Section 91(3) and (4)—	4
	<i>renumber</i> as section 91(2) and (3).	5
<b>124</b>	<b>Amendment of s 96 (Protecting officials from liability)</b>	6
	Section 96(4), definition <i>official</i> , paragraphs (d) and (e)—	7
	<i>omit, insert—</i>	8
	‘(d) a public service employee.’.	9
<b>125</b>	<b>Amendment of sch 2 (Dictionary)</b>	10
(1)	Schedule 2, definition <i>inspector</i> —	11
	<i>omit.</i>	12
(2)	Schedule 2—	13
	<i>insert—</i>	14
	‘ <i>disposal order</i> see section 65(2).’.	15
<b>Part 3</b>	<b>Amendment of Land Sales Act 1984</b>	16
		17
<b>126</b>	<b>Act amended</b>	18
	This part amends the <i>Land Sales Act 1984</i> .	19
<b>127</b>	<b>Insertion of new s 5A</b>	20
	After section 5—	21

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<i>insert—</i>	1
<b>‘5A Relationship with Fair Trading Inspectors Act 2011</b>	2
‘(1) The <i>Fair Trading Inspectors Act 2011</i> (the <b><i>FTI Act</i></b> ) enacts common provisions for this Act and particular other Acts about fair trading.	3 4 5
‘(2) Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition to and do not limit any powers the inspector may have under this Act.	6 7 8 9
‘(3) In this section—	10
<b><i>inspector</i></b> means a person who holds office under the FTI Act as an inspector for this Act.’.	11 12
 <b>128 Amendment of s 6 (Definitions)</b>	 13
Section 6—	14
<i>insert—</i>	15
‘ <b><i>disposal order</i></b> see section 30D(2).’.	16
 <b>129 Replacement of pt 3A (Enforcement)</b>	 17
Part 3A—	18
<i>omit, insert—</i>	19
 <b>‘Part 3A Forfeiture and disposal orders</b>	 20
 <b>‘30 Forfeiture on conviction</b>	 21
‘(1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—	22 23
(a) anything used to commit the offence; or	24
(b) anything else the subject of the offence.	25
‘(2) The court may make any order to enforce the forfeiture it considers appropriate.	26 27

‘(3) This section does not limit the court’s powers under another law.	1 2
<b>‘30A Procedure and powers for making forfeiture order</b>	<b>3</b>
‘(1) A forfeiture order may be made on a conviction on the court’s initiative or on an application by the prosecution.	4 5
‘(2) In deciding whether to make a forfeiture order for a thing, the court—	6 7
(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	8 9 10
(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	11 12
<b>‘30B When thing becomes property of the State</b>	<b>13</b>
‘A thing becomes the property of the State if—	14
(a) the thing is forfeited to the State under a forfeiture order; or	15 16
(b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.	17 18
<b>‘30C How property may be dealt with</b>	<b>19</b>
‘(1) This section applies if, under section 30B, a thing becomes the property of the State.	20 21
‘(2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.	22 23 24
‘(3) The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.	25 26 27

[s 129]

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‘(4) If the chief executive sells the thing, the chief executive may, 1  
after deducting the costs of the sale, return the proceeds of the 2  
sale to the person who was the thing’s owner immediately 3  
before the thing became the property of the State. 4

‘(5) This section is subject to any disposal order made for the 5  
thing. 6

**‘30D Disposal order 7**

‘(1) This section applies if a person is convicted of an offence 8  
against this Act. 9

‘(2) The court may make an order (a *disposal order*), on its own 10  
initiative or on an application by the prosecution, for the 11  
disposal of any of the following things owned by the person— 12

(a) anything that was the subject of, or used to commit, the 13  
offence; 14

(b) another thing the court considers is likely to be used by 15  
the person or another person in committing a further 16  
offence against this Act. 17

‘(3) In deciding whether to make a disposal order for a thing, the 18  
court— 19

(a) may require notice to be given to anyone the court 20  
considers appropriate, including, for example, any 21  
person who may have any property in the thing; and 22

(b) must hear any submissions that any person claiming to 23  
have any property in the thing may wish to make. 24

‘(4) The court may make any order to enforce the disposal order 25  
that it considers appropriate. 26

‘(5) This section does not limit the court’s powers under another 27  
law.’. 28

<b>Part 4</b>	<b>Amendment of Manufactured Homes (Residential Parks) Act 2003</b>	1 2 3
<b>130 Act amended</b>		4
	This part amends the <i>Manufactured Homes (Residential Parks) Act 2003</i> .	5 6
<b>131 Amendment of pt 1, div 2, hdg (Objects)</b>		7
	Part 1, division 2, heading, after ‘Objects’—	8
	<i>insert—</i>	9
	‘of Act and relationship with FTI Act’.	10
<b>132 Insertion of new s 4A</b>		11
	Part 1, division 2—	12
	<i>insert—</i>	13
<b>‘4A Relationship with Fair Trading Inspectors Act 2011</b>		14
‘(1)	The <i>Fair Trading Inspectors Act 2011</i> (the <b>FTI Act</b> ) enacts common provisions for this Act and particular other Acts about fair trading.	15 16 17
‘(2)	Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition to and do not limit any powers the inspector may have under this Act.	18 19 20 21
‘(3)	In this section—	22
	<b><i>inspector</i></b> means a person who holds office under the FTI Act as an inspector for this Act.	23 24
	<i>Note—</i>	25
	See also the modifying provisions for this Act stated in the FTI Act, schedule 1.’.	26 27

[s 133]

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<b>133</b>	<b>Replacement of pts 16 and 17</b>	1
	Parts 16 and 17—	2
	<i>omit, insert—</i>	3
<b>‘Part 16</b>	<b>Forfeiture and disposal orders</b>	4
<b>‘104</b>	<b>Forfeiture on conviction</b>	5
	‘(1) On the conviction of a person for an offence against this Act,	6
	the court may order the forfeiture to the State of—	7
	(a) anything used to commit the offence; or	8
	(b) anything else the subject of the offence.	9
	‘(2) The court may make any order to enforce the forfeiture it	10
	considers appropriate.	11
	‘(3) This section does not limit the court’s powers under another	12
	law.	13
<b>‘105</b>	<b>Procedure and powers for making forfeiture order</b>	14
	‘(1) A forfeiture order may be made on a conviction on the court’s	15
	initiative or on an application by the prosecution.	16
	‘(2) In deciding whether to make a forfeiture order for a thing, the	17
	court—	18
	(a) may require notice to be given to anyone the court	19
	considers appropriate, including, for example, any	20
	person who may have any property in the thing; and	21
	(b) must hear any submissions that any person claiming to	22
	have any property in the thing may wish to make.	23
<b>‘106</b>	<b>When thing becomes property of the State</b>	24
	‘A thing becomes the property of the State if—	25
	(a) the thing is forfeited to the State under a forfeiture	26
	order; or	27

- 
- |  |                                |
|--|--------------------------------|
| <p style="margin-left: 40px;">(b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.</p>  | <p>1<br/>2</p>                 |
| <p><b>‘107 How property may be dealt with</b></p>  | <p>3</p>                       |
| <p>‘(1) This section applies if, under section 106, a thing becomes the property of the State.</p>   | <p>4<br/>5</p>                 |
| <p>‘(2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.</p>  | <p>6<br/>7<br/>8</p>           |
| <p>‘(3) The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.</p>   | <p>9<br/>10<br/>11</p>         |
| <p>‘(4) If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the person who was the thing’s owner immediately before the thing became the property of the State.</p> | <p>12<br/>13<br/>14<br/>15</p> |
| <p>‘(5) This section is subject to any disposal order made for the thing.</p>  | <p>16<br/>17</p>               |
| <p><b>‘108 Disposal order</b></p>  | <p>18</p>                      |
| <p>‘(1) This section applies if a person is convicted of an offence against this Act.</p>  | <p>19<br/>20</p>               |
| <p>‘(2) The court may make an order (a <i>disposal order</i>), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—</p>   | <p>21<br/>22<br/>23</p>        |
| <p style="margin-left: 40px;">(a) anything that was the subject of, or used to commit, the offence;</p>  | <p>24<br/>25</p>               |
| <p style="margin-left: 40px;">(b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.</p>   | <p>26<br/>27<br/>28</p>        |
| <p>‘(3) In deciding whether to make a disposal order for a thing, the court—</p>   | <p>29<br/>30</p>               |
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[s 134]

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	(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	1 2 3
	(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	4 5
	‘(4) The court may make any order to enforce the disposal order that it considers appropriate.	6 7
	‘(5) This section does not limit the court’s powers under another law.’.	8 9
<b>134</b>	<b>Amendment of s 134 (Appointments and authority)</b>	10
	Section 134(1)(b) and (c)—	11
	<i>omit, insert—</i>	12
	‘(b) the authority of the chief executive to do anything under this Act.’.	13 14
<b>135</b>	<b>Amendment of s 143 (Protection from liability)</b>	15
	(1) Section 143(1), ‘An official’—	16
	<i>omit, insert—</i>	17
	‘The chief executive’.	18
	(2) Section 143(2), ‘an official’—	19
	<i>omit, insert—</i>	20
	‘the chief executive’.	21
	(3) Section 143(3)—	22
	<i>omit.</i>	23
<b>136</b>	<b>Amendment of schedule (Dictionary)</b>	24
	(1) Schedule, definition <i>inspector</i> —	25
	<i>omit.</i>	26



(2)	Schedule—	1
	<i>insert—</i>	2
	<i>‘disposal order</i> see section 108(2).	3
	<i>FTI Act</i> see section 4A(1)’.	4
<b>Part 5</b>	<b>Amendment of Residential Services (Accreditation) Act 2002</b>	5 6 7
<b>137</b>	<b>Act amended</b>	8
	This part amends the <i>Residential Services (Accreditation) Act 2002</i> .	9 10
<b>138</b>	<b>Insertion of new s 2A</b>	11
	Part 1, division 1—	12
	<i>insert—</i>	13
<b>‘2A</b>	<b>Relationship with Fair Trading Inspectors Act 2011</b>	14
‘(1)	The <i>Fair Trading Inspectors Act 2011</i> (the <i>FTI Act</i> ) enacts common provisions for this Act and particular other Acts about fair trading.	15 16 17
‘(2)	Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition to and do not limit any powers the inspector may have under this Act.	18 19 20 21
‘(3)	In this section—	22
	<i>inspector</i> means a person who holds office under the FTI Act as an inspector for this Act.	23 24

[s 139]

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*Note—*

See also the modifying provisions for this Act stated in the FTI Act,  
schedule 1.’.

## **139 Replacement of pt 8 (Investigation and enforcement)**

Part 8, other than section 139—

*omit, insert—*

## **‘Part 8 Forfeiture and disposal orders**

### **‘105 Forfeiture on conviction**

‘(1) On the conviction of a person for an offence against this Act,  
the court may order the forfeiture to the State of—

(a) anything used to commit the offence; or

(b) anything else the subject of the offence.

‘(2) The court may make any order to enforce the forfeiture it  
considers appropriate.

‘(3) This section does not limit the court’s powers under another  
law.

### **‘106 Procedure and powers for making forfeiture order**

‘(1) A forfeiture order may be made on a conviction on the court’s  
initiative or on an application by the prosecution.

‘(2) In deciding whether to make a forfeiture order for a thing, the  
court—

(a) may require notice to be given to anyone the court  
considers appropriate, including, for example, any  
person who may have any property in the thing; and

(b) must hear any submissions that any person claiming to  
have any property in the thing may wish to make.

<b>‘107</b>	<b>When thing becomes property of the State</b>	<b>1</b>
	‘A thing becomes the property of the State if—	2
	(a) the thing is forfeited to the State under a forfeiture order; or	3 4
	(b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.	5 6
 <b>‘108</b>	 <b>How property may be dealt with</b>	 <b>7</b>
	‘(1) This section applies if, under section 107, a thing becomes the property of the State.	8 9
	‘(2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.	10 11 12
	‘(3) The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.	13 14 15
	‘(4) If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the person who was the thing’s owner immediately before the thing became the property of the State.	16 17 18 19
	‘(5) This section is subject to any disposal order made for the thing.	20 21
 <b>‘109</b>	 <b>Disposal order</b>	 <b>22</b>
	‘(1) This section applies if a person is convicted of an offence against this Act.	23 24
	‘(2) The court may make an order (a <i>disposal order</i> ), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—	25 26 27
	(a) anything that was the subject of, or used to commit, the offence;	28 29

[s 140]

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(b)	another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.	1 2 3
‘(3)	In deciding whether to make a disposal order for a thing, the court—	4 5
(a)	may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	6 7 8
(b)	must hear any submissions that any person claiming to have any property in the thing may wish to make.	9 10
‘(4)	The court may make any order to enforce the disposal order that it considers appropriate.	11 12
‘(5)	This section does not limit the court’s powers under another law.	13 14
<b>‘110</b>	<b>Procedure and powers for making disposal order</b>	15
‘(1)	A disposal order may be made on the court’s initiative or on an application by or for the prosecution.	16 17
‘(2)	In deciding whether to make a disposal order for a thing, the court—	18 19
(a)	may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	20 21 22
(b)	must hear any submissions that any person claiming to have any property in the thing may wish to make.’.	23 24
<b>140</b>	<b>Relocation and renumbering of s 139 (Alteration of certificates)</b>	25 26
	Section 139—	27
	<i>relocate</i> and <i>renumber</i> as section 82A.	28

<b>141</b>	<b>Amendment of s 165 (Appointments and authority)</b>	1
	Section 165, ‘, an associated accreditation officer or an authorised officer, or the authority of the chief executive or an authorised officer’—	2 3 4
	<i>omit, insert</i> —	5
	‘or an associated accreditation officer, or the authority of the chief executive’.	6 7
<b>142</b>	<b>Amendment of s 166 (Signatures)</b>	8
	Section 166, ‘or an authorised officer’—	9
	<i>omit.</i>	10
<b>143</b>	<b>Amendment of s 167 (Other evidentiary aids)</b>	11
	Section 167(f), ‘residential service, associated accreditation officer or authorised officer’—	12 13
	<i>omit, insert</i> —	14
	‘residential service or as an associated accreditation officer’.	15
<b>144</b>	<b>Amendment of s 180 (Confidentiality)</b>	16
	Section 180(1)(a), ‘, an associated accreditation officer or an authorised officer’—	17 18
	<i>omit, insert</i> —	19
	‘or an associated accreditation officer’.	20
<b>145</b>	<b>Amendment of s 182 (Protection from liability)</b>	21
	Section 182(3), definition <i>official</i> , paragraphs (d) and (e)—	22
	<i>omit, insert</i> —	23
	‘(d) a person acting under the direction of the chief executive.’.	24 25

[s 146]

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<b>146</b>	<b>Amendment of sch 2 (Dictionary)</b>	1
(1)	Schedule 2, definition <i>authorised officer</i> —	2
	<i>omit.</i>	3
(2)	Schedule 2—	4
	<i>insert—</i>	5
	<b>‘disposal order</b> see section 109(2).’	6
<b>Part 6</b>	<b>Amendment of Retirement Villages Act 1999</b>	7
		8
<b>147</b>	<b>Act amended</b>	9
	This part amends the <i>Retirement Villages Act 1999</i> .	10
<b>148</b>	<b>Amendment of pt 1, div 2, hdg (Objects)</b>	11
	Part 1, division 2, heading, after ‘Objects’—	12
	<i>insert—</i>	13
	<b>‘of Act and relationship with FTI Act’.</b>	14
<b>149</b>	<b>Insertion of new s 3A</b>	15
	Part 1, division 2—	16
	<i>insert—</i>	17
<b>‘3A</b>	<b>Relationship with Fair Trading Inspectors Act 2011</b>	18
(1)	The <i>Fair Trading Inspectors Act 2011</i> (the <b>FTI Act</b> ) enacts common provisions for this Act and particular other Acts about fair trading.	19 20 21
(2)	Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition	22 23

to and do not limit any powers the inspector may have under this Act.	1 2
‘(3) In this section—	3
<i>inspector</i> means a person who holds office under the FTI Act as an inspector for this Act.	4 5
<i>Note—</i>	6
See also the modifying provisions for this Act stated in the FTI Act, schedule 1.’.	7 8
<b>150 Replacement of pt 8 (Enforcement)</b>	9
Part 8—	10
<i>omit, insert—</i>	11
<b>‘Part 8 Forfeiture and disposal orders</b>	12
<b>‘134 Forfeiture on conviction</b>	13
‘(1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—	14 15
(a) anything used to commit the offence; or	16
(b) anything else the subject of the offence.	17
‘(2) The court may make any order to enforce the forfeiture it considers appropriate.	18 19
‘(3) This section does not limit the court’s powers under another law.	20 21
<b>‘135 Procedure and powers for making forfeiture order</b>	22
‘(1) A forfeiture order may be made on a conviction on the court’s initiative or on an application by the prosecution.	23 24
‘(2) In deciding whether to make a forfeiture order for a thing, the court—	25 26

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- (a) may require notice to be given to anyone the court  
considers appropriate, including, for example, any  
person who may have any property in the thing; and
- (b) must hear any submissions that any person claiming to  
have any property in the thing may wish to make.

### **‘136 When thing becomes property of the State**

‘A thing becomes the property of the State if—

- (a) the thing is forfeited to the State under a forfeiture  
order; or
- (b) the owner of the thing and the State agree, in writing, to  
the transfer of the ownership of the thing to the State.

### **‘137 How property may be dealt with**

- ‘(1) This section applies if, under section 136, a thing becomes the  
property of the State.
- ‘(2) The chief executive may deal with the thing as the chief  
executive considers appropriate, including, for example, by  
destroying it or giving it away.
- ‘(3) The chief executive must not deal with the thing in a way that  
could prejudice the outcome of an appeal against the  
forfeiture under this Act.
- ‘(4) If the chief executive sells the thing, the chief executive may,  
after deducting the costs of the sale, return the proceeds of the  
sale to the person who was the thing’s owner immediately  
before the thing became the property of the State.
- ‘(5) This section is subject to any disposal order made for the  
thing.

### **‘138 Disposal order**

- ‘(1) This section applies if a person is convicted of an offence  
against this Act.



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- 
- ‘(2) The court may make an order (a *disposal order*), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—
1  
2  
3
  - (a) anything that was the subject of, or used to commit, the offence;
4  
5
  - (b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.
6  
7  
8
  - ‘(3) In deciding whether to make a disposal order for a thing, the court—
9  
10
  - (a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and
11  
12  
13
  - (b) must hear any submissions that any person claiming to have any property in the thing may wish to make.
14  
15
  - ‘(4) The court may make any order to enforce the disposal order that it considers appropriate.
16  
17
  - ‘(5) This section does not limit the court’s powers under another law.’.
18  
19

**151      Amendment of s 220 (Appointments and authority)** 20

Section 220(1)(c) and (d)— 21

*omit, insert—* 22

- ‘(c) the authority of the chief executive or the registrar to do anything under this Act.’. 23  
24

**152      Amendment of s 221 (Evidentiary provisions)** 25

Section 221(2), ‘or an inspector’— 26

*omit.* 27

[s 153]

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<b>153</b>	<b>Amendment of schedule (Dictionary)</b>	1
	Schedule—	2
	<i>insert</i> —	3
	‘ <i>disposal order</i> see section 138(2).	4
	<i>FTI Act</i> see section 3A(1).’.	5
 <b>Part 7</b>	 <b>Amendment of Second-hand Dealers and Pawnbrokers Act 2003</b>	 6 7 8
 <b>154</b>	 <b>Act amended</b>	 9
	This part amends the <i>Second-hand Dealers and Pawnbrokers Act 2003</i> .	10 11
 <b>155</b>	 <b>Insertion of new s 3A</b>	 12
	Part 1—	13
	<i>insert</i> —	14
<b>‘3A</b>	<b>Relationship with Fair Trading Inspectors Act 2011</b>	15
	‘(1) The <i>Fair Trading Inspectors Act 2011</i> (the <i>FTI Act</i> ) enacts common provisions for this Act and particular other Acts about fair trading.	16 17 18
	‘(2) Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition to and do not limit any powers the inspector has under this Act.’.	19 20 21 22
 <b>156</b>	 <b>Replacement of pt 5 (Enforcement)</b>	 23
	Part 5—	24

*omit, insert—*

<b>‘Part 5</b>	<b>Forfeiture and disposal orders</b>	1
<b>‘75</b>	<b>Forfeiture on conviction</b>	3
‘(1)	On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—	4 5
	(a) anything used to commit the offence; or	6
	(b) anything else the subject of the offence.	7
‘(2)	The court may make any order to enforce the forfeiture it considers appropriate.	8 9
‘(3)	This section does not limit the court’s powers under another law.	10 11
<b>‘76</b>	<b>Procedure and powers for making forfeiture order</b>	12
‘(1)	A forfeiture order may be made on a conviction on the court’s initiative or on an application by the prosecution.	13 14
‘(2)	In deciding whether to make a forfeiture order for a thing, the court—	15 16
	(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	17 18 19
	(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	20 21
<b>‘77</b>	<b>When thing becomes property of the State</b>	22
	‘A thing becomes the property of the State if—	23
	(a) the thing is forfeited to the State under a forfeiture order; or	24 25
	(b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.	26 27

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<b>‘78</b>	<b>How property may be dealt with</b>	1
‘(1)	This section applies if, under section 77, a thing becomes the property of the State.	2 3
‘(2)	The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.	4 5 6
‘(3)	The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.	7 8 9
‘(4)	If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the person who was the thing’s owner immediately before the thing became the property of the State.	10 11 12 13
‘(5)	This section is subject to any disposal order made for the thing.	14 15
<b>‘79</b>	<b>Disposal order</b>	16
‘(1)	This section applies if a person is convicted of an offence against this Act.	17 18
‘(2)	The court may make an order (a <i>disposal order</i> ), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—	19 20 21
(a)	anything that was the subject of, or used to commit, the offence;	22 23
(b)	another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.	24 25 26
‘(3)	In deciding whether to make a disposal order for a thing, the court—	27 28
(a)	may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	29 30 31

	(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	1 2
	‘(4) The court may make any order to enforce the disposal order that it considers appropriate.	3 4
	‘(5) This section does not limit the court’s powers under another law.’.	5 6
<b>157</b>	<b>Amendment of s 96 (False or misleading information)</b>	7
	Section 96(1) and (2)(a), ‘authorised officer’—	8
	<i>omit, insert—</i>	9
	‘inspector’.	10
<b>158</b>	<b>Omission of s 97 (Obstruction of authorised officers)</b>	11
	Section 97—	12
	<i>omit.</i>	13
<b>159</b>	<b>Amendment of s 103 (Authorised officer may prosecute)</b>	14
	(1) Section 103, heading, ‘Authorised officer’—	15
	<i>omit, insert—</i>	16
	<b>‘Inspector’.</b>	17
	(2) Section 103, ‘authorised officer’—	18
	<i>omit, insert—</i>	19
	‘inspector’.	20
<b>160</b>	<b>Amendment of s 104 (Evidence)</b>	21
	(1) Section 104(4), ‘authorised officer’—	22
	<i>omit, insert—</i>	23
	‘inspector’.	24

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(2)	Section 104(6), definition <i>official</i> , paragraph (c)—	1
	<i>omit, insert—</i>	2
	‘(c) an inspector.’.	3
<b>161</b>	<b>Amendment of s 113 (Officials not civilly liable)</b>	4
	Section 113(3), definition <i>official</i> , paragraph (b)—	5
	<i>omit, insert—</i>	6
	‘(b) an inspector; or’.	7
<b>162</b>	<b>Amendment of sch 3 (Dictionary)</b>	8
(1)	Schedule 3, definition <i>authorised officer—</i>	9
	<i>omit.</i>	10
(2)	Schedule 3—	11
	<i>insert—</i>	12
	‘ <i>disposal order</i> see section 79(2).	13
	<i>FTI Act</i> see section 3A(1).	14
	<i>inspector</i> means a person who holds office under the FTI Act	15
	as an inspector for this Act.’.	16
<b>Part 8</b>	<b>Amendment of Security Providers Act 1993</b>	17
		18
<b>163</b>	<b>Act amended</b>	19
	This part amends the <i>Security Providers Act 1993</i> .	20

<b>164</b>	<b>Insertion of new s 2A</b>	1
	After section 2—	2
	<i>insert—</i>	3
<b>‘2A</b>	<b>Relationship with Fair Trading Inspectors Act 2011</b>	4
	‘(1) The <i>Fair Trading Inspectors Act 2011</i> (the <b>FTI Act</b> ) enacts	5
	common provisions for this Act and particular other Acts	6
	about fair trading.	7
	‘(2) Unless this Act otherwise provides in relation to the FTI Act,	8
	the powers that an inspector has under that Act are in addition	9
	to and do not limit any powers the inspector may have under	10
	this Act.	11
	‘(3) In this section—	12
	<b><i>inspector</i></b> means a person who holds office under the FTI Act	13
	as an inspector for this Act.’.	14
<b>165</b>	<b>Replacement of s 25A (Production of licence)</b>	15
	Section 25A—	16
	<i>omit, insert—</i>	17
<b>‘25A</b>	<b>Production of licence</b>	18
	‘(1) This section applies if—	19
	(a) a licensee is not wearing the prescribed identification	20
	when carrying out a function of a security provider; and	21
	(b) a person with whom the licensee is dealing when	22
	carrying out the function asks to inspect the licensee’s	23
	licence.	24
	‘(2) The licensee must produce the licensee’s licence for	25
	inspection.	26
	Maximum penalty—20 penalty units.’.	27
<b>166</b>	<b>Replacement of pt 3 (Inspectors)</b>	28
	Part 3, other than section 44—	29

[s 166]

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*omit, insert—*

## **‘Part 3                      Forfeiture and disposal orders**

### **‘32      Forfeiture on conviction**

‘(1) On the conviction of a person for an offence against this Act,  
the court may order the forfeiture to the State of—

- (a) anything used to commit the offence; or
- (b) anything else the subject of the offence.

‘(2) The court may make any order to enforce the forfeiture it  
considers appropriate.

‘(3) This section does not limit the court’s powers under another  
law.

### **‘33      Procedure and powers for making forfeiture order**

‘(1) A forfeiture order may be made on a conviction on the court’s  
initiative or on an application by the prosecution.

‘(2) In deciding whether to make a forfeiture order for a thing, the  
court—

- (a) may require notice to be given to anyone the court  
considers appropriate, including, for example, any  
person who may have any property in the thing; and
- (b) must hear any submissions that any person claiming to  
have any property in the thing may wish to make.

### **‘34      When thing becomes property of the State**

‘A thing becomes the property of the State if—

- (a) the thing is forfeited to the State under a forfeiture  
order; or
- (b) the owner of the thing and the State agree, in writing, to  
the transfer of the ownership of the thing to the State.



<b>‘35</b>	<b>How property may be dealt with</b>	<b>1</b>
‘(1)	This section applies if, under section 34, a thing becomes the property of the State.	2 3
‘(2)	The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.	4 5 6
‘(3)	The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.	7 8 9
‘(4)	If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the person who was the thing’s owner immediately before the thing became the property of the State.	10 11 12 13
‘(5)	This section is subject to any disposal order made for the thing.	14 15
 <b>‘36</b>	 <b>Disposal order</b>	 <b>16</b>
‘(1)	This section applies if a person is convicted of an offence against this Act.	17 18
‘(2)	The court may make an order (a <i>disposal order</i> ), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—	19 20 21
(a)	anything that was the subject of, or used to commit, the offence;	22 23
(b)	another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.	24 25 26
‘(3)	In deciding whether to make a disposal order for a thing, the court—	27 28
(a)	may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	29 30 31

[s 167]

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	(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	1 2
	‘(4) The court may make any order to enforce the disposal order that it considers appropriate.	3 4
	‘(5) This section does not limit the court’s powers under another law.’.	5 6
<b>167</b>	<b>Amendment, relocation and renumbering of s 44 (False or misleading documents)</b>	7 8
	(1) Section 44(1), ‘or an inspector’— <i>omit.</i>	9 10
	(2) Section 44(2), ‘or inspector’— <i>omit.</i>	11 12
	(3) Section 44— <i>relocate and renumber</i> as section 49A.	13 14
<b>168</b>	<b>Amendment of s 48 (Confidentiality of information)</b>	15
	Section 48(4)(c)— <i>omit.</i>	16 17
<b>169</b>	<b>Replacement of s 49 (Protection from liability)</b>	18
	Section 49— <i>omit, insert—</i>	19 20
<b>‘49</b>	<b>Protection from liability</b>	21
	‘(1) An official does not incur civil liability for an act or omission done honestly and without negligence under this Act.	22 23
	‘(2) A liability that would, apart from this section, attach to an official attaches instead to the State.	24 25
	‘(3) In this section—	26

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	<i>official</i> means—	1
	(a) the chief executive; or	2
	(b) a public service employee.’.	3
<b>170</b>	<b>Amendment of s 51 (Evidentiary provisions)</b>	4
	(1) Section 51(2)—	5
	<i>omit.</i>	6
	(2) Section 51(3), ‘or an inspector’—	7
	<i>omit.</i>	8
	(3) Section 51(3) and (4)—	9
	<i>renumber</i> as section 51(2) and (3).	10
<b>171</b>	<b>Amendment of sch 2 (Dictionary)</b>	11
	(1) Schedule 2, definition <i>inspector</i> —	12
	<i>omit.</i>	13
	(2) Schedule 2—	14
	<i>insert</i> —	15
	‘ <i>disposal order</i> see section 36(2).’.	16
<b>Part 9</b>	<b>Amendment of Tourism Services Act 2003</b>	17
		18
<b>172</b>	<b>Act amended</b>	19
	This part amends the <i>Tourism Services Act 2003</i> .	20

[s 173]

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<b>173</b>	<b>Insertion of new s 6A</b>	1
	Part 1—	2
	<i>insert—</i>	3
<b>‘6A</b>	<b>Relationship with Fair Trading Inspectors Act 2011</b>	4
	‘(1) The <i>Fair Trading Inspectors Act 2011</i> (the <b>FTI Act</b> ) enacts common provisions for this Act and particular other Acts about fair trading.	5 6 7
	‘(2) Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition to and do not limit any powers the inspector may have under this Act.	8 9 10 11
	‘(3) In this section—	12
	<b><i>inspector</i></b> means a person who holds office under the FTI Act as an inspector for this Act.	13 14
	<i>Note—</i>	15
	See also the modifying provisions for this Act stated in the FTI Act, schedule 1.’.	16 17
<b>174</b>	<b>Amendment of s 13 (Suitability for registration)</b>	18
	Section 13(3)(c), after ‘this Act,’—	19
	<i>insert—</i>	20
	‘the FTI Act if the offence is in relation to a matter under this Act,’.	21 22
<b>175</b>	<b>Replacement of pt 6 (Investigation and enforcement)</b>	23
	Part 6—	24
	<i>omit, insert—</i>	25

<b>‘Part 6</b>	<b>Forfeiture and disposal orders</b>	<b>1</b>
<b>‘39</b>	<b>Forfeiture on conviction</b>	<b>2</b>
‘(1)	On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—	3 4
(a)	anything used to commit the offence; or	5
(b)	anything else the subject of the offence.	6
‘(2)	The court may make any order to enforce the forfeiture it considers appropriate.	7 8
‘(3)	This section does not limit the court’s powers under another law.	9 10
<b>‘40</b>	<b>Procedure and powers for making forfeiture order</b>	<b>11</b>
‘(1)	A forfeiture order may be made on a conviction on the court’s initiative or on an application by the prosecution.	12 13
‘(2)	In deciding whether to make a forfeiture order for a thing, the court—	14 15
(a)	may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	16 17 18
(b)	must hear any submissions that any person claiming to have any property in the thing may wish to make.	19 20
<b>‘41</b>	<b>When thing becomes property of the State</b>	<b>21</b>
	‘A thing becomes the property of the State if—	22
(a)	the thing is forfeited to the State under a forfeiture order; or	23 24
(b)	the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.	25 26

[s 175]

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<b>‘42</b>	<b>How property may be dealt with</b>	1
‘(1)	This section applies if, under section 41, a thing becomes the property of the State.	2 3
‘(2)	The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.	4 5 6
‘(3)	The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.	7 8 9
‘(4)	If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the person who was the thing’s owner immediately before the thing became the property of the State.	10 11 12 13
‘(5)	This section is subject to any disposal order made for the thing.	14 15
<b>‘43</b>	<b>Disposal order</b>	16
‘(1)	This section applies if a person is convicted of an offence against this Act.	17 18
‘(2)	The court may make an order (a <i>disposal order</i> ), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—	19 20 21
(a)	anything that was the subject of, or used to commit, the offence;	22 23
(b)	another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.	24 25 26
‘(3)	In deciding whether to make a disposal order for a thing, the court—	27 28
(a)	may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	29 30 31

	(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	1 2
	‘(4) The court may make any order to enforce the disposal order that it considers appropriate.	3 4
	‘(5) This section does not limit the court’s powers under another law.’.	5 6
<b>176</b>	<b>Amendment of s 85 (Review by tribunal)</b>	7
	Section 85(3)—	8
	<i>omit.</i>	9
<b>177</b>	<b>Amendment of s 88 (Evidence)</b>	10
	(1) Section 88(2)—	11
	<i>omit.</i>	12
	(2) Section 88(3), ‘or an inspector’—	13
	<i>omit.</i>	14
	(3) Section 88(3) and (4)—	15
	<i>renumber</i> as section 88(2) and (3).	16
<b>178</b>	<b>Amendment of s 95 (Protecting officials from liability)</b>	17
	Section 95(3), definition <i>official</i> , paragraph (c)—	18
	<i>omit.</i>	19
<b>179</b>	<b>Amendment of sch 2 (Dictionary)</b>	20
	(1) Schedule 2, definition <i>inspector</i> —	21
	<i>omit.</i>	22
	(2) Schedule 2—	23
	<i>insert</i> —	24

[s 180]

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‘*disposal order*’ see section 43(2). 1  
*FTI Act* see section 6A(1).’. 2

## Part 10 Amendment of Travel Agents Act 1988 3 4

**180 Act amended** 5  
This part amends the *Travel Agents Act 1988*. 6

**181 Insertion of new s 4** 7  
After section 3— 8  
*insert—* 9

**‘4 Relationship with Fair Trading Inspectors Act 2011** 10  
‘(1) The *Fair Trading Inspectors Act 2011* (the ***FTI Act***) enacts 11  
common provisions for this Act and particular other Acts 12  
about fair trading. 13  
‘(2) Unless this Act otherwise provides in relation to the FTI Act, 14  
the powers that an inspector has under that Act are in addition 15  
to and do not limit any powers the inspector may have under 16  
this Act. 17  
‘(3) In this section— 18  
***inspector*** means a person who holds office under the FTI Act 19  
as an inspector for this Act.’. 20  
*Note—* 21  
See also the modifying provisions for this Act stated in the FTI Act, 22  
schedule 1.’. 23

**182 Amendment of s 6 (Definitions)** 24  
(1) Section 6, definitions *authorised officer* and *inspector—* 25



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<i>omit.</i>	1
(2) Section 6—	2
<i>insert—</i>	3
<b>‘disposal order</b> see section 43E(2).’.	4
 <b>183 Insertion of new ss 43A–43E</b>	 5
Part 6—	6
<i>insert—</i>	7
<b>‘43A Forfeiture on conviction</b>	8
‘(1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—	9 10
(a) anything used to commit the offence; or	11
(b) anything else the subject of the offence.	12
‘(2) The court may make any order to enforce the forfeiture it considers appropriate.	13 14
‘(3) This section does not limit the court’s powers under another law.	15 16
 <b>‘43B Procedure and powers for making forfeiture order</b>	 17
‘(1) A forfeiture order may be made on a conviction on the court’s initiative or on an application by the prosecution.	18 19
‘(2) In deciding whether to make a forfeiture order for a thing, the court—	20 21
(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	22 23 24
(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	25 26

[s 183]

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<b>‘43C</b>	<b>When thing becomes property of the State</b>	1
	‘A thing becomes the property of the State if—	2
	(a) the thing is forfeited to the State under a forfeiture order; or	3
		4
	(b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.	5
		6
<b>‘43D</b>	<b>How property may be dealt with</b>	7
	‘(1) This section applies if, under section 43C, a thing becomes the property of the State.	8
		9
	‘(2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.	10
		11
		12
	‘(3) The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.	13
		14
		15
	‘(4) If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the person who was the thing’s owner immediately before the thing became the property of the State.	16
		17
		18
		19
	‘(5) This section is subject to any disposal order made for the thing.	20
		21
<b>‘43E</b>	<b>Disposal order</b>	22
	‘(1) This section applies if a person is convicted of an offence against this Act.	23
		24
	‘(2) The court may make an order (a <i>disposal order</i> ), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—	25
		26
		27
	(a) anything that was the subject of, or used to commit, the offence;	28
		29

[s 184]

	(b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.	1 2 3
	‘(3) In deciding whether to make a disposal order for a thing, the court—	4 5
	(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and	6 7 8
	(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.	9 10
	‘(4) The court may make any order to enforce the disposal order that it considers appropriate.	11 12
	‘(5) This section does not limit the court’s powers under another law.’.	13 14
<b>184</b>	<b>Omission of ss 45–45J</b>	15
	Sections 45 to 45J—	16
	<i>omit.</i>	17
<b>185</b>	<b>Omission of s 47 (Investigations)</b>	18
	Section 47—	19
	<i>omit.</i>	20
<b>186</b>	<b>Amendment of s 50 (False or misleading information or documents)</b>	21 22
	(1) Section 50(1), (2) and (3), ‘or an inspector’—	23
	<i>omit.</i>	24
	(2) Section 50(4), ‘or the inspector’—	25
	<i>omit.</i>	26

[s 187]

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<b>187</b>	<b>Replacement of s 54 (Proceedings for offences)</b>	1
	Section 54—	2
	<i>omit, insert—</i>	3
<b>‘54</b>	<b>Offences under Act are summary</b>	4
	‘(1) An offence against this Act is a summary offence.	5
	‘(2) A proceeding for an offence against this Act must start within	6
	the later of the following periods to end—	7
	(a) 1 year after the commission of the offence;	8
	(b) 6 months after the offence comes to the complainant’s	9
	knowledge but within 2 years after the commission of	10
	the offence.’.	11
<b>188</b>	<b>Amendment of s 56 (Evidence)</b>	12
	(1) Section 56(a), from ‘commissioner’—	13
	<i>omit, insert—</i>	14
	‘commissioner;’.	15
	(2) Section 56(b), ‘or an inspector’—	16
	<i>omit.</i>	17

<b>Schedule 1</b>	<b>Modifying provisions</b>	1
	section 5	2
	<b>Manufactured Homes (Residential Parks) Act 2003</b>	3
<b>1</b>	<b>References to occupier of a place</b>	4
(1)	This section modifies schedule 2, definition <i>occupier</i> , of a place.	5 6
(2)	Without limiting who may be an occupier under the definition, the park owner for a residential park is an occupier of the residential park, other than any part of the park that is a home owner's manufactured home or the site on which it is positioned.	7 8 9 10 11
<b>2</b>	<b>Power to enter particular place</b>	12
	The power for an inspector to enter a place under section 17(1)(d) includes the power to enter a place (other than a part of the place where a person resides) that is an office or other place for administering or managing a residential park for which site agreements are in force, and that is—	13 14 15 16 17
(a)	open for carrying on the business of the park; or	18
(b)	otherwise open for entry.	19
	<b>Residential Services (Accreditation) Act 2002</b>	20
<b>1</b>	<b>References to occupier of a place</b>	21
(1)	This section modifies schedule 2, definition <i>occupier</i> , of a place.	22 23

Schedule 1

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(2)	Without limiting who may be an occupier under the definition, the service provider for a residential service is an occupier of premises in which the residential service is being conducted, other than any part of the premises that is occupied by a person as the person's place of residence.	1 2 3 4 5
<b>2</b>	<b>Preservation of privacy</b>	6
(1)	If an inspector enters a private residence under section 17(1)(a) or (c), the inspector must preserve, as far as practicable, the privacy of anyone living at the residence.	7 8 9
(2)	In this section—	10
	<i>private residence</i> includes a room in registered premises occupied by a person as the person's place of residence.	11 12
	<b>Retirement Villages Act 1999</b>	13
<b>1</b>	<b>Power to enter particular place</b>	14
	The power for an inspector to enter a place under section 17(1)(d) includes the power to enter a place (other than a part of the place where a person resides) that is an office or other place for administering or managing a retirement village and that is—	15 16 17 18 19
(a)	open for carrying on the business of the retirement village; or	20 21
(b)	otherwise open for entry.	22

<b>Tourism Services Act 2003</b>	1
<b>1 Power to enter place where business records are located</b>	2
Section 17(1) is taken to include a power for an inspector to enter a place if the inspector reasonably believes that records relating to carrying on the business of an inbound tour operator, or business as a tour guide, are kept at the place and the place is open for carrying on business or otherwise open for entry.	3 4 5 6 7 8
<b>2 Limitation on power to seize</b>	9
(1) This section applies to seizure of a thing under section 36 or 37.	10 11
(2) An inspector must not seize the thing if the inspector knows or suspects it is the property, or in the possession, of a tourist.	12 13
<b>3 Offence includes a relevant contravention in particular circumstances</b>	14 15
In sections 23, 28, 36, 37, 46, 55 and 67 a reference to an offence against a primary Act is taken to include a reference to a relevant contravention.	16 17 18
<b>Travel Agents Act 1988</b>	19
<b>1 Power to require production of document and statement about document</b>	20 21
(1) This section applies to the power for an inspector to make a document production requirement under section 57(1) in relation to a document that is not written in the English language or is not decipherable on sight.	22 23 24 25
(2) Compliance with the document production requirement requires making available for inspection by an inspector, or	26 27

Schedule 1

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producing to the inspector for inspection, in addition to the	1
document, a statement, written in the English language and	2
decipherable on sight, containing the whole of the information	3
in the document.	4
(3) This section does not limit section 57.	5



<b>Schedule 2</b>	<b>Dictionary</b>	1
	section 6	2
<i>approved form</i>	means a form approved by the chief executive under section 93.	3 4
<i>court</i>	means a Magistrates Court.	5
<i>document certification requirement</i>	see section 57(6).	6
<i>document production requirement</i>	see section 57(2).	7
<i>electronic document</i>	means a document of a type under the <i>Acts Interpretation Act 1954</i> , section 36, definition <i>document</i> , paragraph (c).	8 9 10
<i>former owner</i>	see section 48(1).	11
<i>general power</i>	see section 33(1).	12
<i>help requirement</i>	see section 34(1).	13
<i>identity card</i>	, for a provision about inspectors, means an identity card issued under section 12(1).	14 15
<i>information notice</i>	, about a decision, means a notice stating the following—	16 17
(a)	the decision;	18
(b)	the reasons for it;	19
(c)	that the person to whom the notice is given may apply to the chief executive for a review of the decision within 20 business days after the person receives the notice;	20 21 22
(d)	how to apply for a review.	23
<i>information requirement</i>	see section 60(3).	24
<i>inspector</i>	means a person who holds office under chapter 2, part 1 as an inspector for a primary Act.	25 26
<i>modifying provisions</i>	see section 5(1).	27
<i>notice</i>	means a written notice.	28

Schedule 2

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- occupier**, of a place, includes the following— 1
- (a) if there is more than 1 person who apparently occupies 2  
the place—any 1 of the persons; 3
  - (b) any person at the place who is apparently acting with the 4  
authority of a person who apparently occupies the place; 5
  - (c) if no-one apparently occupies the place—any person 6  
who is an owner of the place. 7
- of**, a place, includes at or on the place. 8
- offence warning**, for a direction or requirement by an 9  
inspector, means a warning that, without a reasonable excuse, 10  
it is an offence for the person to whom the direction or 11  
requirement is made not to comply with it. 12
- original decision** see section 76(1)(a). 13
- owner**, for a thing that has been seized under this Act, 14  
includes a person who would be entitled to possession of the 15  
thing had it not been seized. 16
- personal details requirement** see section 55(5). 17
- person in control**— 18
- (a) of a vehicle, includes— 19
    - (i) the vehicle’s driver or rider; and 20
    - (ii) anyone who reasonably appears to be, claims to be, 21  
or acts as if he or she is, the vehicle’s driver or rider 22  
or the person in control of the vehicle; or 23
  - (b) of another thing, includes anyone who reasonably 24  
appears to be, claims to be, or acts as if he or she is, the 25  
person in possession or control of the thing. 26
- place** includes the following— 27
- (a) premises; 28
  - (b) vacant land; 29
  - (c) a place in Queensland waters; 30
  - (d) a place held under more than 1 title or by more than 1 31  
owner; 32

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|--|----------------|
| (e) the land or water where a building or structure, or a group of buildings or structures, is situated.                             | 1<br>2         |
| <b><i>premises</i></b> includes—   | 3              |
| (a) a building or other structure; and   | 4              |
| (b) a part of a building or other structure; and   | 5              |
| (c) a caravan or vehicle; and  | 6              |
| (d) a cave or tent; and  | 7              |
| (e) premises held under more than 1 title or by more than 1 owner.   | 8<br>9         |
| <b><i>primary Act</i></b> —  | 10             |
| (a) generally—see section 4(1); or   | 11             |
| (b) in relation to a particular inspector—means a primary Act for which the inspector is appointed; or                               | 12<br>13       |
| (c) in relation to the exercise of a power by an inspector—means a primary Act for which the inspector is exercising the power.      | 14<br>15<br>16 |
| <b><i>public place</i></b> means—  | 17             |
| (a) a place, or part of the place—   | 18             |
| (i) the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or | 19<br>20<br>21 |
| <i>Examples of a place that may be a public place under subparagraph (i)—</i>  | 22<br>23       |
| a beach, a park, a road  | 24             |
| (ii) the occupier of which allows, whether or not on payment of money, members of the public to enter; or                            | 25<br>26<br>27 |
| <i>Examples of a place that may be a public place under subparagraph (ii)—</i>   | 28<br>29       |
| a saleyard, a showground   | 30             |
| (b) a place that is a public place under another Act.  | 31             |
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Schedule 2

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<i>reasonably believes</i>	means believes on grounds that are	1
	reasonable in the circumstances.	2
<i>reasonably suspects</i>	means suspects on grounds that are	3
	reasonable in the circumstances.	4
<i>review decision</i>	see section 76(1)(b).	5
<i>review notice day</i>	see section 76(2)(a).	6
<i>vehicle</i> —		7
(a)	means a vehicle under the <i>Transport Operations (Road Use Management) Act 1995</i> ; and	8
		9
(b)	includes a vessel under that Act.	10

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